

Zoning Board of Appeals  
City of Cortland  
**Monday, January 12, 2015**

A regular meeting of the Zoning Board of Appeals was held on Monday, January 12, 2015 at 5:00 PM in the Mayor’s Conference Room at City Hall.

Present: Chair, Mary Kay Hickey, Commissioners David Funk, Christine Place, Phyllis McGinley, Dave Dovi, Scott Steve

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 – 160 Clinton Ave / Sky Nails (GB) – (Muraco) – Area Variance**

*Installation of new business sign*

The applicant, Nyhanh Phan indicated the placement of the sign was right above the glass doors (as indicated in the photos provided). The sign had already been installed. Total square footage is 70 square feet. The sign would need to be proportional to the other signs in the plaza. If the applicant were to follow the code, the sign would be visually awkward and not visible from a distance.

It was discussed by the board that signs in this area (in the plaza, along the US Route 81) should have different requirements than within the City. This is an item that needs to be looked at in future zoning revision.

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

Approved: Ayes – 6  
Nays – 0

A motion was made by Comm. Funk to approve the Area Variance Application for the now-existing sign. The motion was seconded by Comm. McGinley.

Approved: Ayes – 6  
Nays – 0

**Item #2 – 32 Pleasant Street (Rosemary Russell) – (R1) – Area Variance**

*Building a 7' x 24' deck with steps extending to edge of sidewalk (replacing existing steps)*

This application was tabled at the December meeting to allow the applicant to modify the proposed structure.

Tom Tompkins with Proguard provided pictures of similar properties to show a comparable proposed roof of aluminum trim, vinyl gutters and railings. The proposal will restore to the original porch in keeping with the character of the neighborhood. It will have a 4x12 pitch 2x8 flooring with pressure treated lumber. They will take out the cement and provide steps with better spacing, different risers of 10”.

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

Approved:     Ayes – 6  
                  Nays – 0

It looks to be a smarter choice for the porch and is more in keeping with the neighborhood.

A motion was made by Comm. Place to approve the newly covered front entry plans with smaller porch and new steps to meet with code. The motion was seconded by Comm. McGinley.

Approved:     Ayes – 6  
                  Nays – 0

**Item # 3 – 89 Tompkins Street – (R2) – (Ruggiero) – Interpretation**

*Appeal: Refusal to enforce zoning laws*

This agenda item was held over from the December meeting; the public hearing was closed. The applicant provided additional information; the law department also provided information. Comm. Phyllis McGinley recused herself for this agenda item at the applicant’s request.

Comm. Funk expressed he has read the legal opinion-it is asking the ZBA to just dismiss the application, based on the applicant’s lack of standing and failure to apply within 60 days. Feels the Zoning Officer made a decision he was not able to make.

This went to the Planning Commission for a Site Plan Review but it never went to the ZBA- would have directed Code to comply. The plans did exceed what was allowed. In the plans, what was in excess was removed however the construction is not complete. The project is still in process.

The advice from Corporation Council is the ZBA does not need to act on this because the appeal was not filed in the time permitted and it would be inappropriate to act on it because the ZBA does not have authority to do so.

Comm. Funk feels the Zoning Officer did not have purview to make a decision-the project should have been presented to the ZBA because it needed an area variance. Comm. Funk also asked that the original request from the December meeting be granted – to provide all of the information for the Zoning Board of Appeals to review.

A motion was made by Comm. Funk to table the Interpretation Application for 89 Tompkins Street until all of the material requested is provided for review. The motion was seconded by Comm. Place. Note that the applicant agreed to table.

Approved: Ayes – 5  
Nays – 0  
Recused – 1 (Comm. McGinley)

*Original request:*

- *Discussion, minutes and submitted plans to the City Planning Board for the Site Plan Review Application*
- *Building Permit Application*
- *Any information from the property file regarding the status of the property when it was purchased-or as far back as possible and relevant to the parking issue*
- *Photos of current parking lot*
- *Legal review of the application by Corporation Counsel*

#### **Item # 4 – 8 Hill Street – (R2) – (Ruggiero) – Interpretation**

*Appeal: Denial of CZO*

Comm. McGinley recused herself for this agenda item at the applicant’s request.

A motion was made by Comm. Funk to table the decision until information can be made available to the Commission (the same as requested in agenda item #3) as well as the clarification of the lapse issue and grandfather date from Corporation Counsel. The Motion was seconded by Comm. Place.

*The original information requested by the board included:*

- *Legal opinion of the grandfather date that can be used from this point forward*
- *Legal clarification of the lapse issue*
- *A check on the accuracy of the history presented by the applicant (property files)*
- *A completed application for a CZO*

Approved: Ayes – 5  
Nays – 0  
Recused – 1 (Comm. McGinley)

Comm. McGinley returned to the meeting.

#### **Minutes**

On the motion of Comm Funk, and seconded by Comm. Steve, the minutes from December 8, 2014 were approved unanimously.

**Adjournment**

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

Approved:   Ayes – 6  
                  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 12<sup>th</sup> DAY OF JANUARY IN THE YEAR 2015.**

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**MARY KAY HICKEY, ZBA MEMBER**