

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
TOWN OF NEW HARTFORD MUNICIPAL BUILDING  
NOVEMBER 16, 2020**

The Regular Meeting was called to order at approximately 6:00 P.M. by Chairman Randy Bogar. Board Members present were, Michele Mandia, Byron Elias, and Fred Kiehm. Absent: John Montrose, Karen Stanislaus and Lenora Murad. Also in attendance were Town Attorney Herbert Cully; Councilman Richard Lenart, and Secretary Dory Shaw. Everyone in attendance recited the Pledge of Allegiance. Chairman Kiehm introduced the Board Members and explained the procedures for tonight's meeting. He also mentioned that three Board Members are absent and it is up to the applicant whether to proceed. The applicants will need all four members' votes for approval.

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The application of **Mr. Brian Thomas, 8280 Seneca Turnpike, Clinton, New York (Town of New Hartford)**. Mr. Thomas is proposing a 270± square foot carport addition in the required side yard setback area. He is located in a C2 zone, which requires that the side yard setback be 20'. The proposed addition will extend into the required side setback by 13'6"±. Therefore, the applicant is seeking a 12'6"± left side yard setback Area Variance. Tax Map #328.010-2-29; Lot Size: 100' x 150'; Zoning: C2 Commercial Retail. Mr. Thomas appeared before the Board.

Due to the State mandated restrictions, all attendees will be required to wear face masks continuously covering nose and mouth, and six (6) foot "social distancing" will be observed. Applicants and attendees must strictly adhere to the above and to the stated hearing time. The Town of New Hartford further reserves the right to limit the number of participants in each hearing.

Mr. Thomas explained that he would like to place a car under this carport especially for the winter time. His adjacent neighbor, Louise White, has no objection. The carport will be wooden frame with a shingled roof. Three sides will be closed. He explained the type of construction – the gable doesn't face the street. It will look aesthetically pleasing to the property.

Chairman Bogar asked if there was anyone present to address this application:

-Mr. Richard Woodland: he lives across the street and has no objection.

The Public Hearing closed at approximately 6:10 P.M. County Planning 239 and NYSDOT responses were received with no adverse comments.

At this time, the Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response; no, all in agreement;

- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: yes, all in agreement.

Motion was made by Board Member Michele Mandia to approve this application as requested/submitted as the applicant has shown a need for the variance; seconded by Board Member Fred Kiehm; and a Building Permit be obtained within one year of approval date. Vote taken:

Chairman Randy Bogar - yes  
Board Member Fred Kiehm – yes

Board Member Byron Elias – yes  
Board Member Mandia - yes

Motion was **approved** by a vote of 4 – 0. Mr. Thomas was advised to contact the Codes Department for a Building Permit when he commences construction.

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The application of **Ms. Roberta Pierce, 61 Oakdale Avenue South, New Hartford, New York**. Ms. Pierce is proposing a 434± square foot addition to her home. This area is zoned Medium Density Residential which requires the side yard setback to be 10'. The proposed addition will extend into the required side setback by 8'±. Therefore, the applicant is seeking an 8'± right side yard setback Area Variance. Tax Map #328.015-2-10; Lot Size: 60' x 150'; Zoning: Medium Density Residential. Ms. Pierce appeared before the Board.

Due to the State mandated restrictions, all attendees will be required to wear face masks continuously covering nose and mouth, and six (6) foot “social distancing” will be observed. Applicants and attendees must strictly adhere to the above and to the stated hearing time. The Town of New Hartford further reserves the right to limit the number of participants in each hearing.

Ms. Pierce explained that she needs the additional living space as her home is very small. There are a lot of homes in her neighborhood that are close to the property lines. She read from her deed what is described for her property regarding structures. Town Attorney Cully stated that these are private deed restrictions and not Code requirements. She stated that her next door neighbor sent a letter supporting her application. She currently does not have a type of plan as she wanted to make sure she got the variance. The garage will match the front of her home – same pitch. The roof will go perpendicular to the road.

