

ZONING BOARD MEETING  
TUESDAY – MAY 26, 2015  
ZONING BOARD  
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12  
BINGHAMTON – NEW YORK – 13901

PRESENT: Mr. Donald Phillips, Chairman  
Messrs. Doolittle, Ruston, Waskie, & Grannis  
Ms. Kinne, Alternate

ALSO PRESENT: Donald G. Walls, Esq. - Town Attorney  
Jim DiMascio, Councilperson  
Michael Pecha, Ordinance Office

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.

APPROVAL OF THE MINUTES

- Approval of the Minutes for April 28, 2015, Zoning Board Meeting.

A motion was made by Mr. Doolittle, seconded by Mr. Grannis, to approve the Amended Minutes of the April 28, 2015 Regular Meeting.

ROLL CALL: AYES – 5 NAYS – 0

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PUBLIC HEARINGS

- SHANE LIVINGSTON – 167 Treadwell Rd. – TM#067.02-1-27 – Quadruple Area  
Variances to build a detached garage in front of the principle use, exceeding the  
maximum height from 16' to 18', with less than required road frontage from 240' to 224'  
and the front yard setback from 50' to 14' in an agricultural zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls wanted to know the dimension of the detached garage.

Mr. Livingston explained he was not 100% sure about the size as it might be 25' x 36' or possibly 40' in length.

Mr. Walls explained that the ordinance department will need an exact dimension in order to get a building permit. What is the purpose of the detached garage?

Mr. Livingston explained he wanted to put the cars inside during the wintertime and also his maintenance vehicles – lawn mowers etc.

Mr. Walls – you are looking to build the garage in front of the principle use (house). The ordinance requires structures be behind the principle (house). Why can't you put this garage behind or even with the house?

Mr. Livingston explained the layout of the property is such that the septic system and sand filter are on the left side. So the building can't be moved back. Can't relocate building to the other side as it is not where the driveway is located. Also the well is on the other side of the house.

Mr. Walls – you are asking to increase the height of the garage. The ordinance calls for 16' and you are asking for 18'. Please explain why.

Mr. Livingston explained he believes the total height would be about 16'6" but would like to give a little bit of room. He does have some drawings – wants a nice easy pitch to shingle. He also wants two 9' overhead doors.

Mr. Walls – again you will need to be specific when you apply for a building permit. You are also asking for an area variance as you are short on frontage. This is a pre-existing condition. You are in an agricultural zone and it requires 240' of road frontage and you have 224'. Is there any land available to purchase on either side to get the required footage?

Mr. Livingston explained that the next door neighbor's front footage may not conform either. The land above his property is not for sale. He would love to buy some if there was any available.

Mr. Walls – the last variance is front yard setback which requires 50' and yours is 14'. Again based on the earlier conversation you are not able to move it back because...

Mr. Livingston explained because of the septic system and sand filter.

Mr. Walls – will the building change the character of the neighborhood or impact the area?

Mr. Livingston didn't think it would. He has been making improvements to the property over the last few years. Replace the windows and siding.

Mr. Walls in the event the Board turns you down what hardship would you have financial or otherwise.

Mr. Livingston explained the financial hardship would be considerable if he had to relocate the septic and sand filter. If the garage had to be moved to the other side of the property he'd have to move exterior doors, new driveway, excavate dirt.

Mr. Walls asked is there anything else you'd like to tell the Board.

Mr. Livingston explained he's placed stakes where the detached garage would be and he also used paint to highlight. Has slowly been adding fill to bring the grade up.

Mr. Walls closed the Public Hearing.

Mr. Pecha, Ordinance Office, due to the location of the septic and leach field the Ordinance Office would recommend granting this multiple area variances with a building permit being required.

Mr. Phillips read the following correspondence.

Urda Engineering has reviewed the application and finds consideration should be given to requesting that the structure be set back to match the existing structure front line and not be so far in front of the adjacent neighbor's house. It was unclear as to what limited this. A favorable advisory is recommended.

