

**CITY OF CANANDAIGUA
ZONING BOARD OF APPEALS
COURT ROOM, CITY HALL
February 17, 2016**

PRESENT: Ryan Akin, Chair
Michelle Albrecht, Vice Chair
Dwight Symonds
James Hitchcock
Lloyd Peterson
Andrew Cotter
Joseph Bader

ALSO PRESENT: Richard E. Brown, Zoning Officer

CALL TO ORDER:

Chairperson Akin called to order the regular meeting of the Zoning Board of Appeals at 7:05 P.M.

APPROVAL OF MINUTES:

Chairperson Akin asked if anyone had any corrections or additions to either the Organizational Meeting Minutes or the Regular Meeting Minutes of January 20, 2016. Mr. Peterson moved to approve the minutes as written. Mr. Cotter seconded the motion, which carried by voice vote (7-0).

REVIEW OF APPLICATIONS:

ITEM 1 **Application #16-004: 136 Bemis Street, RICHARD ROSEBERRY, requesting Area Variances necessary to demolish the existing structure and construct a 20' x 35' structure. In accordance with Zoning Schedule 1 of the Municipal Code of the City of Canandaigua, the following variances are required:**

	<u>Minimum</u>	<u>Provided</u>	<u>Variance</u>
Lot Area	3,000 SF	1,780 SF	1,220 SF
Lot Width	40 ft.	30 ft.	10 ft.
Lot Depth	60	59.25	0.75 ft.
Side Yard 1	5	2	3 ft.
Side Yard 2	5	2.2	2.8 ft.
Total Side Yard	15	2.5	12.5 ft.
Rear Yard	20	5	15 ft.
Parking	5	2	3

Application was presented by Richard Roseberry. He explained that he was essentially asking to keep what is currently there. The current building is in serious disrepair and has been cited by the Code Enforcement office. He said that it cannot be feasibly repaired and instead he plans to demolish the structure and is seeking permission to build a slightly smaller structure at the same location. Mr. Roseberry said that the site has drainage problems that have caused some of the structural problems. He will improve the drainage with the new construction.

Mr. Roseberry also submitted a petition in which five of the nearby properties indicate their support of the reconstruction.

Chairperson Akin opened the public hearing. Hearing no one, the public hearing was closed.

The Board proceeded with questions to the applicant. Chairperson Akin reminded the Board to keep in mind that this is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Mr. Cotter believes the new construction will be an improvement over the current condition.

Mr. Peterson asked about the drainage improvements. Mr. Roseberry said that he would add a drainage swale and raise the elevation of the first floor by 2 ½ feet.

Mr. Hitchcock noted that the building would be in the same location as the current structure, but slightly smaller, so there would be no significant change to the character of the neighborhood.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Mr. Cotter said that the variance is required due to the nature of the property; it is so limited.

Mr. Peterson asked about the feasibility of the repair. Mr. Brown explained that when repairs exceed 50% of the value of the property, the standards for new construction apply. Therefore, the variances would be required even for repair of the existing building.

Regarding question #3: *Show that the requested variance is not substantial.*

Mr. Bader said the variances are substantial, but that they are not more than what currently exists. Therefore, he does not find them to be excessive in this situation.

Mr. Akin asked about the parking. Mr. Roseberry explained that the new proposal would have no more parking demand than the current use and there are currently no parking problems.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Akin noted that the new construction would improve the current drainage problems.

Ms. Albrecht said that new construction standards are more environmentally sound than the past practices applied for the current structure, so this would be an improvement.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Mr. Cotter noted that the nonconforming nature of the site and structure existed prior to the applicant owning it. He did not build this structure and he did not cause the drainage problems that led to the deterioration.

Chairman Akin called for a motion.

Ms. Albrecht moved for ***approval*** of the variances, finding that the benefit of the variances to the applicant outweigh the detriment of the variances to the neighborhood for the following reasons;

- #1 The granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- #2 The benefit sought by the applicant cannot be achieved by other feasible means that do not require a variance;
- #4 The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.

Mr. Symonds seconded the motion, which ***carried*** with a roll call vote of 7-0:

Lloyd Peterson	Voting	YES
Michele Albrecht	Voting	YES
Dwight Symonds	Voting	YES
Andrew Cotter	Voting	YES
James Hitchcock	Voting	YES
Joseph Bader	Voting	YES
Ryan Akin	Voting	YES

ADJOURNMENT:

Mr. Bader moved to adjourn the meeting at 7:30 P.M., seconded by Mr. Hitchcock and carried with a voice vote (7-0).

Richard E. Brown, Secretary

Ryan Akin, Chairperson