

ZONING BOARD MEETING  
TUESDAY – APRIL 26, 2016  
ZONING BOARD  
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12  
BINGHAMTON – NEW YORK – 13901

PRESENT: Mr. Donald Phillips, Chairman  
Messrs. Ruston, & Waskie  
Ms. Kinne & Pandich (Alternate)

ALSO PRESENT: Donald G. Walls, Esq. – Town Attorney  
Jim DiMascio, Councilperson  
Scott Russell, Ordinance Office

ABSENT: Mr. Doolittle, ZBA Member

The meeting convened at 7:00 p.m. at which time Mr. Phillips called the meeting to order and welcomed the audience. Mr. Ruston read a statement which explained how the Zoning Board members are appointed, along with the Board's functions, limitations and duties. Mr. Ruston noted that the reading of this statement not only informs the audience about the Zoning Board of Appeals, but it also reminds the Board members of their responsibilities. Mr. Ruston also read the Notices of Publication for each case, which was duly published, as required by law, and as evidenced by Affidavits of Publication received and placed on file.

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#### APPROVAL OF THE MINUTES

- Approval of the Minutes for March 22, 2016 Zoning Board Meeting.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, to approve the Minutes of the March 22, 2016 Regular Meeting.

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#### PUBLIC HEARINGS

- GEORGE HARCHAR JR. – 9 Frederick Rd. – TM#112.07-4-38 – Application for Triple Area Variance to build a detached garage to exceed the square footage from 725' to 960', for the driveway with less than required side yard setback from 10' to 5' & to exceed the allowed height from 16' to 17' in a residential zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls – Just a few questions. Please describe the garage you intend to build – size and dimensions.

Mr. Harchar – The garage will be 32' x 30' metal sided, metal roof and white aluminum doors, two by six construction, full pad with haunch, and the trusses will be rated for this area.

Mr. Walls – Design wise is it going to match or be consistent with the house? Color?

Mr. Harchar – Yes they are going to match it as close as they can.

Mr. Walls – You are asking for three exceptions – The first one is the ordinance says you can only have a maximum of 725 square feet and you are looking for 960. Why do you need the extra.

Mr. Harchar – They have two classic cars and a boat. He'd like them under a roof. There is no way they would fit in a smaller building.

Mr. Walls – The ordinance says that the maximum height is 16' and you are asking for 17'. Why?

Mr. Harchar – Yes because when he's up in his boat on the platform he needs 11'.

Mr. Walls – The last is the request for the setback exception from 10' that's required by the ordinance to 5' for the driveway.

Mr. Harchar – Actually the part that's 5' was already there at the end of the house. All he needs to do is make a small turn to go to the garage, because the garage is going to be set 10'. The driveway goes all the way to the end of the house right now. Where it stops now he just has to turn it and go to the garage.

Mr. Walls – Do you have any other access to the rear and your proposed garage that would comply with the ordinance? Is there any way you can get back there with a 10' side yard setback?

Mr. Harchar – No not the way the house is built. The house is askew.

Mr. Walls – The garage will not be used for commercial purposes.

Mr. Harchar – Has been there for twenty years and no it is for his personal use only.

Mr. Walls closed the Public Hearing.

Mr. Russell, Ordinance Office, is in support of this project with the condition a building permit is required.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the application for the above cited case and has not identified any significant countywide impacts associated with the proposed project. The Zoning Board of Appeals should ensure that the project would include the appropriate drainage and not encroach on the adjacent property.

Drainage Coordinator recommends approval.

Urda Engineering recommends the project will not be injurious to the neighborhood and is a minimal request. Similar structural conditions and driveway conditions exist within the neighborhood. The existing driveway is currently less than 10'. A favorable advisory is recommended with a building permit being required.

Town Planning Board refers this application to the Zoning Board of Appeals with a favorable advisory and a building permit being required.

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- STANLEY K. LING – 35 Frederick Rd. – TM#095.19-1-40 – Application for an area variance to construct a detached garage with less than required front yard setback from 30' to 7'.

