

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
TOWN OF NEW HARTFORD MUNICIPAL BUILDING
AUGUST 21, 2023**

The Regular Meeting was called to order by Chairman Randy Bogar at 6:00 P.M. Board Members present Byron Elias, Tim Tallman, Karen Stanislaus, Lenora Murad, Michele Mandia, and Daniel McNamara. Also in attendance were Town Attorney Herbert Cully, 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.

The application of **Allied Sign Company for signage at Consumer Square, 4805 Commercial Drive, New Hartford, New York**. This is for new store signage for Sierra in Consumer Square. The store front is allowed one sign up to 100 square feet. The applicant is proposing a new 203.0± square foot wall sign and looking to replace the panel on the free standing sign with an additional 13± square foot panel change for a total of 216.9± square feet of signage for this use. Therefore, the applicant is seeking an Area Variance for 16.9± total overage on the allowed signage pre use. Also, the applicant will be seeking an Area Variance of 103.9± square foot addition to the allowed 100 square foot wall signage. Mr. Greg Fishel of Allied Sign Company appeared before the Board.

Mr. Fishel explained the layout of the proposed signage at this site. This sign is similar to the existing signs in this plaza. It replaces and has less square footage than the previous Bed, Bath & Beyond signage. It is illuminated and will remain lit until all the signs in the plaza are dimmed when the plaza closes.

Chairman Bogar asked if there was anyone present to address this application - no response. The Public Hearing closed at approximately 6:10 P.M. County Planning 239 and NYSDOT has no adverse comments regarding this application.

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, it benefits the area - 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 as presented, and that it be lit in accordance with the mall lighting requirements; and that a Building Permit be obtained within one year of approval date; seconded by Board Member Tim Tallman. Vote taken.

Chairman Randy Bogar – yes
Board Member Tim Tallman – yes
Board Member Dan McNamara – yes
Board Member Michele Mandia - yes

Board Member Byron Elias – yes
Board Member Karen Stanislaus - yes
Board Member Lenora Murad - yes

Motion was **approved** by a vote of 7 - 0.

The Interpretation and/or Use Variance application of **Mr. Steven Marcoccia for 9270 Grange Hill Road, New Hartford, New York**. The applicant is proposing to use this building as a Registered New York State Inspection Station with no automotive repairs being done at the site. The applicant only intends to perform inspections at the site. Our Ordinance does not define such a use. Therefore, the applicant seeks an Interpretation as to whether a New York State Inspection Station is permitted in the C2 Commercial Retail zoning district or a Use Variance to permit such use. Tax Map #349.020-1-70; Zoning: C2 Commercial Retail. Mr. Steven Marcoccia and Attorney Kurt Schultz, Esq. appeared before the Board.

Town Attorney Herbert Cully gave the Board a background of what had transpired previously at this property with a Use Variance for another individual. This was also before the Zoning Board and was granted a Use Variance for storage of vehicles Hence, the new applicant, Mr. Marcoccia. He explained what Mr. Marcoccia owns on Oneida Street and also this building on Grange Hill Road. He is looking for an Interpretation as to whether or not automotive inspections only can be done there, no repairs or body shop.

Attorney Schultz explained to the Board the business that Mr. Marcoccia has on Oneida Street, he sells cars there. He had an inspection station there but closed it down. When he went to reopen it, the State said he couldn't have it because his home is attached. This is why he wants to operate an inspection station at the Grange Hill site. He will not be doing any body work at all or repairs, just inspections. He keeps a few of his personal cars there but absolutely does not work on vehicles for anyone.

Board Member Tallman explained he has to be a registered repair shop to do inspections, it is required by the State. Mr. Marcoccia has a New York State Inspection license.

A lengthy discussion ensued regarding what kind of work could be done at this site and what kind of inspections. It was again reiterated that no body work of any type will be done at this site, just inspections. You don't need a lift to do inspections. Perhaps replacing a windshield wiper or light, but that is all. The Board Members discussed putting restrictions on this variance if granted. Mr. Marcoccia has no problems with this.

Codes Officer Gell explained that an automotive repair station is not an approved use. You have to have one with the other - no inspections without a repair license.

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

-Ms. Ann Falvey, 9278 Grange Hill Road. She is concerned about any future use at this site and who monitors it. What happens if he sells it. She would like to see restrictions in place.

This Board can put restrictions on the variance if granted. A variance approval goes with the property and anyone just can't change it - it goes through a process with this Board.

-Mrs. Judith Domser, 9274 Grange Hill Road. She also has concerns about any future use if this property changes hands. She doesn't want a constant flow of cars to be worked on and she doesn't want to see outside storage of cars, etc. She doesn't have a problem with restrictions being placed on this property for just an inspection station.

-Mr. Bruce Domser, 9274 Grange Hill Road. He has the same concerns about any type of future use at this site.

The neighbors stated there have been no problems at this site previously. Mr. Marcoccia said he has always kept his property maintained.

The Board Members again discussed the type of work that could be done at this location. Board Member Tallman referred to this as no under car work, any work above the car is permitted.

There being no further comments, the Public Hearing closed at approximately 7:00 PM.

Motion was made by Board Member Michele Mandia to approve the Interpretation of the Code as it relates to this property at 9270 Grange Hill Road in that this property currently has a Use Variance, and to allow the use as an inspection station and motor vehicle repair station with a limit of no under car repairs and no outdoor storage of vehicles; seconded by Board Member Byron Elias. Vote taken:

Chairman Randy Bogar – yes	Board Member Byron Elias – yes
Board Member Tim Tallman – yes	Board Member Karen Stanislaus - yes
Board Member Dan McNamara – yes	Board Member Lenora Murad - yes
Board Member Michele Mandia - yes	

Motion was **approved** by a vote of 7 - 0.

Draft minutes of the Zoning Board meeting of July 17, 2023 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 7:20 P.M.

Respectfully submitted,

Dolores Shaw, Secretary/Zoning Board of Appeals.