Town Planning Board recommends a favorable advisory with a building permit being required.

Town Drainage Coordinator recommends approval

Broome County has reviewed the application and has not identified any significant countywide impacts associated with the proposed project. They also recommend the ZBA ensures that the project does not result in drainage runoff impacts to the adjacent property.

Mr. Phillips, ZBA Chairman, wanted to know if the R.V. track out back was on his property.

Mr. Livingston explained his daughter has a 50 cc dirt bike. He mows a path for her to ride. The neighbor's daughter comes over and rides as well.

- TODD PLOURDE – 42 Ashbury Ave. – TM#096.05-1-15 – Application for an Area Variance to expand a driveway with less than required side yard setback from 10' to 1' in a residential zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls asked the owner – you want to go 1' to the property line – is that correct?

Mr. Plourde explained when he submitted the application the 1' line would give the contractor some play with the driveway. At the Planning Board meeting the 1' was discussed as well. The 1' is approximate – it won't be closer than 1' and it might even be 2' away. The property has an extreme angle on the side. The house sits square to the road and it's such an angle. The right side would have to be 1' and as it goes toward the home it could vary from 1' to 2'.

Mr. Walls wanted to know if he has a survey.

Mr. Plourde explained he and his neighbor found the survey stakes.

Mr. Walls wanted to know if he was going to black top the driveway.

Mr. Plourde explained he was.

Mr. Walls asked if he's given any consideration as to what you are going to do with his snow.

Mr. Plourde explained he will be shoveling it. The neighbor's driveway is on the other street – it's not next to this one so he won't be pushing snow onto his driveway. Where the new driveway will be there's a really good pitch between the two properties for drainage.

Mr. Walls wanted to know if there was any way he could adjust the setback to more than 1'.

Mr. Plourde – as he explained to the Planning Board he might be able to get it closer to 2'. The 1' was giving him room to work with. The 2' mark is more likely as you get closer to the home. At the entrance of the driveway it's already pretty close. The property line starts close then angles out. It's already a couple feet from his existing driveway. Then as you go towards the garage it's 12'.

Mr. Walls wanted to know what impact on the neighbor would the project have. Are there other driveways that are close?

Mr. Plourde explained that the neighbor's driveway is on the corner of Davis and Asbury.

Mr. Walls wanted to know if he's received any adverse reaction from his neighbors.

Mr. Plourde stated no. He has a letter from the neighbor and the Board has it. The Board visited the property. It's a nice neighborhood – he wants to keep his cars off the street as there are a lot of kids riding bikes. His kids also ride their bikes on the street but by keeping the cars off the street adds to the safety.

Mr. Walls closed the Public Hearing.

Mr. Pecha, Ordinance Office, concurs with the Town Engineer's recommendation that the side yard setback should be 2' from the property boundary.

Mr. Phillips read the following correspondence.

Urda Engineering has reviewed the application and suggests the owner consider a two foot setback. Also, applicant should request the neighbor's concurrence with the setback in writing. Applicant should have the property line delineated by a Professional Licensed Land Surveyor prior to construction. A favorable advisory is recommended.

Town Planning Board recommends a favorable advisory with the submission of the property lines being delineated by a professional licensed surveyor.

Drainage Coordinator recommends approval.

Broome County has reviewed the application and has not identified any significant countywide impacts associated with the proposed project. They suggest the project does not result in drainage impacts to the adjacent residential property.

Letter from Margaret Birtch, 38 Asbury Ave., Binghamton, NY 13901 in support of Mr. Plourde's Area Variance.

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- JEFFREY S. KUSS – 21 Woodland Dr. – TM#079.17-2-18 – Application for an Area Variance to construct a 24' x 26' addition with less than required side yard setback from 10' to 7' in a residential zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls asked Mr. Kuss to please give more specifics on what he'd like to build (addition).

