

ZONING BOARD MEETING  
TUESDAY, JULY, 26, 2011  
ZONING BOARD  
7:00 P.M.- TOWN HALL – 1529 NYS RTE 12  
BINGHAMTON- NEW YORK – 13901

**PRESENT:** Donald L. Phillips – Chairman  
Messrs. Ruston, Waskie, Doolittle & Grannis

**ALSO PRESENT:** Donald G Walls, Esq. – Town Attorney  
Thomas Geisenhof – Code Enforcement  
Russell Hemedinger- Councilperson  
James DiMascio- Zoning Board Alternate

The meeting convened at 7:00 p.m. at which time Mr. Phillips called the meeting to order and welcomed the audience. Mr. Ruston read a statement which explained how the Zoning Board members are appointed, along with the Board's functions, limitations and duties. Mr. Ruston noted that the reading of this statement not only informs the audience about the Zoning Board of Appeals, but it also reminds the Board members of their responsibilities. Mr. Ruston also read the Notices of Publication for each case, which was duly published, as required by law, and as evidence of Affidavits of Publication received and placed on file.

**APPROVAL OF THE MINUTES**

- Approval of the June, 28, 2011, Zoning Board Meeting.

A motion was made by Mr. Ruston, seconded by Mr. Doolittle to approve the Minutes of the June 28, 2011, Regular Meeting.

Roll Call: Ayes - 6 Nays- 0

\*\*\*\*\*

**PUBLIC HEARINGS**

- **FIRST METHODIST CHURCH** - Robert Pernes - 740 River Rd.-TM#112.07-7-10-Application to amend the Use Variance from the stipulated time for the led message board sign in a residential area.

Mr. Walls explained the format for holding a public hearing to the audience for those that are not familiar with the process. First the legal notice is read, the applicant gives a brief account for the variance. Questions are asked of the applicant regarding the variance request. Then it is open for public comment for those in favor or against. Once everyone has been heard we then hear comments and correspondence from the Ordinance Office and other agencies are read into the minutes. Then the public hearing is closed. At the end of the meeting the Zoning Board members discuss and vote on each application, without public participation.

Mr. Walls conducted the Public Hearing and asked the applicant to explain their request.

## Minutes of the Meeting

Zoning Board 7/26/11

Mr. Pernes, Church representative stated they are amending their original application due to the various agencies that use their facility for events that start earlier in the day like a pancake breakfast, plant sale and such. The Boys and Girl Scouts, Rotary, Nursery School and the church would like to see this changed. With the current hours we cannot change our church service times nor could we welcome the new pastor when he arrived. this year. People from Rotary went to your former Supervisor and could not understand why the Rotary pancake breakfast couldn't be posted earlier on the same day of the event.

Mr. Walls stated the current hours for weekdays is 10:00 a.m. to 11:00 p.m , and weekends from 9:00 am to 10:00 p.m. The new hours would be weekdays 9:00 am to 10:00 p.m. and weekends 7:00 a.m. to 10:00 p.m. Is that correct and why the change and would it have a negative impact on the neighborhood?

Mr. Pernes stated the led sign would not be on every day, only for special events and up lifting quotes each day. As for the messages each individual clubs like the Rotary draft the verbage for their particular event. People have called the church saying they enjoy the little spiritual quotes each day. To my knowledge the church or the town has not received any complaints.

Mr. Walls asked if anyone would like to be heard on this application?

Clare Ernstrom, 6 Badger Dr., I have yet to see any message that does relate to church events. The original application was suppose to be for church upcoming events, not Christian messages and everything else. I object to any led sign in our community.

Mr. Walls asked if there has been any adversity to the sign.

Kathy Holcomb, 4 Badger, Dr., I object to the led sign in our little community. We are not the Vestal parkway. Led lights are not needed in a residential area.

Barbara Flynn , 5 Sandy Ln., stated the reason for the sign was to identify the church . The main white portion around the sign identifies the church and is illuminated 24 hours a day. The led portion of the sign is limited. We were mislead on the first application. We were told it would be a soft yellow light and assured it would not be a harsh light. The legal notices that are sent out is limited to just a small area. This sign still affects the whole community.

