

**MINUTES  
CITY OF CANANDAIGUA  
ZONING BOARD OF APPEALS  
May 15, 2019**

PRESENT:                Joseph Bader, Vice Chairman                Julie Harris  
                              James Davern                                        Carol Henshaw  
                              Susan Haller                                        James Hitchcock

ABSENT:                Ryan Akin, Chair

ALSO PRESENT:        Richard E. Brown, Zoning Officer

**CALL TO ORDER:**

Mr. Bader called to order the regular meeting of the Zoning Board of Appeals at 7:00 P.M.

**APPROVAL OF MINUTES:**

Mr. Bader asked if anyone had any corrections or additions to the Regular Meeting Minutes of April 17, 2019. Mr. Bader moved to approve the minutes as written. Mr. Davern seconded the motion, which carried by unanimous voice vote (7-0).

**REVIEW OF APPLICATIONS:**

**ITEM 1**                **Application #19-108: 11 and 13 Island Lane, MARCUS FRANZ, requesting Area Variances necessary to construct patios within 3 feet of the side yard property lines. In accordance with §850-27 of the Zoning ordinance of the City of Canandaigua, patios within 8 feet of a property line need to be screened. The application seeks variances from this requirement.**

Mr. Bader clarified that the application actually represents two patio projects on two distinct properties. Since the owner is the same and the issues are the same, the projects were combined.

Marcus Franz, the homeowner, represented the application. He said he would like to add the patios as a place to site some Adirondack chairs and look at the lake. Installing the required screen would impair the sight lines for him and his neighbors. Mr. Franz said that the Home Owners Association supports the variance, as they do not want the screening either.

Mr. Bader opened the public hearing. No one was present. Mr. Bader closed the Public Hearing.

Mr. Bader 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.*

Ms. Haller asked for a clarification of the arrangement of the units. Units #9 & #11 are a single building and units #13 & #15 are a separate attached building.

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.*

Ms. Haller said the privacy screens would deter from the views of the lake.

Mr. Bader noted that if the patios were 8 feet off the property line, they would not extend to the sliding doors, which are closer than 8 feet from the property line.

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

Mr. Hitchcock said that, as a percentage, the request is substantial, but the overall impact to the site is not substantial.

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.*

Ms. Henshaw said there was no impact—they would fit right in.

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

Ms. Henshaw said the hardship is self-created. Mr. Bader agreed.

Mr. Bader asked if there were any other comments or questions. Hearing none, he called for a motion.

Mr. Hitchcock moved for approval of the application, finding that the benefit of the variance to the applicant outweighs the detriment of the variance to the neighborhood. He made this motion stating 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.
- #3. The proposed variance is not substantial.

Mr. Davern seconded the motion, which *carried* with a roll call vote of (6-0):

Joseph Bader	Voting	YES
James Davern	Voting	YES
Julie Harris	Voting	YES
Carol Henshaw	Voting	YES
Susan Haller	Voting	YES
James Hitchcock	Voting	YES
Ryan Akin	Absent	

**ITEM 2      Application #19-114: 490 North Main Street, VALVOLINE INSTANT OIL CHANGE, requesting Area Variances necessary to construct a 270 SF addition within 5 feet of the property line. In accordance with Schedule 1 of the Zoning Ordinance of the City of Canandaigua, the minimum side yard setback is 30 feet. Further, §850-54 of the Zoning Ordinance requires a 10-foot buffer strip between commercial uses and residential districts. The applicant also seeks a variance from this requirement.**

Chris Corfield, project engineer from Whelan & Curry, represented the application. He said that Valvoline Instant Oil change would like to add another service bay to the existing business. They would add parking around the back and relocate the dumpster. A privacy fence would be added along the southern property line.

Mr. Bader opened the public hearing.

James Johnson, from Midlakes Drive, said that he was concerned about the drainage from the property. He asked if the project would include modifications to the stormwater pond on the property.

Sheila Dickenson, Legion Heights Homeowners Association, said there is a history of water issues. She is concerned that the expansion would make the situation worse. She also felt that the expansion would encroach upon the residents.

Mr. Bader closed the Public Hearing.