Board Member Elias asked if she would be able to maintain her property being only two feet to the property line. He has concerns regarding the closeness. She feels she can. She is not changing the character of the neighborhood. Discussion ensued regarding the closeness to the property line. She was asked, if approved, would you be in agreement to get a survey prior to starting work –she said there is one post in the back that can be seen. She doesn't want to go to the expense of a survey. Town Attorney Cully explained if she goes any closer to the property line and it isn't what she thought it was, legal action could occur. This Board may only give her a variance to go the 2' or 3' to the property line. It could be a

future problem for any change in the neighbor. This Board would not be giving her a variance to encroach.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:20 P.M.

-Letter from Mr. Todd Williams, 63 Oakdale Avenue South, has been made a part of the file – he has no opposition to this request.

At this time, the Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response; no, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response; no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member Byron Elias to grant this application, however, with the approval of a 7'± area variance request as the applicant has shown a need for the variance; seconded by Board Member Michele Mandia. This gives the applicant 3' to be able to use to the side property line, rather than 2'; and that a Building Permit be obtained within one year of approval date. Vote taken:

Chairman Randy Bogar - yes  
Board Member Fred Kiehm – yes

Board Member Byron Elias – yes  
Board Member Mandia - yes

Motion was **approved** by a vote of 4 – 0. Ms. Pierce was advised to contact the Codes Department for a Building Permit when she commences construction.

Ms. Pierce was agreeable to this change.

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The application of **Mr. Frederick Carville, 3 Stonebridge Road, New Hartford, New York**. Mr. Carville is proposing a 210± square foot addition to the existing attached garage. The existing structure is 18'± off the property line. The 7'± garage addition will extend into the required side yard setback area. This property is in a Low Density Residential zone, which requires that the side yard setback be 15'. The proposed addition will extend into the required setback by 4'±, therefore, the applicant is seeking a 4'± left side yard setback Area Variance. Tax Map #340.005-1-70; Lot Size: 120' x 153'; Zoning: Low Density Residential. Mr. Carville appeared before the Board.

Due to the State mandated restrictions, all attendees will be required to wear face masks continuously covering nose and mouth, and six (6) foot “social distancing” will be observed. Applicants and attendees

must strictly adhere to the above and to the stated hearing time. The Town of New Hartford further reserves the right to limit the number of participants in each hearing.

Mr. Carville explained that he would like to add a downstairs bedroom behind their dining room. This enables them to not have to climb stairs – they are trying to stay in their home so they want to make it a better living arrangement for them. He stated his neighbor doesn't have a problem with this request. An architect will design something for them. He presented proposed floor plan. When he has the plans completed, he will bring them to the Codes Officer to review for a Building Permit.

Town Attorney Cully noticed that there is an empty lot next to them.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing ended at approximately 6:30 P.M. County Planning 239 and Oneida County DPW have responded with no adverse comments.

At this time, the Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response; no, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response; no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member Fred Kiehm to approve this application as requested/submitted as the applicant has shown a need for the variance; seconded by Board Member Michele Mandia; and that a Building Permit be obtained within one year of approval date. Vote taken:

Chairman Randy Bogar - yes  
Board Member Fred Kiehm – yes

Board Member Byron Elias – yes  
Board Member Mandia - yes

Motion was **approved** by a vote of 4 – 0. Mr. Carville was advised to contact the Codes Department for a Building Permit when he commences construction.

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Minutes of the October 19, 2020 Zoning Board meeting were approved as written by Board Member Byron Elias; seconded by Chairman Randy Bogar. All in favor.

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Discussion ensued regard December meeting date. It was decided to reschedule the meeting date to **TUESDAY, DECEMBER 15, 2020. (The meeting for December 15, 2020 was postponed due to Covid regulations).**

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There being no further business, the meeting adjourned at approximately 6:40 P.M.

Respectfully submitted,

Dolores Shaw, Secretary  
Zoning Board of Appeals

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