You will be opening the door for more signs, like the school across the street and the other church further down the road. We should stop the bleeding now. This is not serving the community, so we would like to submit a petition against it. We feel the original variance should have never been approved.

Mr. Phillips read the petition (see attached).

Ron Leadbeater, 4 Terrace Ave., the sign has lived up to everything that was submitted nineteen months ago in the original application. The church services are publicized, along with the pancake breakfast, plant sale, scouting events, etc. without any complaints to the church.

Bridget Vavra, 3 Columbine Dr., this is a nice residential area with beautiful churches, this sign does not fit in. I'm not in favor of the sign.

## Minutes of the Meeting

Zoning Board 7/26/11

Kathleen Holcomb, 4 Badger Dr., there were to be no other signs on the property. The town has received calls regarding the nursery school sign. There was a chicken BBQ sign propped up against the led sign. Multiple signs on the lawn for children events.

Mr. Walls asked are there any other free standing signs?

Mr. Pernes explained in the beginning there was some miscommunication, which has since been rectified.

Kathleen Holcomb, 4 Badger., Saint Marks Church has services, yoga classes, pancake breakfasts and youth groups, they don't need or use additional signs.

Mr. Geisenhof, stated the shift time permitted to begin and end sign illumination ahead one hour on weekdays , while shifting the start time on weekends ahead three hours and ending an hour sooner than previously approved. Since the overall shifts are happening so as to lower the impact to the neighborhood, the Ordinance Office recommends approval of the amended use variance.

Mr. Walls closed the Public Hearing.

Mr. Phillips read the following correspondence:

- Petition submitted has fifty-one signatures.
- Town Planning Board recommended a favorable advisory.
- Town Engineer-Edward Gent recommended if there have been no complaints an early end time would seem to accommodate the neighborhood, and be less obtrusive.
- Broome County Planning has not identified any significant countywide impact associated with this project.
- Public Works no significant impact
- Town of Fenton, within 500 feet of the property boundary submitted no response.
- Lora Zier, Dept of Public Works no comments on proposed variance.

\*\*\*\*\*

- **DOUGLAS HEATH** – 31 Daniel Dr – TM#078.15-1-2 -Application for a Double Area Variance for the expansion of a pre-existing non-conforming use exceeding the maximum square footage for a detached garage from 725' to 2296' and exceeding the maximum number allowed for detached garage from 1 to 2.

Mr. Walls conducted the Public Hearing

## Minutes of the Meeting

Zoning Board 7/26/11

Mr. Ruston read the legal notice.

Mr. Doolittle felt they changed the application last month for the number of accessory buildings.

Mr. Walls stated the Ordinance Office determined one is a shed the other two buildings are considered detached garages and you allowed only one. Could you state for the record the number of accessory buildings you have currently.

Mr. Heath said there are 3 buildings a 12' x 24' shed according to the Town of Chenango, 28' x 30' detached garage, and a 28' x 52' detached garage which is the one to be enlarged.

Mr. Walls asked what is being stored in the buildings?

Mr. Heath explained he has lots of stuff, like farm tractors and vehicles, that he doesn't want stored outside.

Mr. Walls asked if his collection of toys are all his?

Mr. Heath, stated everything in the buildings are owned by him.

Mr. Walls said your lot consists of 14 acres, and shielded by woods in a residential zone. Would this variance impact the neighborhood?

Mr. Heath stated his location is in a residential zone but 500' down the street the zoning changes into agricultural. The buildings are barely visible from the road. If the variance is not approved, I will have to store everything outside.

Mr. Walls asked if anyone wished to be heard on this application? Let the record show no public comment.

Mr. Geisenhof for the Ordinance Office, stated the subject property is in a residential zone which allows only one detached garage of not more than 725 square feet. However, this property is over 14 acres in size, rural in nature and nicely buffers the 2 existing garages. Therefore we recommend approval of the Area Variances.

Mr. Walls closed the Public Hearing.

