

**MINUTES OF THE JOINT PLANNING BOARD & ZONING BOARD OF APPEALS MEETING
TOWN OF NEW HARTFORD MUNICIPAL BUILDING
MARCH 23, 2023**

The Regular Meeting was called to order by Planning Board Chair Heather Mowat and Zoning Board of Appeals Chairman Randy Bogar at 5:30 P.M. Planning Board Members present Julius Fuks, Jr., John Latini, James Decker, Wilmar Sifre, Dr. Manzur Sikder, and Lisa Britt. Zoning Board of Appeals Members present Byron Elias, Fred Kiehm, Lenora Murad, Michele Mandia and Daniel McNamara. Zoning Board Member absent: Karen Stanislaus. Also in attendance were Town Attorney Herbert Cully (who abstained from discussion and this application due to a conflict), Contract Engineer John Dunkle, Councilman David Reynolds, Highway Superintendent Richard Sherman, Codes Officer Lary Gell and Secretary Dory Shaw. Attorney William Schmitt was also present to represent the Town regarding this application. Everyone in attendance recited the Pledge of Allegiance. Chair Mowat explained that the Zoning Board of Appeals will entertain the requested variances and if approved, the Planning Board will follow thru with their participation on this project. The procedures for tonight's meeting were explained and in particular that we are absent one Board Member and it is up to the applicant whether to proceed.

The application of **Clifford Fuel Company, Inc. to redevelop property located on the corner of Kellogg Road and Oneida Street in the Town of New Hartford**. They are proposing to redevelop this property to include a new convenience store in addition to the existing gas pump island. There are several Area Variances proposed for this property, i.e. setback requirements, impervious surface area, entrance and exit driveways widths, possible signage and canopy requirements, exit and entrance driveways specifically for gasoline service stations. Tax Map #339.016-1-73; Zoning: C2 Commercial Retail Business. Mr. Jim Hagen of Hagan Architects, Mr. James Clifford, Attorney William Schmitt and traffic consultant Gordon Stansbury appeared before the Board.

Mr. Hagen presented the application and gave an overview of what exists at this site at the present time, i.e., location of gas pumps, utilities, grading, landscaping, kiosk/office, curbs, driveway locations, parking, tanks (which will be replaced), etc. Full service station to self-service, and the market will be full service also (mini-mart). He explained the proposed changes at this site for better flow of traffic. They met with Oneida County DPW regarding traffic flow for this project. They will be placing a NO LEFT TURN at this site so as not to turn left onto Kellogg Road from this project. Driveways will have more usable turning radius for trucks.

Highway Superintendent Sherman and Contract Engineer John Dunkle have been working with the applicant regarding storm water issues as this area has significant run off from the hills to this low spot which floods Clifford Fuel property. Significant work has been done at this location by the Town to help alleviate the water situation. Highway Superintendent Sherman also addressed the traffic flow in this area, especially school buses. He explained the camera system on top of the poles that help navigate and control the traffic, as well as new paving, etc. He asked Mr. Stansbury for any options he may know to improve this intersection southbound, i.e., signal and also a copy of his report.

Discussion ensued regarding the Niagara Mohawk area and Mr. Hagan explained they won't be infringing on any of this property.

Mr. Stansbury addressed the Board. He has been working with traffic for many years and explained how the traffic flows in this area and what has been done to mitigate circumstances, i.e. review of traffic counts at certain times of the day, trip generation. Chair Mowat would also like a copy of his report for each Planning Board member. Mr. Dunkle agrees with Mr. Stansbury's report.

Chairman Bogar asked if there was anyone present to address this application: Secretary Dory Shaw said she did not receive any calls or letters regarding this application. At this time, the Board Members reviewed the criteria for

1) an Area Variance for #1 Schedule B lot development standards (minimum front yard setback in a C2 zone is 30'. Applicant is requesting a variance to 20± feet):

- Whether benefit can be achieved by other means feasible to applicant – response: All -No
- An undesirable change will be made in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance -response: All – No
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: All – No
- The requested variance is substantial, response: All - No
- The alleged difficulty was self-created, which consideration shall not be relevant to the decision, but shall not necessarily preclude granting the variance – response: All – Yes

Motion to approve by Board Member Fred Kiehm; seconded by Board Member Lenora Murad. All in favor. **Passed 6 – 0.** Board Member vote on motion shown below:

Chairman Randy Bogar – yes
Board Member Fred Kiehm – yes
Board Member Dan McNamara – yes

Board Member Byron Elias – yes
Board Member Michele Mandia – yes
Board Member Lenora Murad – yes

2) Schedule B Lot Development Standards: the maximum allowable impervious surface area is 66%. The applicant is requesting a variance to 69.1%±. Chairman Bogar asked if there was anyone present to address this application: Secretary Dory Shaw said she did not receive any calls or letters regarding this application. Mr. Hagan explained how they are going to accomplish this and also what Contract Engineer John Dunkle stated.

