

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
TOWN OF NEW HARTFORD MUNICIPAL BUILDING
NOVEMBER 21, 2022**

The Regular Meeting was called to order by Chairman Randy Bogar at 6:00 P.M. Board Members present Byron Elias, Karen Stanislaus, Fred Kiehm, Michele Mandia, and John Montrose. Board Member absent: Lenora Murad. Also in attendance were Town Attorney Herbert Cully, Councilmen Richard Lenart and David Reynolds, Codes Officer Lary Gell, and Secretary Dory Shaw. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting, in particular that we are down **one** Board Members and it is up to the applicants whether to proceed.

Draft minutes of the October 24, 2022 meeting were received by each Board Member. Motion was made by Board Member Byron Elias to approve as received; seconded by Chairman Randy Bogar. All in favor.

The application of **Ms. Judith DeFina, 201 Gilbert Road, New Hartford, New York**. Ms. DeFina is seeking Area Variances for an inground pool and fence on her property. Because this is a corner lot, she needs variances for the location of this pool and fence on the corner of Gilbert Road and Woodstream Court. Corner lots have two frontages, hence, the request for Area Variances at this location. It has been determined that she needs a 10'± front yard setback Area Variance for the pool and fence. Tax Map #339.001-1-6; Zoning: Low Density Residential. Ms. DeFina appeared before the Board with a contractor, Mr. Philip Cittadino.

Ms. DeFina explained the proposed location of the pool and 6' fence. The Board Members reviewed what she had submitted and had questions about the locations. She provided pictures of her property, which she bought in August 2022 and what she has done to upgrade the property. Ms. DeFina was informed about the reason why she required a variance due to this property being a corner lot with two frontages. She was not aware of the restrictions.

After a review of the application and pictures submitted by Ms. DeFina on her telephone, Mr. Cittadino stated he will provide a drawing/plan/survey to show exactly where the pool and fence will be located on her property. Board Member Elias is concerned about the actual layout and he feels the submission is not sufficient. The drawing needs to be to scale. The other Board Members agreed.

Chairman Bogar asked if there was anyone in attendance to address this application. An email was received from Ms. Patricia Cardinale, 4 Woodstock Court, with questions regarding this application. However, she is out of the area but sent in an email which has been made a part of the file.

Motion was made by Board Member John Montrose to table this application and have the applicant and her representative come back with a detailed drawing of this proposed pool and fence; seconded by Board Member Byron Elias. All in favor. The next Zoning Board of Appeals meeting is December 19, 2022 and the applicant will try to have all the information in for that meeting.

The Public Hearing was not closed at this time.

The application of **Target, Sangertown Square, New Hartford, New York**. Applicant is seeking several Area Variances for building signs at the Target location. This property is in a C1 General Business zone, which allows

total sign per use of 200 square feet. Allowed is one 100 square foot wall sign on each wall facing a public street or private parking area. The applicant is seeking an Area Variance for a 929.9± total allowed signage for the use. Tax Map #328.008-1-12.1; Zoning: C1 General Commercial. Mr. Tim Zhang, P.E., of Kimley-Horn, appeared before the Board with Mr. Luke Condon of Sangertown Mall.

The Board Members had colored photos of the proposed signage. The proposal is to upgrade every single sign except CVS. All signs will be replaced with a similar sign. Mr. Condon explained that these new signs are related to drive thru and a pick up sign. Target has been in the mall for 20 years and this is part of their remodel. They have been an excellent tenant and they want to upgrade to stay in business.

Board Member Stanislaus asked if there are some blank spaces (on the wall facing Commercial Drive) - Answer is no.

Chairman Bogar asked Mr. Condon if the mall is in support of these changes – he answered yes.

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

Ms. Nadine Campola, Liberty Avenue/Powell Avenue. She inquired about the signs and location of them.

Board Member Mandia referred to the pickup area – this is not for the drive up.

There being no further input, the Public Hearing closed at approximately 6:41 P.M.

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 **approve** the application of the Target signage as requested/submitted; Also, that a Building Permit be obtained within one year of approval date; seconded by Board Member Michele Mandia. Vote taken:

Chairman Randy Bogar – yes
Board Member Fred Kiehm - yes
Board Member Karen Stanislaus – yes

Board Member John Montrose - yes
Board Member Michele Mandia – yes
Board Member Byron Elias – yes

Motion **approved** by a vote of 6 – 0.

The application of **MMA Architects for Wal-Mart, 4765 Commercial Drive, New Hartford, New York**. The applicant is requesting an Area Variance for proposed signage on the Wal-Mart building. The applicant is seeking an Area Variance for a 318.5± square foot total allowed signage. The applicant will also require an approval for the front and Auto Care walls: on the front elevation the applicant is seeking a variance for 4 wall signs over the allowed signs on each wall; on the Auto Care front elevation, the applicant is seeking a variance for two wall signs over the

allowed on each wall. Tax Map #317.013-3-23.61; Zoning: C1 General Commercial. Ms. Alicia R. Stoklosa, Esq. appeared before the Board.

Ms. Stoklosa explained the need for signage for this project. Reference was made by Board Member Kiehm if this would be a recurring project in the future with signage. Ms. Stoklosa is not aware of any future proposals. Signage is needed where the pick up area is and the auto area so people don't wander on the property not knowing where to go.

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

-Ms. Nadine Campola, Liberty Avenue/Powell Avenue. She referred to the signs above the Auto Center. She is concerned about lighting. There have been changes with this development which affect her property especially with signage. She also referred to truck noise in and out all night. The existing trees on the border are half dead which haven't been replaced – it is just an ongoing problem from time to time. She also referred to the Auto Center and noise coming from that area. It is just that there seems to be changes continually and she is affected by it.

-Ms. Patti D'Amico, Powell Avenue, agrees with Ms. Campola – always changes occurring at this site and the nearby residents are affected by it.

There being no further input, the Public Hearing ended at approximately 7:00 P.M.

Chairman Bogar asked Codes Officer Gell if he has received any complaints regarding signage – he said no. He has checked with Secretary Dory Shaw regarding other variance requests for signage and couldn't locate anything at this time.

Discussion ensued regarding lighting and possible shut offs especially at the auto center.

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; perhaps, 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: possibly, 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 approve the signage application for Wal-Mart as requested/submitted with a condition that the applicant go back and finish the tree situation that was part of the original plan; that the Auto Center lights are to go off a half hour after closing; and the lights on the rear of the building become dark sky compliant; and that a Building Permit be obtained within one year of approval date; seconded by Board Member John Montrose. All in favor.

Chairman Randy Bogar – yes
Board Member Fred Kiehm - yes
Board Member Karen Stanislaus – yes

Board Member John Montrose - yes
Board Member Michele Mandia – yes
Board Member Byron Elias - yes

Town of New Hartford
Zoning Board of Appeals Minutes
November 21, 2022
Page 4

Motion was **approved** by a vote of 6 - 0. Note: It has come to our attention that no back lighting is there to shut off and the applicant is doing the research to determine if the lighting is already dark sky compliant.

Minutes of the October 24, 2022 Zoning Board meeting were approved by motion of Board Member Byron Elias; seconded by Chairman Randy Bogar. All in favor.

There being no further business, the meeting adjourned at approximately 7:10 P.M.

Respectfully submitted,

Dolores Shaw, Secretary
Zoning Board of Appeals

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