Mr. Phillips read the following correspondence:

- Town Planning Board recommends a favorable advisory.
- Town Engineer, Edward Gent, recommends a positive advisory.
- Broome County Dept of Planning & Economic Development stated the project is not subject to review pursuant to Section 239 l & m of the General Municipal Law, because it is not within 500' of the State and County interests covered under the law.

\*\*\*\*\*

## Minutes of the Meeting

Zoning Board 7/26/11

- **CHRISTOPHER & TRACIE SMITH** – 440 Dunham Hill Rd.- TM#066.10-1-11-Application for Multiple Area Variances to construct a detached garage with less than required side yard setback from 5' to 1'6", rear yard setback from 5' to 4', exceeding the maximum height from 16' to 18' & less than required driveway setback from 10' to 1'6".

Mr. Walls opened the Public Hearing

Mr. Ruston read the legal notice.

Mr. Walls stated the applicant did a great job answering the questions 1-4 for an Area Variance. Why will the detached garage be located on the westerly side of the property. Is there no other alternate to move it elsewhere?

Mr. Smith indicated the northwest side has the existing driveway layout that required drainage for the road. Changing it now would be too costly. Placement on the southeastern side would double the cost of the project for excavation and drainage for a new driveway. Which, we cannot afford at this time. There is also a spring that keeps the southeastern portion of the property very wet for most of the year.

Mr. Walls asked why the increase in height?

Mr. Smith said our house was built in the 1800's with minimal storage space. With the gambrel roof it will increase the look of the house and have extra storage for the kids stuff.

Mr. Walls asked if anyone wished to be heard on this application. Let the record show no public comment.

Mr. Walls closed the Public Hearing.

Mr. Phillips read the following correspondence:

- Broome County Planning has not identified any significant county-wide or inter-community impacts associated with this project. The Zoning Board of Appeals should ensure that the project does not encroach on the adjacent property.
- Town Planning Board recommends a favorable advisory.
- Town Engineer-Edward Gent recommended a positive advisory, since the location in reference to the adjacent lots appears not to compromise the location.
- Lora Zier, Broome County Planning,, P.E. DPW Engineering has no comments or objections. It is understood the owner does not intend to move the existing driveway. So no permit from Br Co Highway Division will be required.

\*\*\*\*\*

**Minutes of the Meeting**

**Zoning Board 7/26/11**

- **CHRISTOPHER PELTO** – 1330 Upper Front St. –TM#111.12-2-30 -Application for an Interpretation of 73-10 (non conforming uses) and possible Multiple Area Variances. For lot size from 12,000’ to 5,402’ front yard setback from 35’ to 15’8”, front yard setback from 35’ to 9’2”, side yard setback from 15’ to 3’3”, Maximum lot coverage from 66% to 60% and parking from 22 spaces to 10 spaces. Former JSG Audio location.

Mr. Walls conducted the Public Hearing.

Mr. Ruston read the legal notice.

Mr. Walls stated the Interpretation for legal non conforming structure on a legal non conforming lot Section 73-10 and Section 73-7b be considered. The original site has ceased for 6 months therefore would require the variances. This Board needs to act on the Interpretation before proceeding with the possible variances.

A motion was made by Mr. Ruston regarding the non-conforming use interpretation, due to the cessation of the business, we would revert back to the original and the applicant must comply with the existing regulations and that multiple variances are appropriate. Seconded by Mr. Doolittle and unanimously carried

Roll Call:       Ayes – 6           Nays - 0

\*\*\*\*\*

Mr. Walls stated one point, the applicant originally applied for a compliance letter that variances would not be required for this nonconforming lot. The applicant was then made aware multiple area variances would be required.

Now we can move on the Public Hearing.

Mr. John Jones, attorney from Hinman, Howard and Kattell, LLP, representative for the applicant. We originally came for a zoning compliance letter for the former JSG Audio location for a contract with Lori Ashley Salon. They have received site plan approval from the Town’s Planning Board contingent upon the variance being approved by the Zoning Board of Appeals.

This site has been this way for 30 years. A hair salon is a permitted use for this zoning classification and would not be a detriment to the neighborhood. The building would appear the same way, like the previous use. There is no other way to achieve compliance. This is not self created. The building is what it is.

