

Zoning Board of Appeals
City of Cortland
Monday, August 11, 2014

A regular meeting of the Zoning Board of Appeals was held on Monday, July 11, 2014 at 5:00 PM in the Mayor’s Conference Room at City Hall.

Present: Chair, Mary Kay Hickey, Commissioners David Funk, Christine Place, Scott Steve

Absent: Phyllis McGinley, Dave Dovi, Wayne Hansen

Staff: Deputy Fire Chief; William Knickerbocker, Zoning Officer; Bob Rhea, Secretary; Shellie Blaisdell

The meeting was called to order at 5:00 pm

Item #1 – 91 Lincoln Ave/7 Woodruff Street – (R2) – (Reeners) – Interpretation

Decision to require a Use Variance for a shared residential driveway over 7 Woodruff Street to 91 Lincoln Ave.

Dan Ellis, Attorney for Jim Reeners (Applicant) presented information on applicant’s behalf. He indicated there is nothing that prohibits a shared driveway and nothing that says it is allowed. There are certain sections devoted to driveways. He argued that when there is ambiguity in the Code, the decision must be in favor of the applicant. There is a 4 foot vegetative strip requirement – crossing over the four foot would require an area variance.

There was an objection to hearing comments from Bruce Weber, the prior zoning officer who decided that a use variance would be required. The board felt it important to hear his interpretation process at the time of the application. A shared drive accessing another property requires a use variance. A shared driveway giving access to the neighboring property is not an accessory use to this property – it is not associated with the primary use of the residential property.

Also cited by ZBA members was the language in the code defining a driveway as “a portion of a lot”, indicating the intent to define a driveway as providing access to one lot. Also considered was the requirement for a 4-foot vegetative strip, indicating the Code’s intent that a driveway be within the lot, not crossing over onto another lot. ZBA members agreed that it would be impossible to list all prohibited uses, so failing to find this sort of “driveway” in the Code does not mean it is a permitted use. ZBA members also agreed that, rather than being a shared driveway in the usual sense, this is an access road to a second property.

A motion was made by Comm. Place to close the public hearing and was seconded by Comm. Funk.

Approved: Ayes – 4
Nays – 0

A motion was made by Comm. Funk, seconded by Comm. Place, to accept the interpretation of the former Zoning Officer that access between two properties makes the parking at Lincoln Ave. an accessory use to the Woodruff St. property (not a permitted accessory use in an R2 zone).

Approved: Ayes – 3
Nays – 1 (Comm. Steve)

With only four members present, the vote would need to be unanimous to pass. Vote fails.

After some additional discussion, a second motion was made by Comm. Funk, seconded by Comm. Place, to accept the interpretation of the former Zoning Officer that access between two properties makes the parking at Lincoln Ave. an accessory use to the Woodruff St. property (not a permitted accessory use in an R2 zone).

Approved: Ayes – 4
Nays – 0

Item #2 – 7 Woodruff Street (Reeners) Interpretation (R2)

Decision to require a Use Variance for an attached garage to store yard equipment.

The applicant withdrew the application for an Interpretation and may or may not reapply.

Item #3 – 179 Homer Avenue (DelVecchio Family, LLC) – (GB) – Area Variance

Building a glass/plexiglass greenhouse in front of restaurant (lot coverage)

The intent is to construct a greenhouse in front of the restaurant to grow herbs and spices for use in the restaurant. The lot coverage is not an issue. Footprint is smaller than the original. Planters pushed back more maneuvering room for vehicles.

A motion was made by Comm. Steve to close the public hearing and was seconded by Comm. Funk.

Approved: Ayes – 4
Nays – 0

A motion was made by Comm. Funk to approve the addition of the greenhouse as shown on the plans to the roadside of pre-existing non-conforming building with the stipulation it is not to be used for seating. The motion was seconded by Comm. Steve.

