

ZONING BOARD MEETING
TUESDAY – AUGUST 25, 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
Tom Geisenhof, Assessor

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 July 28, 2015, Zoning Board Meeting.

A motion was made by Mr. Doolittle, seconded by Mr. Waskie, to approve the Minutes of the July 28, 2015 Regular Meeting.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Phillips, Chairman – Looking at the audience tonight he sees that several of you are here for the AutoZone and Jeremy Hilts application. He wants them to know; rather than have them sit here all evening, all of those applications have requested to be withdrawn. What's going to happen; this is also for the Board, there were three of us at the Planning Board meeting. They have totally revised revamped the plans. The plan does not require any ingress/egress out of Bishop Rd. or out of Trafford. They have swapped the AutoZone to the right side. They have to get legal easements to go in on the AutoZone side along the back of the AutoZone building and back out on the SW side. They have 37 parking places with their loading zone etc. which will bring it back out onto Front St. They will present those plans at the next meeting with those plans in place. At that time, it will only be if Mr. Geisenhof says the plans are complete, we will accept the application. Then the Public Hearing will be in October. So we don't want you folks

sitting here spending all that time as it's at the end of our agenda this evening. We will be accepting the withdrawal at that point.

PUBLIC HEARING

- UPS STORE – Michael Belz/Mark Nagle – 1235 Upper Front St. – TM#111.20-2-1 – Application for a Use Variance to utilize additional 3 flags as ground signs and an Area Variance to exceed the maximum allowed from 30' to 65.55'.

Mr. Walls conducted the Public Hearing.

Mr. Walls – Your location is in the Kost Mall correct?

Mr. Nagle – The Kost Plaza – yes sir.

Mr. Walls – The signs in question could you give a description because they are unusual.

Mr. Nagle – They are. It's something new that's come out in the last 18-20 months so to speak. The flags are approximately 11' high that's including base and the flag itself. The flag is technically not as long as the base. It's about 3' shorter than the actual aluminum pole itself. They are 11' tall and about 12-18" wide. Rather tall and narrow. Different colors – there's a couple red ones, a blue one. They basically say UPS Store.

Mr. Walls – That's the message – The UPS Store.

Mr. Nagle – Yes that's it.

Mr. Walls – You are asking for three.

Mr. Nagle – Yes he purchased three.

Mr. Walls – They are currently displayed.

Mr. Nagle – They are under the sign permit, temporary sign permit.

Mr. Walls – Why do you need three?

Mr. Nagle – Not sure if the Board has the site plan. His store is situated in the plaza itself and to look at from the road you can't see it. The building that's out in front of the parking lot formerly Tom's Texas Hots his store you can't see from the road as it's behind the building. If you are coming on Upper Front St. you can see it. As you go down Front St. it's blocked by the building that's in front of it. There's no visual signage. He has a sign on the front building like

all the others; which is the only real thing you can see because it's put on the end next to Kost Tire as opposed to the center like everyone else in the plaza.

Mr. Walls – How long have the signs been up?

Mr. Nagle – The temporary ones have been up for under 30 days – ten weeks three days a week.

Mr. Walls – Have you noticed any increase in your business as a result?

Mr. Nagle – A little bit. A lot of people say they saw the flags. His store has been there for ten years. A lot of people that live in the Chenango Bridge area they are stable people. You have the ins and outs from a few apartment buildings. Have a lot of people say you've been here for ten years – yes ten years. His sales this year are down about \$13,000. Would like to keep the store open – has another store on the Vestal Parkway. This store they basically keep it because if they chose to sell it to anyone else he loses the franchise rights in a sixty mile radius.

Mr. Walls – You are also asking for an increase in the area of the sign – square footage.

Mr. Nagle – When you say an increase in square footage is that adding on to his additional that's on the pole sign? Then yes he is.

Mr. Walls – Have you considered any alternative form of advertisement that might achieve the same?

Mr. Nagle – He's done the basic direct door to door mailing. As far as the sign he probably could make his sign with the rest of the plaza a little bit bigger. The problem with that sign is the reason he purchased the flags – coming down Front St. you can't see that sign. Blocked by the building from Kost because of how the easement and property line goes. The property widens and narrows at that end. Coming up Front St. you can see the sign, but coming down Front St. you have no idea that the sign is even there. So to him it would serve no purpose.