Mr. Kuss explained the addition will be on the end of the house which will be a master bath and bedroom. Structure will be on posts so it matches the ground floor of the house. The back of the house has a walk out basement.

Mr. Walls asked where the addition was going to be placed – left side or right side.

Mr. Kuss explained it would be on the left side of the house.

Mr. Walls is there any other location on his property where he can meet the requirements of the ordinance?

Mr. Kuss explained that unfortunately there is no other place. They have a deck on one side, the rear of the property slopes downward and there is an existing addition on the rear of the house. Also the septic is in the rear.

Mr. Walls wanted to know if the addition will match the house.

Mr. Kuss explained yes it will be the same width as the existing house. They will be re-siding and shingling the entire house at the same time. It should blend in quite well.

Mr. Walls wanted to know if the design would in any way disrupt the layouts in the area.

Mr. Kuss explained he didn't believe it would.

Mr. Walls asked if Mr. Kuss had anything else he'd like to tell the Board.

Mr. Kuss explained they have a growing family. It's a small three bedroom house and they are currently a family of four. Their one son started going to the Chenango Forks School. They love the neighborhood.

Ms. Mary Minacci, 23 Woodland Dr., her letter is on file which is in support of the Kuss' variance.

Mr. Walls closed the Public Hearing.

Mr. Pecha, Ordinance Office, would recommend approval for this Area Variance with a building permit being required.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the above cited case and has not identified any significant countywide impacts associated with the proposed project. They do recommends that the project would not result in storm water runoff impacts to the adjacent property.

Letter from Mary Minacci, 23 Woodland Dr., in favor of the proposed project.

Drainage Coordinator recommends approval.

Urda Engineer has reviewed the proposed project and would like the applicant to consider having the property line delineated by a Professional Licensed Land Surveyor prior to construction. A favorable advisory is recommended.

Town Planning Board recommends a favorable advisory with a building permit being required.

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- AUTO ZONE INC. – Kevin Murphy – 1359 Upper Front St. – TM#’s 111.12-2-8, 111.12-2-7, 111.12-2-5.2 & 111.12-2-4 – Application for Parcel “A” Use & Area Variance to allow commercial business & less than required rear yard setback from 25’ to 15’ in a residential zone.
- JEREMY HILTS – 1359 Upper Front St. – TM#’s 111.12-2-8, 111.12-2-7, 111.12-2-5.2 & 111.12-2-4 – Application for Parcel “B” Use & Area Variance to allow commercial use (tour bus parking) in a residential zone and minimum lot width from 100’ to 75’ in a commercial development zone.

Mr. Phillips, ZBA Chairman, explained the Board has received a late submission regarding AutoZone and the bus parcel. There’s a lot of concern on this Board regarding bus parking and traffic. Would hate to open the Public Hearing and not come to any conclusions. Our Town Engineer has not reviewed the late submissions and many Board members have concerns regarding these applications.

Mr. Walls explained as the chairman indicated we received a late submission and it’s absolutely incomplete. We don’t know the whole picture and would hate to take up these people’s time. The engineer reviews and gives his recommendation. He’s going to recommend the Board table both of these until we receive detailed submissions. Do you understand?

Mr. Dave Gagon, Langan Engineer, said he understood.

Mr. Walls asked Mr. Gagon if he had any questions.

Mr. Gagon explained he did not.

Mr. Walls when on by saying they will be re-scheduling the Public Hearing and you will have an opportunity at that time to speak. He’s reviewed the applications – they are incomplete. The procedure we follow is we ask detailed questions and we don’t have those details. We think you should know the details.

Mr. Earl Cowden, 39 Trafford Rd, is not clear what they are referring to.

Mr. Walls explained he's referring to the application of AutoZone and Parcel B. There are two applications – companion applications. Are there any questions from the audience as to what we are doing with these? So if the Board agrees, we will table these applications – reschedule the Public Hearing with all the details and you'll be notified.