Approved: Ayes – 4
Nays – 0

Item # 4 – 55 Clayton Ave – (R1) – (Bennedy) – Area Variance

Extension of parking lot (asphalt coverage-green area and additional two parking spaces

Applicant has seen an increase over the years in students having vehicles and now they are parking on the lawn on the property-the Code department has intervened. Application asks for 18’x20’ to square off the parking. Has three spots now, and is asking for 2 additional. Currently the students are parking in front of the garage. Fire escape is obstructed.

Zoning board recommends possible parking area beside the driveway in green space. They have also asked for clearer drawing.

A motion was made by Comm. Funk to table the application with the direction for applicant to seek a Site Plan Review from the Planning Commission and to return to the ZBA with a better drawing. The motion was seconded by Comm. Place.

Approved: Ayes – 4
 Nays – 0

Item # 5– 5 Stephens Street – (R2) – (Mix) – Area Variance

Build a deck off rear sliding glass doors (Build within 7 feet of the property line)

At the back sliding glass door, applicant to build a deck within 7 feet of the property line. It is placed right in the same space as the original deck.

A motion was made by Comm. Place to close the public hearing and was seconded by Comm. Steve.

Approved: Ayes – 4
 Nays – 0

A motion was made by Comm. Funk to approve the application as presented. The motion was seconded by Comm. Place.

Approved: Ayes – 4
 Nays – 0

Item #6 – 166 Madison Street – (R1) – (Lane) – Area Variance

Historical sign from old Clocktower

Jim Lane has the original sign for the historical Clock Tower building placed on the side of the business. Applicant stated it is a “piece of interest” in the neighborhood. His neighbors have no objection and have said it enjoy having his business in the neighborhood. A sign is not allowed on the side of the building.

A motion was made to close the Public Hearing by Comm. Funk and seconded by Comm. Place.

Approved: Ayes – 4
 Nays – 0

A motion was made to approve the Area Variance as presented by Comm. Steve with a stipulation that it not be lit which would be a distraction for neighbors. The motion was seconded by Comm. Place.

Approved: Ayes – 4
 Nays – 0

Item #7 – 9 Banks Street – (R1) – (Fitts) – Area Variance

Addition and alterations to enlarge kitchen and create master bedroom on first floor

The architect, for applicant-Brian Butler, explained the expansion with a first floor bedroom and to expand the kitchen for a father who can no longer climb stairs. The total variance is 9.72 inches. The

property owner also owns the adjacent property. A second means of egress is established. The variance 6.19 feet side yard setback where 7 feet is required.

A motion was made to close the Public Hearing by Comm. Funk and seconded by Comm. Place.

Approved: Ayes – 4
 Nays – 0

A motion was made by Comm. Place to approve the Area Variance Application as presented provided that a setback is maintained at 6.19 feet for the side yard. The motion was seconded by Comm. Funk.

Approved: Ayes – 4
 Nays – 0

Item #8 – 115 Port Watson Street – (G1) – (Bushmich) – Special Use Permit

Automotive repair, dismantle and sale of parts on internet

The primary use is to dismantle vehicles indoors and sell parts on the internet. Applicant is in the process of getting a state license for his business. It is for standard cars and trucks.

A motion was made by Comm. Funk to approve the referral of the Special Use Permit to the Planning Commission for a Site Plan Review. The motion was seconded by Comm. Place.

Approved: Ayes – 4
 Nays – 0

Minutes

The minutes from July 14, 2014. A motion by Comm. Funk to accept the minutes of June 9, 2014 as amended and seconded by Comm. Place.

Approved: Ayes – 4
 Nays – 0

Adjournment

On the motion of Comm. Funk and seconded by Comm. Steve, voted and carried to adjourn meeting.

Approved: Ayes – 4
 Nays – 0

I, MARY KAY HICKEY, MEMBER OF THE ZONING BOARD OF APPEALS FOR THE CITY OF CORTLAND, NY, DO HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE CITY OF CORTLAND, HELD ON THE 11th DAY OF AUGUST IN THE YEAR 2014.

MARY KAY HICKEY, ZBA MEMBER