Christopher Peltó, applicant said he contacted the Town Historian, regarding the parcel. The building has been there for 50 years. It has always been a retail use. All had higher activity like B & B Market, Buck’s and JSG Audio. A hair salon is a conforming use for this zoning classification. It would be low intensity use. The building would remain the same on the exterior with no physical change just the retail use .

Mr. Jones, Attorney, also had an Environmental Impact Statement to submit for the site.

Mr. Walls, Town Attorney stated let the record show we have received the Short Environmental.

## Minutes of the Meeting

Zoning Board 7/26/11

Impact State and Zoning Board of Appeals will assume Lead Agency and accept this application and upon further review adopt a Negative Declaration.

Mr. Walls stated they are locked in on the dimensions for the site.  
Mr. Walls asked if anyone wished to be heard on this application?

Earle Cowden, 39 Trafford Rd., The building is one of the oldest buildings on Front Street and is nicely landscaped. It is nice to know the exterior of the building will not be changed. This use will be a good match for the building.

Lori Morgan, owner of the Lori Ashley Salon in Johnson City. I live in the Town of Chenango and wanted to move my business closer to home. The salon is for higher end clients, appointments would be approximately 1 to 2 hours. The business will have low impact on parking. The only changes would be to remodel the interior.

Mr. Geisenhof from the Ordinance Office stated this property lacks compliance with today's zoning ordinance regarding the lot size, building setbacks and amount of parking. These obstacles, however, did not negatively affect previous low volume business, such as JSG Audio, allowed and located here in the recent past. The Ordinance Office recommends approval for the Multiple Area Variances.

Mr. Walls closed the Public Hearing.

Mr. Phillips read the following correspondence:

- Broome County Planning has not identified any significant county-wide or inter-community impacts associated with this proposed variance. Interpretations are not subject to review pursuant to Section 239 l & m of the General Municipal Law. Highway Work Permit must be obtained from our Dept prior to the commencement of work on any activity in the state right-of-way.
- BMTS does not have any comments on the interpretation or possible variances.
- Town Planning Board recommends a favorable advisory for the first floor only with the following conditions:
  1. The applicant/new owner installs a backflow prevention device (per Town Code)
  2. No parking in the Town's ROW.
  3. Applicant/new owner would need to apply for a Use Variance if there are future plans for the second floor.
- Town Engineer-Edward Gent recommended approval based upon the past history of the building use.
- Frank Evangelisti, Acting Commissioner – NYS DOT has no comment at this time. Any work in the State ROW will required Highway Work Permit.

\*\*\*\*\*

- **MICHAEL LUMSDEN** – 273 East Hill Rd – TM#066.02-1-12-Application for an Area Variance to place an accessory building in front of the principle use.

Mr. Walls conducted the Public Hearing.

Mr. Ruston read the legal notice.

Mr. Walls let the record show the applicant was not present for the meeting. Anyone wish to comment on this application? Let the record show no public comment.

Mr. Geisenhof from the Ordinance Office stated the site of the former Sickles Garage is to be cleaned up and the building removed. Part of the proposed site clean up to move a portion of the garage to the site next door for a residential garage, therefore recycling a useful building. Relocating the building to a compliant area on the lot is difficult due to the lot topography, well and septic location. Due to these constraints and minimal impact that a garage in front of the house would have, leads the Ordinance Office to recommend approval of the Area Variance to place an accessory building in front of the principle use.

Mr. Geisenhof also said there is no other place to relocate the garage due to the well and telephone wires. The garage will be buffered by the woods.

Mr. Walls closed the Public Hearing.

Mr. Phillips read the following correspondence:

- Broome County Planning has not identified any significant county-wide or inter-community impacts associated with this proposed variance.
- Town Planning Board recommended a favorable advisory.
- Town Engineer-Edward Gent recommended approval based upon the past history of the building use.

\*\*\*\*\*

**NEW BUSINESS**

- **RICHARD BIRDSALL EXCC.**–18 Carmichael Rd- TM#112.09-3-9- Application for a Use Variance to place a double wide on the property.