Mr. Walls – Do you think the signs will change the character for this particular location? Is it a distraction to motorists?

Mr. Nagle – He doesn't see it as a distraction. They are not at the edge of the road. They are back about four feet and they might be able to go back another six. He could put them right on the property line. He doesn't see them as a distraction. They are not a big sign waving at you, but rather a stable flag one straight piece and yes it blows in the breeze a little bit, yet he personally feels they are not a distraction. He drives up and down Front St. and it's something that catches your eye. Yes it is something that's going to draw your attention away from the road – no. You can see it says UPS and that's it. It's not flashing. He personally doesn't feel it's a distraction.

Mr. Walls – If you are turned down what financial impact would you have?

Mr. Nagle – They have waded the options being that at this point the store has lost a significant amount of money – not a lot but that's part of doing business. Thirteen thousand dollars is a lot of money this year and he has a profit and loss statement if the Board would like to see it. At this point, after ten years it's paid for itself. They could just close the door. Three part time people lose their jobs and he goes back to the other store in Vestal.

Mr. Walls – Important fact is the location. They are located in a NYS right-of-way. Has he received permission from that agency to erect the signs in a right-of-way?

Mr. Nagle – No but if he had known he would have tried to do that.

Mr. Walls – Have you been notified by DOT that you can't put them there?

Mr. Nagle – To this day no. He realizes they do what they do and there's a reason behind it. He hopes they take into consideration that this business has been in the town for ten years – when that plaza was built. They would like to stay but ultimately at a cost of losing money it's not feasible but they can do it for a little longer.

Mr. Walls – You should be aware that the fact they are in the DOT right-of-way it's beyond the Town's jurisdiction as the Zoning Board of Appeals.

Mr. Smith, 20 Newman Ave. – Can see his problem knows where that store is. He doesn't like those signs. Are there any signs on Front St. right now? Doesn't like them that close to the curb, if they were moved back a bit where it wasn't right there where you drive your car. Maybe it would take care of the DOT.

Guy Howard, 150 Port Rd. – Would hate to see another business on Front St. be lost because they are changing plazas monthly and he's been here ten years.

Lynn Potenziano, 52 Overbrook Dr. – He also has competition with Staples as they have a UPS counter inside. If you are a frequent shopper at Staples you know you have that service there. That is competition he has to deal with.

Mr. Walls closed the Public Hearing.

Mr. Geisenhof, Ordinance Office, due to the unsightly appearance, distraction of the flag type signage and the inability of the ZBA to grant a variance for signs in a NYSDOT right-of-way, denial of the use variance is recommended.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the above cited case. They recommend denial of the project because the signs would be located in NYSDOT right-of-way. In addition, the project would cause distractions and potentially unsafe conditions for pedestrians and motorists, run contrary to the Town Code limit of one ground sign per shopping center, and result in visual clutter.

NYSDOT has reviewed the application and have the following comment –
- Flags shall be located off the State right-of-way.

Town Planning recommends an unfavorable advisory since you cannot place anything within the NYSDOT right-of-way, it is not allowed and there is no other location to place the flags.

Drainage Coordinator recommends approval.

Urda Engineering has reviewed the application. The application is consistent with the intent of the Code of the Town of Chenango, Chapter 73, Article VII, Sect. 73-23 C Variances, however, he does not feel that the flags as they exist, or are proposed to exist, are acceptable for roadside safety. The applicant will continue to have use of their space and have signage on the pylon sign. Although the signs are a minimal request, they are not in harmony with the intent of the town sign code and may be detrimental to the landscape and unsafe/distracting for motorists.

Without a variance, as noted in the application documents, these signs fall under Sect. 73-16 F Temporary signs and would require a Town Board approval for 30 day use within a 12 month period. They would still be required to not be within the NYSDOT right-of-way.

Directional signs might be a consideration to improve ease of access, but typically do not contain advertising or business matter. An unfavorable advisory is recommended.

- BETTY WHITE – 4 Palmer St. – TM#112.06-5-30 – Application for a Use Variance to allow a 2-family home in a residential zone & Area Variance for front yard setback from 30' to 6'-7".

Mr. Walls conducted the Public Hearing.

Mr. Walls – You have heard the purpose of the variance – apparently you want to convert a single into a two family.