Mr. Bader 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.*

Ms. Haller said she felt the variance would create a substantial change to the character of the neighborhood.

Mr. Bader said that the primary impact would be to the adjacent office building, not a residence.

Ms. Haller said there would be an undesirable change to the Main Street streetscape.

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. Bader asked if the new bay could be on the north side of the existing building. The applicant said the internal design would not allow this. The north side is the customer waiting area and that would break up the working area. He said the only other alternative would be to demolish the entire building and reconstruct the entire site.

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

Ms. Haller said the request is substantial—going from 30 feet to just 5 feet. Mr. Bader agreed.

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.*

Ms. Henshaw said this might be an opportunity to address the existing drainage problems of the site.

Mr. Bader asked if the project could be approved with the condition that the drainage problems be addressed. Mr. Brown said this would probably be considered a reasonable condition of approval. He said that if the variance were approved, the project would proceed to the City Planning Commission for Site Plan Review. That review would consider drainage.

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

Ms. Henshaw said the hardship is self-created, but by the success of the business.

Mr. Bader asked if there were any other comments or questions. Hearing none, he called for a motion.

Ms. Harris moved for **approval** of the application, finding that the benefit of the variance to the applicant outweighs the detriment of the variance to the neighborhood. She made this motion stating 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 some other feasible means that would not require a variance.

Ms. Harris made this motion with the following condition:

1. A Stormwater plan shall be approved prior to Building Permit.

Ms. Haller seconded the motion, which *carried* with a roll call vote of (4-2):

Joseph Bader	Voting	YES
James Davern	Voting	No
Julie Harris	Voting	YES
Carol Henshaw	Voting	YES
Susan Haller	Voting	No
James Hitchcock	Voting	YES
Ryan Akin	Absent	

**ITEM 3      Application #19-115: 39 Coach Street, PEACEMAKER BREWING COMPANY, requesting an Area Variance necessary to operate a tasting room adjacent to a residential zone district. In accordance with §850-83.D.1 of the Municipal Code of the City of Canandaigua, drinking establishments shall not be within 200 feet of a residential zone district.**

Todd Reardon, the business owner, represented the application. He said he would like to move his brewery and tasting room from Niagara Street to this location. There would be no external changes to the building or to the site.

Mr. Bader opened the public hearing.

Denise Chaapel, the Downtown Manager, said that she had been working for 18 months to find a suitable location for this business. She said this tasting room would not have the character of a typical bar. She believes that this would be a good fit for the neighborhood, which has other restaurants.

Mr. Bader closed the Public Hearing.

Mr. Bader 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. Davern said he thought this use would be a good fit for the area. Ms. Henshaw agreed. Mr. Bader said there was a precedent set when the ZBA approved a similar variance for the Three Huskies Brewery which was to locate across the street.

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. Bader said there was no way to locate the business on this property without a variance.  
Regarding question #3: *Show that the requested variance is not substantial.*

Mr. Bader said the variance was substantial—going from 200 feet to zero.

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. Davern said that he would not want to live next door to this type of use.

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

Ms. Henshaw said the hardship is self-created, but by the success of the business, which required them to relocate.

Mr. Bader asked if there were any other comments or questions. Hearing none, he called for a motion.

Mr. Davern moved for approval of the application, finding that the benefit of the variance to the applicant outweighs the detriment of the variance to the neighborhood. She made this motion stating 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 some other feasible means that would not require a variance.
- #3. The variance is not substantial.
- #4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.
- #5. The hardship is not self-created.

Mr. Hitchcock seconded the motion, which *carried* with a roll call vote of (6-0):

Joseph Bader	Voting	YES
James Davern	Voting	YES
Julie Harris	Voting	YES
Carol Henshaw	Voting	YES
Susan Haller	Voting	YES
James Hitchcock	Voting	YES
Ryan Akin	Absent	

**ADJOURNMENT:**

Ms. Harris moved to adjourn the meeting at 7:45 P.M., seconded by Mr. Hitchcock and carried by unanimous voice vote (7-0).

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Richard E. Brown, Secretary

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Joseph Bader, Vice Chair