

**MINUTES
CITY OF CANANDAIGUA
ZONING BOARD OF APPEALS**

July 15, 2020

PRESENT: Ryan Akin, Chair
Joseph Bader, Vice Chairman
Carol Henshaw
Julie Harris
Susan Haller
James Davern

ABSENT: James Hitchcock

ALSO PRESENT: Richard E. Brown, Zoning Officer

CALL TO ORDER:

Chairman Akin called to order the regular meeting of the Zoning Board of Appeals at 7:01 P.M.
(The meeting was held remotely via the Zoom online platform.)

APPROVAL OF MINUTES

Chairman Akin asked if anyone had any corrections or additions to the Regular Meeting Minutes of June 17, 2020. Corrections were noted. Ms. Harris moved to approve the corrected minutes. Mr. Bader seconded the motion, which carried by unanimous voice vote (6-0).

REVIEW OF APPLICATIONS:

ITEM 1 **Application #20-136: 64 Green Street, CITY MINI STORAGE, for a Use Variance necessary to develop a commercial storage facility within a MU-2 zone district (Mixed Use - Medium Density). In accordance with §850-46 of the Zoning Ordinance of the City of Canandaigua, commercial storage is not a permitted use in this zone district.**

Timothy Stone presented the application. They are looking to develop a little over 1 acre of this 2.3-acre vacant land parcel. The development consists of 62 designated parking spaces for boats, RVs, campers and cars. It will be fully fenced with direct access from City Mini Storage. There will be a locked swing gate for emergency access onto Green Street. The area will be gravel with lines and numbered spaces. The balance of 1.3 acres will remain undeveloped at this time. There are to be no permanent structures, other than the fencing.

Commissioner Davern asked to recuse himself from this application, stating a potential conflict of interest.

Chairman Akin opened the Public Hearing. No one was present.

Chairman Akin closed the Public Hearing.

Beginning with question #1: *Show that the applicant cannot realize a reasonable return as demonstrated by competent financial evidence.*

Mr. Bader pointed out that there is currently a treatment plant and waste management facility in the area. Therefore, this would not be an appealing location for residential development. In addition, there would be an added cost to extend the road and utilities to this property.

Ms. Haller believes the location is also undesirable for any permitted commercial use.

When attempting to view the site, Ms. Harris found disposal trucks blocking the street. This also makes the site unappealing for another use.

Regarding question #2: *Show that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.*

Mr. Bader pointed out that the property is unique in that there are currently no buildings on the site. He believes this makes it unique. He said he would be opposed to demolishing active residences

Regarding question #3: *Show that the requested use variance will not alter the essential character of the neighborhood.*

Ms. Haller does not believe it will have an impact on the character of the neighborhood for the reasons stated above.

Ms. Henshaw noted that the development might be visible from the nearby mobile home park. She asked if there would be enough trees left to maintain screening. Mr. Stone explained that the trees on the east side would remain untouched, he believes that the impact to the mobile home park would be negligible.

Regarding question #4: *Show that the alleged hardship has not been self-created.*

Mr. Bader finds the situation unique in that the hardship has been created from the character of the properties nearby.

Ms. Henshaw noted that the proposed site is on a dead-end street, making emergency access difficult. It would present a problem for any other use.

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

Mr. Bader moved that the board Approve the application as submitted and presented for the following reasons:

1. The applicant cannot realize a reasonable return as demonstrated by competent financial evidence;
2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. The requested use variance will not alter the essential character of the neighborhood; and
4. The alleged hardship has not been self-created.

Ms. Haller seconded the motion, which *carried* with a roll call vote of (5-0):

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

ITEM 2 Application #20-149: 48 Tamarack Drive, MARK OLIVIERI, for an Area Variance necessary to construct a 576 SF Storage Structure. In accordance with 850-30 of the Zoning Ordinance, storage buildings cannot exceed 165 SF.

Mark Olivieri, the homeowner, presented the application. In 2018, the ZBA approved a shed of 360 SF. That was never constructed and now that they are getting ready to build, he has found that a structure made from standard length lumber would be more cost effective. The new structure would be 24 x 24; based on plans for a standard two-car garage.

Mr. Bader inquired about the size of the property. Mr. Olivieri said .6 acres and is mostly wooded.

Chairman Akin opened the Public Hearing. No one was present. Chairman Akin closed the Public Hearing.

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 if the structure would be visible to the neighbors. Mr. Olivieri said it would be somewhat hidden from the road. It will have colonial style siding, and is designed to be compatible with 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.*

The applicant does have the option of installing two accessory structures up to 165 square feet each. Mr. Bader noted that this would still not provide him with the space he desires and would not be as aesthetically pleasing.

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

Mr. Bader feels it is substantial with regard to the maximum area allowed, but felt it would not appear oversized relative to the size of the property.

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. Harris pointed out that the applicant is proposing to remove very few trees and the structure will be somewhat hidden. Therefore, there will be no adverse effect or impact.

Ms. Haller said that aesthetics would be her main concern. However, the applicant has described a structure that should fit well within the neighborhood.

Mr. Bader reminded everyone that the neighbors have been given two opportunities to speak up with any concerns, with this being the second request relating to this project.

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

Ms. Haller believes it is self-created.

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

Ms. Harris moved that the board Approve the application as submitted and presented 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 some other feasible means that would not require a variance.
4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.

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	Absent	
Ryan Akin	Voting	YES

ITEM 3 Application #20-166: 249 Pickering Street, JEFFREY BITTEL, for an Area Variance necessary to construct a new home with an attached garage extending 1.5 feet in front of the primary structure. In accordance with Zoning Schedule 1 of the Zoning Ordinance of the City of Canandaigua, garages shall be set back at least two feet from the front of the structure.

Jeffrey Bittel, the property owner, presented the application. The property is on a corner lot and has two front setbacks. He said that with the small, corner lot, they need to develop living space behind the garage. If the garage were to be set back two feet, this would interrupt the flow of the floor plan and the porch would be open ended on one end

Chairman Akin opened the Public Hearing. Seeing no one, the Public Hearing was closed.

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 pointed out that several of the nearby properties have garages that are forward slightly.

Mr. Davern stated that one and a half feet will have no significant impact to the neighborhood,

Mr. Bader noted the variety of the neighborhood with a mixture of slightly forward and slightly set back garages.

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 another feasible method would be to adjust the floor plan, but the applicant explained why this was less desirable.

Ms. Henshaw feels it is feasible, but not practical.

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

Mr. Davern said that twelve feet would be substantial, but not one and a half. Mr. Bader agrees.

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. Haller believes the lot would look more appealing with a home built on it. Mr. Davern agrees.

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

Mr. Bader believes it is self-created.

Ms. Haller spoke of the difficulties facing corner lots, having two setbacks.

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

Ms. Haller moved that the board Approve the application as submitted and presented 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 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.

Mr. Bader 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	Absent	
Ryan Akin	Voting	YES

ADJOURNMENT

Mr. Bader moved to adjourn the meeting at 7:40 P.M., seconded by Ms. Haller and carried by unanimous voice vote (6-0).

Richard E. Brown, Secretary

Ryan Akin, Chairman