- Whether benefit can be achieved by other means feasible to applicant – response: All -No
- An undesirable change will be made in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance -response: All – No
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: All – No
- The requested variance is substantial, response: All - No

- The alleged difficulty was self-created, which consideration shall not be relevant to the decision, but shall not necessarily preclude granting the variance – response: All – Yes

Motion to approve by Board Member Byron Elias; seconded by Board Member Fred Kiehm. All in favor. **Passed 6 – 0.** Board Member vote on motion shown below:

Chairman Randy Bogar – yes	Board Member Byron Elias – yes
Board Member Fred Kiehm – yes	Board Member Michele Mandia – yes
Board Member Dan McNamara – yes	Board Member Lenora Murad – yes

3) Section 118-55 Gasoline Service Station par B-4. The permitted entrance driveway width is a maximum of 30 ft. 3A South entry drive: the applicant is requesting a variance to 37± feet;m3B East entry drive: the applicant is requesting a variance to 36’-4”±. Chairman Bogar asked if there was anyone present to address this application: Secretary Dory Shaw said she did not receive any calls or letters regarding this application.

- Whether benefit can be achieved by other means feasible to applicant – response: All - No
- An undesirable change will be made in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance -response: All – No
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: All – No
- The requested variance is substantial, response: All - No
- The alleged difficulty was self-created, which consideration shall not be relevant to the decision, but shall not necessarily preclude granting the variance – response: All – Yes

Motion to approve by Board Member Byron Elias; seconded by Board Member Michele Mandia. All in favor. **Passed 6 – 0.** Board Member vote on motion shown below:

Chairman Randy Bogar - yes	Board Member Byron Elias – yes, makes it better
Board Member Fred Kiehm – yes	Board Member Michele Mandia – yes
Board Member Dan McNamara – yes	Board Member Lenora Murad – yes

4) Section 118-82 Off Street Parking par E-1-b. For non-residential uses, parking shall not be allowed within 15 feet of the front property line. The applicant is requesting a variance for two areas, to 2± feet and 8± from the property line. Chairman Bogar asked if there was anyone present to address this application: Secretary Dory Shaw said she did not receive any calls or letters regarding this application.

- Whether request will have adverse physical or environmental effects – response: All - No
- Whether benefit can be achieved by other means feasible to applicant – response: All - No
- An undesirable change will be made in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance -response: All – No
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: All – No
- The requested variance is substantial, response: All - Yes

- The alleged difficulty was self-created, which consideration shall not be relevant to the decision, but shall not necessarily preclude granting the variance – response: All – Yes

Motion to approve by Board Member Lenora Murad; seconded by Board Member Michele Mandia. All in favor. **Passed 6 – 0.** Board Member vote on motion shown below:

Chairman Randy Bogar - yes	Board Member Byron Elias – yes
Board Member Fred Kiehm – yes	Board Member Michele Mandia – yes
Board Member Dan McNamara – yes	Board Member Lenora Murad – yes

At this time, Chair Mowat discussed with the Planning Board Members if they would like to address preliminary now or wait until the next meeting. It was decided to have the Zoning Board of Appeals address the other sign variance requests:

- A) Section 118-84 Signage Schedule E C-2 Zone. Freestanding sign maximum area shall be 64 square feet. The applicant is requesting a variance to permit a free standing sign with 133 square feet. Chairman Bogar asked if there was anyone present to address this application: Secretary Dory Shaw said she did not receive any calls or letters regarding this application.
- Whether benefit can be achieved by other means feasible to applicant – response: All- No
 - An undesirable change will be made in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance -response: All – No
 - The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: All – No
 - The requested variance is substantial, response: All - No
 - The alleged difficulty was self-created, which consideration shall not be relevant to the decision, but shall not necessarily preclude granting the variance – response: All – Yes

Motion to approve by Board Member Dan McNamara; seconded by Board Member Byron Elias. All in favor. **Passed 6 – 0.** Board Member vote on motion shown below:

Chairman Randy Bogar - yes	Board Member Byron Elias – yes
Board Member Fred Kiehm – yes	Board Member Michele Mandia – yes
Board Member Dan McNamara – yes	Board Member Lenora Murad – yes

- B) Section 118-84 Signage Schedule E C-2 Zone. Total sign area permitted is 200 square feet. The applicant is requesting a variance to permit a total area of signage of 225.7 square feet. Chairman Bogar asked if there was anyone present to address this application: Secretary Dory Shaw said she did not receive any calls or letters regarding this application.
- Whether benefit can be achieved by other means feasible to applicant – response: All - No
 - An undesirable change will be made in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance -response: All – No
 - The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: All – No