Mr. Phillips – This brings us to the application of Stanley Ling. Since last month there have been some little snags regarding this application and moving it to a Public Hearing. It has come up that 22 years ago that three members of this Board sat on the Board in 1994. At that time, the application was denied in that residential area. Mr. Walls is going to explain as according to our state zoning board laws they cannot hear this application unless (Public Hearing) there is significant changes. At this time he's going to turn it over to Mr. Walls our advisor.

Mr. Walls – Mr. Phillips is correct. Mr. Ling as Mr. Phillips has indicated back in 1994 you recall making an application for a variance.

Mr. Ling – Yes he does.

Mr. Walls – Your request was to build a garage correct?

Mr. Ling – Yes.

Mr. Walls – The request was to build it on the property you own now correct?

Mr. Ling – Correct.

Mr. Walls – It was to be built on Panorama?

Mr. Ling – True.

Mr. Walls – The request to build a garage was approximately the same size?

Mr. Ling – It was double the size as it is now.

Mr. Walls – It varied in height and maybe a few square feet.

Mr. Ling – Quite a bit of square feet, it was 60' long and two-story. This is within the 725 square feet regulation.

Mr. Walls – Generally speaking isn't this the same application that you made in 1994?

Mr. Ling – Yes generally it's a compliant garage. The request for variance is because he can't get it back far enough off the road which is because of the side hill. It just drops off.

Mr. Walls – You are asking for the same setback requirement give or take a foot.

Mr. Ling – Yea can't get it back anymore.

Mr. Walls – So again it's essentially the same application as the 94' application?

Mr. Ling – It's the same. The garage will be in the same position – garage will be half the size as what he requested.

Mr. Walls – Same position in front of the principal residence right?

Mr. Ling – Behind the principal residence on a corner lot so he assumes....

Mr. Walls – You have two fronts.

Mr. Ling – Correct.

Mr. Walls – That being the case, Mr. Chairman, he thinks this Board needs to make some decisions as to whether they can hear this matter. He will ask this Board to present that question to the members. First you need to decide if this application is essentially the same as Mr. Ling admitted as the one in 1994. If this is the case, then in the absence of a motion by a member of this Board that passes unanimously, you can't rehear this matter from a legal point of view or

you should not. You have to determine that the 1994 decision to deny it is binding on the applicant in this case.

Mr. Phillips – Is everyone on the Board clear? So our first step - we all have copies of the 1994 application – original application and denial. As Mr. Ling has indicated it's going to be the same placement essentially the same because of the bank. The only difference is it will be approximately half the size. So this Board has to decide first of all is it basically the same application. As he recalls twenty years ago there was an impassioned set of folks from this residential area, particularly on Panorama Dr., complaining that this was turning into a commercial endeavor. The question still remains is this substantially different? Three members of the Board including himself were there for that.

Mr. Ruston – Feels it's different because it's half the size half the length.

Mr. Waskie – Might be half the size but he feels it's basically the same. Same conditions exist where it was turned down originally.

Mr. Phillips – He went back through his old files and that was really the contention that it was almost a commercial type venture.

Anonymous male – Would like to say something.

Mr. Phillips – Mr. Walls can he.....

Mr. Walls – No.

Mr. Phillips – Kind of in agreement with Mr. Waskie they are not going to a Public Hearing unless this is approved in an unanimous fashion surmise many of the folks here are to discuss the commercial aspect of this venture. He went up through there twice today there were still quite a lot of cars there. The three that were there have spoken. He appreciates that it's half the size but as Mr. Waskie indicated the intent is still the same.

Mr. Walls – Same use.

Mr. Waskie – Same conditions.

Mr. Walls – Would suggest this that in the absence of a motion to rehear this by any member of the Board the action of this Board is to determine that the applications are essentially the same and prior action was taken by denial of this Board. So this Board should determine that the applicant is bound by the prior decision of the Zoning Board.

Mr. Phillips – Do we need a motion?

Mr. Walls – Yes.

A motion was made by Mr. Waskie, seconded by Ms. Kinne that the applications (current & 1994) are essentially the same and prior action was taken by denial of this Board so this Board determines that the applicant is bound by the prior decision of the Zoning Board.

Anonymous male – Can he ask a question?

Mr. Walls – Go ahead.