**RECOMMENDATION**

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the public hearing for August 23, 2011.

**Minutes of the Meeting**

**Zoning Board 7/26/11**

In the matter of Richard Birdsall Excc., Mr. Doolittle made a motion , seconded by Mr. Waskie, and unanimously carried to accept this application for a Use Variance to place a double wide on the parcel and schedule a Public Hearing to be held on August 23, 2011, or as soon as the matter maybe heard.

Roll Call:       Ayes – 6           Nays – 0

\*\*\*\*\*

- **DAVID R CARNER** -26 Panorama Dr. -TM#095.19-1-38 -Application for an Area Variance to exceed the maximum height for an accessory building from 16’ to 22’.

**RECOMMENDATION**

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the public hearing for August 23, 2011.

A motion was made by Mr. Doolittle, seconded by Mr. Waskie, and unanimously carried to accept this application for an Area Variance to exceed the maximum height allowed from 16’ to 22’ and schedule a Public Hearing to be held on August 23, 2011, or as soon as the matter maybe heard.

Roll Call:       Ayes – 6           Nays – 0

\*\*\*\*\*

Mr. Phillips, ZBA Chairman, asked since they have so many variances, to streamline the process is it possible, we make one motion to include the multiple variances, instead of voting on each individual variance separately?

Mr. Walls was in agreement.

**VOTES ON PUBLIC HEARING**

- **FIRST METHODIST CHURCH** - Robert Pernes - 740 River Rd.-TM#112.07-7-10-Application to amend the Use Variance from the stipulated time for the led message board sign in a residential area.

Mr. Ruston, ZBA Member, felt it was a mistake to approve it in the first place. However, now they are decreasing the time from 11:00 p.m. to 10:00 p.m. I’m in favor of the change.

Mr. Doolittle, ZBA Member, said it is an intense light, is it possible to make it less bright? Possibly reduce the wattage and if it can be done, will you do it?

Mr. Pernes asked which portion of the sign he is referring to, the header board or message board?

Mr. Doolittle, ZBA Member, the message board portion, is it possible to change the wattage?

**Minutes of the Meeting**

**Zoning Board 7/26/11**

Mr. Pernes, said not sure will have to look into it.

Mr. Doolittle if it is possible would you change it?

Mr. Pernes said he would have to research it and see, but would be willing to do so if it is possible.

Mr. Grannis, ZBA Member, agrees it would be better not having it on at 11:00 p.m. since it is already there.

Mr. Doolittle, ZBA Member, asked how can you avoid the other signs. If I had a child in the scouts, having a cookie sale or whatever, I don't see why they can't place a sign on the church yard for 3 to 5 days . I don't know of any church that would try and restrict that, it is ridiculous to me.

Mr. Phillips, ZBA Chairman, I told my wife, this will be a difficult application, because government is dealing with the church. I understand the neighbor's concerns. However, the sign is there, so how can we make it best for the community. I agree with you, when you come out of Sam's Club you have the Girl Scout selling whatever, it is difficult to tell them to get out of here with your illegal sign. I do not feel this will open a huge group applying for led signs. You have to understand each case is handled individually based on their submissions. I agree with Mr. Ruston it probably should not have been passed originally. It's a tough call, since the sign is already there.

Mr. Doolittle, ZBA Member, said being a member of the Episcopal Church, I know they are not in favor of it and I'm not happy with it either.

Mr. DiMascio, ZBA Alternate, concurred with the other Board Members.

Mr. Waskie, ZBA Member, felt the sign is not obtrusive in comparison. The Chenango Valley High School message sign does change frequently and is distractive. The hours 9 to 10 is better than 11:00 p.m. It staying in line with the other businesses like the Red & White and Mirabito which close by 10:00 p.m. I support the change.

In the matter of First Methodist Church, Mr. Ruston made a motion that the application for the amended Use Variance to change the stipulated time schedule for the led message sign for the led message board sign in a residential area be approved, and that the Town Attorney draw up the appropriate resolution for the signature of the Board Members, seconded by Mr. Doolittle, and unanimously carried.