Mr. Phillips explained we have been waiting for these submissions, in the meantime the notices had to be mailed - these late submissions need to be reviewed.

Anonymous female, explained they are afraid it gets approved and two weeks later they do something else.

Mr. Phillips explained not with this Board. As Mr. Walls indicated when our Town Engineer and Ordinance Office are satisfied it can come to a Public Hearing. It's not going to happen until the notices get mailed.

Mr. Cowden explained you have drawings in front of you – they are quite complete – what is missing other than the Town Engineer hasn't had time to review.

Mr. Phillip explained there is no profile of the building, questions on bus turnaround, parking – egress/ingress. We already have substandard lots on Front St.

Mr. Cowden wanted to know if this also goes to the environmental committee as there are environmental issues here.

Mr. Phillips explained that per Mr. Walls yes it will. It would be premature for us to hold a Public Hearing at this time.

Mr. Cowden wanted to know if the applicant would be officially made aware by the Ordinance Office that the operation of this would be an immediate violation of two existing ordinances.

Mr. Phillips explained the applicant is aware of it.

A motion was made by Mr. Ruston, seconded by Mr. Grannis, and unanimously carried to TABLE the applications of AUTO ZONE INC. – Kevin Murphy – 1359 Upper Front St. – TM#'s 111.12-2-8, 111.12-2-7, 111.12-2-5.2 & 111.12-2-4 – Application for Parcel "A" Use & Area Variance to allow commercial business & less than required rear yard setback from 25' to 15' in a residential zone and JEREMY HILTS – 1359 Upper Front St. – TM#'s 111.12-2-8, 111.12-2-7, 111.12-2-5.2 & 111.12-2-4 – Application for Parcel "B" Use & Area Variance to allow commercial use (tour bus parking) in a residential zone and minimum lot width from 100' to 75' in a commercial development zone.

Mr. Waskie, ZBA Member, wanted to know that since they did accept this to bring to a Public Hearing, yet it's insufficient, by tabling what if they can't get it within the next thirty days – does it become automatic or does this Board have a vehicle to extend?

Mr. Walls explained they can extend it. He then asks Mr. Gagon if he agrees to the two applications being Tabled.

Mr. Gagon explained he did. He does have the information with him and this was also e-mailed and realizes there was limited time to review.

Mr. Walls wanted to make sure he agreed that they table the two applications until such time.

Mr. Gagon understands that this is the Board's recommendation.

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#### RENEWAL

- GREGORY BURDEN – 21 Green Meadow Ln. – TM#096.09-2-29 – Renewal application for Special Permit & Use Variance to sell new & used firearms not produced by the home occupation.

Mr. Phillips explained that the Board put a renewal on this so the Ordinance Office could monitor the activity.

Mr. Mike Pecha, Ordinance Office – as there have been no complaints regarding this application the Ordinance Office recommends final approval with the condition that upon the sale/transfer of property other than to Greg Burden the Use Variance and Special Permit terminates.

Mr. Phillips explained he has been working in the area and hasn't seen even a vehicle there.

Mr. Waskie has also been visiting and it's very quiet.

Mr. Grannis, ZBA Member, explained if there were problems he's sure they'd have heard.

Mr. Phillips wanted to know what the Board would like to do – permanent – renewal with the supervision of the Ordinance if necessary?

Mr. Grannis recommends a final.

Mr. Doolittle concurs with Mr. Grannis.

Mr. Waskie would like the condition of transfer/sale other than to Mr. Burden the Use Variance and Special Permit terminates.

A motion was made by Mr. Grannis, seconded by Mr. Doolittle, and unanimously carried to approve the application for Special Permit & Use Variance to sell new & used firearms not produced by the home occupation with the condition that upon the sale/transfer of property other than to Greg Burden the Use Variance & Special Permit terminates.