Anonymous male – Doesn't want to rain on this gentleman's parade but you just gave him a variance for 960'. This gentleman (Ling) only wants a two-car garage and you're complaining that his variance is commercial. There's something wrong in that logic.

Mr. Walls – didn't claim that it was commercial.

Anonymous male – You just did.

Mr. Waskie – He did not say it was commercial.

Anonymous male – First time you spoke that's what you said.

Mr. Waskie – Going on the last application with the...

Anonymous male – What's the difference.

Mr. Waskie – He did not say commercial in the motion sir. Said the application is basically the same.

Anonymous male – But you thought that.

Mr. Waskie – You have your opinion I have my opinion. Thank you.

Mr. Walls – That's it.

Mr. Ling – May he describe what's going in this garage?

Mr. Phillips – This is not Public Hearing time. Just to clarify they didn't give this gentleman his variance yet. They had a Public Hearing.

Anonymous female – What if you do.

Mr. Ling – Will you allow him to describe what's going in this garage and what the garage is?

Mr. Walls – Don't think that's important at this time.

Mr. Phillips – There was a motion and second there needs to be a roll call.

Ms. Pandich – We’re voting...

Mr. Phillips – We’re voting whether this is substantially different or if they are abiding by the original.

ROLL CALL:           AYES – 5     NAYS – 1

Mr. Phillips – So there will not be a Public Hearing.

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NEW BUSINESS

- JOSEPH A. ZIGMONT – 48 W. Chenango Rd. – TM#094.15-1-1.1 – Amending the Area variance application V-03 2009 for a building height from 22’ to 26’ in a residential zone.

Mr. Russell, Ordinance Office finds this application to be complete and recommends the Zoning Board accepts and schedules a Public Hearing for May 24, 2016.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, to accept this application to amend the Area Variance V-03 2009 for a building height from 22’ to 26’ in a residential zone.

ROLL CALL:           AYES – 5     NAYS – 0

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- NICHOLAS & RENEE STENTO – 2 Norman Rd. – TM#112.07-2-27 – Application for a Use Variance to allow chickens in a residential zone.

Mr. Russell, Ordinance Office finds this application to be complete and recommends the Zoning Board accepts and schedules a Public Hearing for May 24, 2016.

A motion was made by Mr. Waskie, seconded by Mrs. Kinne, to accept this application for a Use Variance to allow four to six chickens in a residential zone.

ROLL CALL:           AYES – 5     NAYS – 0

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- ROBERT SPOOR – 126 Kennedy Rd. – TM#112.09-1-25 – Application for a Double Area Variance to construct a detached garage with less than required front yard setback from 30’ to 11.35’ & exceeding the square footage allowed from 725’ to 864’ in a residential zone.

Mr. Russell, Ordinance Office finds this application to be complete and recommends the Zoning Board accepts and schedules a Public Hearing for May 24, 2016.

A motion was made by Mr. Waskie, seconded by Mrs. Kinne to accept this application for a Double Area Variance to construct a detached garage with less than required front yard setback from 30’ to 11.35’ & exceeding the square footage allowed from 725’ to 864’ in a residential zone.

ROLL CALL:           AYES – 5     NAYS – 0

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VOTES ON PUBLIC HEARING

- GEORGE HARCHAR JR. – 9 Frederick Rd. – TM#112.07-4-38 – Application for Triple Area Variance to build a detached garage to exceed the square footage from 725’ to 960’, for the driveway with less than required side yard setback from 10’ to 5’ & to exceed the allowed height from 16’ to 17’ in a residential zone.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, to approve the Triple Area Variance to build a detached garage to exceed the square footage from 725’ to 960’, for the driveway with less than required side yard setback from 10’ to 5’ & to exceed the allowed height from 16’ to 17’ in a residential zone.

ROLL CALL:           AYES – 5     NAYS – 0

Mr. Ruston – The driveway is already there and has been for some time.

Mr. Waskie – Will the garage replace the shed out back?

Mr. Harchar – Will probably go. Wants to move it over and once he gets the garage built.....

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ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Waskie, and seconded by Mr. Ruston to adjourn the meeting at 7:30 p.m.

Respectfully submitted,

Nancy Schnurbusch,  
Recording Secretary