Roll Call:       Ayes - 6       Nays -0

Mr. Doolittle, ZBA Member, requested they look into reducing the wattage.

Mr. DiMascio, ZBA Alternate, felt a filter will diminish the sign appearance.

\*\*\*\*\*



**Minutes of the Meeting**

**Zoning Board 7/26/11**

- **CHRISTOPHER PELTO** – 1330 Upper Front St. –TM#111.12-2-30 -Application for an Interpretation of 73-10 (non conforming uses) and possible Multiple Area Variances. For lot size from 12,000’ to 5,402’ front yard setback from 35’ to 15’.8”, front yard setback from 35’ to 9’.2”, side yard setback from 15’ to 3’.3”, Maximum lot coverage from 66% to 60% and parking from 22 spaces to 10 spaces. Former JSG Audio location.

Mr. Doolittle, ZBA Member, is concerned about the 15’8” from the building to the edge of the road would work out to 19 feet using the vehicle stripping in the town’s right-of-way. This could create a problem.

Mr. Pelto, stated he was at the site recently and took a picture of a regular size car and it does not hang over into the right-of-way. The Board can look at the picture on his phone,

Mr. Waskie, ZBA Member, said their parking may change with handicap parking taking away 2 spaces.

Lori Morgan, there will be 4 spaces in the back of the property for employees. On Quinn Road there is parking on both sides. We could try lining up the spaces.

Mr. Grannis, ZBA Member, it doesn’t matter how you line it up, people park crazy.

Lori Morgan, of Lori Ashley Salon stated they could make the parking along the side of the building for compact cars only.

Mr. Waskie, ZBA Member , said out of the 10 parking spaces, 4 will be used by your employees. How many salon chairs do you have?

Ms. Morgan stated they will have 5 salon chairs, but their appointments vary. So it is unlikely they would be all used at the same time. If you look at Quinn Road there are cars parked on both sides and it does not seem to create any problems.

Mr. Phillips, ZBA Chairman, stated at least 4 members of this Board remember and shopped at the B & B Market. I’m in favor of these variance , making this a viable property again.

In the matter of Christopher Pelto , a motion was made by Mr. Doolittle, that the application for the Multiple Area Variances for lot size from 12,000’ to 5,402’ front yard setback from 35’ to 15’.8”, front yard setback from 35’ to 9’.2”, side yard setback from 15’ to 3’.3”, Maximum lot coverage from 66% to 60% and parking from 22 spaces to 10 spaces be approved, and adopt a Negative Declaration on the Environmental Impact Statement. and the Town Attorney draw up the appropriate resolution for the signature of the Board Members, seconded by Mr. Grannis, and unanimously carried.

Roll Call:      Ayes – 6                      Nays-0

\*\*\*\*\*

**Minutes of the Meeting**

**Zoning Board 7/26/11**

- **MICHAEL LUMSDEN** – 273 East Hill Rd – TM#066.02-1-12-Application for an Area Variance to place an accessory building in front of the principle use.

Mr. Doolittle, ZBA Member, felt the garage will not survive the move. Should we request if the garage does not make the move successfully, that the debris must be cleaned up in a timely manner.

Mr. Geisenhof, Ordinance Office said the applicant just purchased the property at auction and has done tremendous things already with the property. He is a man of his word and I personally do not feel you need to make that stipulation.

Mr. Grannis, ZBA Member, if he doesn't clean it up, it would be the the Ordinance Office responsibility to enforce the clean up .

In the matter of Michael Lumsden, Mr. Grannis made a motion that the application for the Area Variance to place an accessory building in front of the principle use be approved, and the Town Attorney draw up the appropriate resolution for the signature of the Board Members, seconded by Mr. Waskie and unanimously carried.

Roll Call:       Ayes - 6                       Nays- 0

\*\*\*\*\*

**ADJOURNMENT**

There being no further business before the Board, a motion was made by Mr. Grannis, seconded by Mr. Ruston to adjourn the meeting at 8:25 p.m.

Respectfully submitted,

Diane Aurelio  
Recording Secretary