- The requested variance is substantial, response: All - No
- The alleged difficulty was self-created, which consideration shall not be relevant to the decision, but shall not necessarily preclude granting the variance – response: All – Yes

Motion to approve by Board Member Lenora Murad; seconded by Board Member Michele Mandia. All in favor. **Passed 6 – 0.** Board Member vote on motion shown below:

Chairman Randy Bogar - yes	Board Member Byron Elias – yes
Board Member Fred Kiehm – yes	Board Member Michele Mandia – yes
Board Member Dan McNamara – yes	Board Member Lenora Murad – yes

C) Section 118-55 Gasoline Service Station par C-6. Gas canopies shall not be used for signage. The applicant is requesting a variance to permit/replace the same number and same size of “brand identification” signs on the refurbished gasoline canopy. Chairman Bogar asked if there was anyone present to address this application: Secretary Dory Shaw said she did not receive any calls or letters regarding this application.

- Whether benefit can be achieved by other means feasible to applicant – response: All - No
- An undesirable change will be made in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance -response: All – No
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: All – No
- The requested variance is substantial, response: All - No
- The alleged difficulty was self-created, which consideration shall not be relevant to the decision, but shall not necessarily preclude granting the variance – response: All – Yes

Motion to approve by Board Member Fred Kiehm; seconded by Board Member Michele Mandia. All in favor. **Passed 6 – 0.** Board Member vote on motion shown below:

Chairman Randy Bogar - yes	Board Member Byron Elias – yes
Board Member Fred Kiehm – yes	Board Member Michele Mandia – yes
Board Member Dan McNamara – yes	Board Member Lenora Murad – yes

Acting Town Attorney Schmitt asked that a vote be taken as to the impact of the totality of all Variances requested would change the impact on the granting of any or all of the variances being requested.

- Whether benefit can be achieved by other means feasible to applicant – response: All - No
- An undesirable change will be made in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance -response: All – No
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: All – No
- The requested variance is substantial, response: All – No

- The alleged difficulty was self-created, which consideration shall not be relevant to the decision, but shall not necessarily preclude granting the variance – response: All – Yes

Motion to approve all variances in their totality if granted does not change the Board’s granting of any single variance requested. Motion to accept all variances by Byron Elias; seconded by Board Member Dan McNamara.

Chairman Randy Bogar - yes	Board Member Byron Elias – yes
Board Member Fred Kiehm – yes	Board Member Michele Mandia – yes
Board Member Dan McNamara – yes	Board Member Lenora Murad – yes

Motion that **all variances were approved** passed by a vote of 6 – 0.

Note: for Zoning Board of Appeals only: The application of Mr. Michael Galligano, New Hartford Safe & Lock, 45 Clinton Road, New Hartford, to extend his approval to obtain a Building Permit (as it was put on hold due to Covid). Motion by Board Member Byron Elias to grant a one year extension for Mr. Galligano to obtain a Building Permit by March 23, 2024; seconded by Chairman Randy Bogar. Vote taken:

Chairman Randy Bogar - yes	Board Member Byron Elias – yes
Board Member Fred Kiehm – yes	Board Member Michele Mandia – yes
Board Member Dan McNamara – yes	Board Member Lenora Murad – yes

Motion approved by a vote of 6 – 0.

*The Zoning Board of Appeals portion of this meeting ended at approximately 7:45 P.M.

Planning Board section of minutes: Chair Mowat explained to the Planning Board members that SEQR will be addressed at the next meeting for the project of Cliff’s Market. She asked the Board Members if they were ready to address this application further. Board Member Fuks stated that he has drainage questions, storm water issues that he feels needs to be addressed further. Contract Engineer John Dunkle said will be submitting a report and will address Board Member Fuks’ issues. Board Member Lisa Britt also had concerns regarding erosion control, lighting, sidewalks, water discharge, etc.

Chair Mowat asked Codes Officer Gell if he had any questions. Mr. Gell said he has been working with the engineer, Mr. Hagan, and has no questions.

Contract Engineer John Dunkle asked Mr. Hagen about gas and storm water.

At this time, Chair Mowat entertained a motion by Board Member Wilmar Sifre to grant preliminary approval of the project known as Cliff’s Market; seconded by Board Member Manzur Sikder. Vote taken:

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Chair Heather Mowat – yes
Board Member Manzur Sikder – yes
Board Member John Latini – yes
Board Member James Decker – no

Board Member Wilmar Sifre – yes
Board Member Julius Fuks – no
Board Member Lisa Britt – no

Motion **passed** by a vote of 4 – 3. Preliminary approval granted.

There being no further business, the meeting adjourned at approximately 8:15 P.M.

Respectfully submitted,

Dolores Shaw, Secretary
Planning Board & Zoning Board of Appeals

dbb