ROLL CALL:           AYES – 5     NAYS – 0

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NEW BUSINESS

- BERT ADAMS DISPOSAL – 515 Main St. – TM#112.06-2-24 – Multiple Area Variances for the expansion of the office building with less than required lot width from 350’ to 65’, acreage from 6 acres to .30 acres, front yard setback from 30’ to 25’67” and side yard setback from 10’ to 5’20” and lot depth from 450’ to 200’ in a PDD-C zone.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for June 23, 2015.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, and unanimously carried to accept this application for Multiple Area Variances for the expansion of the office building with less than required lot width from 350’ to 65’, acreage from 6 acres to .30 acres, front yard setback from 30’ to 25’67” and side yard setback from 10’ to 5’ 20” and lot Depth from 450’ to 200’ in a PDD-C zone.

ROLL CALL:           AYES – 5     NAYS – 0

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VOTES ON PUBLIC HEARINGS

- SHANE LIVINGSTON – 167 Treadwell Rd. – TM#067.02-1-27 – Quadruple Area Variances to build a detached garage in front of the principle use, exceeding the maximum height from 16’ to 18’, with less than required road frontage from 240’ to 224’ and the front yard setback from 50’ to 14’ in an agricultural zone.

A motion was made by Mr. Doolittle, seconded by Mr. Grannis, and unanimously carried to approve the application for Quadruple Area Variances to build a detached garage in front of the principle use, exceeding the maximum height from 16’ to 18’, with less than required road frontage from 240’ to 224’ and the front yard setback from 50’ to 14’ in an agricultural zone.

ROLL CALL:           AYES – 5     NAYS – 0

Mr. Phillips wanted to know that with the garage being that large was he going to repair vehicles other than his own. Was he starting a business?

Mr. Livingston explained the garage would be for his vehicles only.

Mr. Doolittle wanted to know if the one neighbor was here tonight. Was he aware how close the building is to the street – line of sight.

Mr. Livingston explained that Scott was not in attendance but they did discuss this as it was a concern – that's why it was staked. The new building shouldn't be a safety problem.

Mr. Grannis wanted to know if the stakes were forty feet apart and if he needed a forty feet building.

Mr. Livingston explained he'd go bigger if he could.

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- TODD PLOURDE – 42 Ashbury Ave. – TM#096.05-1-15 – Application for an Area Variance to expand a driveway with less than required side yard setback from 10' to 1' in a residential zone.

A motion was made by Mr. Grannis, seconded by Mr. Doolittle, and unanimously carried to approve the application for an Area Variance to expand a driveway with less than required side yard setback from 10' to 1' in a residential zone with the condition that the driveway entrance start with a 1' setback and be tapered to 2' at the garage.

ROLL CALL:            AYES – 5      NAYS – 0

Mr. Grannis wanted to know if he would follow the contour of the land.

Mr. Plourde explained that was the idea – follow the angle. It would be narrower at the entrance and then it does get wider. The wider section will have the two cars parked – really can't park two cars at the entrance even with the expansion.

Mr. Doolittle wanted to know if there would be overnight parking or storage of a boat.

Mr. Plourde explained no boat just keeping his cars off the street.

Mr. Grannis wanted to know if the Board was okay with the 1' all the way up.

Mr. Plourde explained the plan is for 1' away (original application has 1') especially at the entrance. If he's not allowed 1' it's just the same entrance he has currently.

- JEFFREY S. KUSS – 21 Woodland Dr. – TM#079.17-2-18 – Application for an Area Variance to construct a 24' x 26' addition with less than required side yard setback from 10' to 7' in a residential zone.

A motion was made by Mr. Grannis, seconded by Mr. Ruston, and unanimously carried to approve the application for an Area Variance to construct a 24' x 26' addition with less than required side yard setback from 10' to 7' in a residential zone.

ROLL CALL:           AYES – 5     NAYS – 0

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#### ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Waskie, seconded by Mr. Grannis, to adjourn the meeting at 7:48 p.m.

Respectfully submitted,

Nancy Schnurbusch,  
Recording Secretary