Mr. Fenson, Engineer – What they have is a mother and daughter who purchased this. They

didn't listen to the Code Enforcer as to the problems they were going to have. Now they already own the property, surveyed, and they thought they owned the fence all the way up to the side of the road and then back. They do not. What they have are two separate issues. One there is a building that wants to be the same distance to the road as the existing house; mainly due to the drop off. Can't move the house to the back side would have lots of problems building there. No way to put more loads on the existing foundation of the existing house to go two stories. That would not meet their handicap accessibility. The existing home has bedrooms just minimum size. There's a kitchen upstairs; it's only a one story building and there's a kitchen in the basement. The kitchen in the basement could be discontinued and moved upstairs. The previous owner had two kitchens and that's all the current occupant wants to have.

Because of the situation where it has a breeze way in between two different structures it appears to be a two family. Code Enforcer is correct in saying he has concerns as it might sometime be used as a two family although the intent is not to. If they get the variance to use it as a two family then they don't have this issue of ever trying to say – look in the future that it's really economical to do this to have a two family although they are just two small residences – two small apartments. That would be very beneficial to them. There is definitely two different issues because they do need this addition just to have enough room for both of them to live there.

Mr. Walls – No question the plan is to make a two family.

Jerome Chalson, Builder – They didn't realize when he drew the plans that adding another kitchen would cause that to become a two family. He just did a second kitchen in Binghamton in a basement of another house and the Code Enforcement person didn't consider that a two family house in a single family house. They liked having a separate kitchen to cook and the main kitchen they loved keeping neat and clean. He assumed that having a second kitchen in a house would not make that a two family house. Code Enforcement said that it was – he went back to eliminate the second kitchen.

Mr. Walls – How many people plan to live there?

Mr. Chalson – Mother-in-law bought the house and her daughter are going to move in.

Mr. Walls – They have separate quarters?

Mr. Chalson – That's what they want right now because in the long run when she gets older they can be together.

Mr. Walls – So there will be two families?

Mr. Chalson – No one family under one house living together under one roof with only one kitchen. If it was a two family it would be someone adopted or a cousin living there. If it's the same family it would be like your son moving back in with you.

Mr. Walls – That’s what he wants to get clear because the application for a variance states they want to have a two family.

Mr. Chalson – No that’s what he wrote down but he has dyslexia he just agreed with what he was writing. Explained to him that he would have his architect remove the kitchen 100% and build the addition as it is drawn on the plans without the kitchen.

Mr. Fenson – He submitted letters that said what they wanted to do but was not allowed to submit them. They needed to submit just the two family idea – the reasoning to allow the in-law apartment combination of having two kitchens; which is in total compliance with NYS code. That’s why they are here now. They want a ruling that says don’t use it as a two family but you can have two kitchens. That would be fine.

Mr. Chalson – Or a single family home with the addition with no kitchen is fine.

Mr. Walls – Your original correspondence refers to a grannie flat.

Mr. Fenson – Like an in-law apartment.

Mr. Chalson – No it’s not an in-law it’s the same family. If it’s a different relative it would be an In-law apartment. If it was blood relative.... He has a petition signed by neighbors and there was a lady just across the street from him that had an in-law apartment. Her late husband’s mother moved in with them. They were allowed to have them move in. They put a little kitchenette in there for her. Now this was year’s back, she passed on, and they converted back to a single family. They are not asking for a two family house absolutely no two family house or in-law apartment; a single family home with two people living under the same roof.

Mr. Walls –With separate kitchens.

Mr. Chalson – No they do not need a separate kitchen. They can remove the second kitchen and actually the third kitchen. There’s a second kitchen in the basement they will remove that kitchen will keep the original kitchen there in the original house. Would just build the new addition with no kitchen.

Mr. Fenson – But they know that the two ladies like to cook and you are saying no you don’t allow it. You are saying to them no don’t have another kitchen; brand new kitchen in the new addition. Don’t do your dream house go with what you got.

Mr. Walls – You are going on the record here telling us that now or anytime in the future it will not be a two family.

Mr. Chalson – Absolutely. They can actually have his friend, who’s an attorney at Hinman, Howard, & Kattell write a letter to you guys absolutely stating that. Can get it notarized.

Mr. Walls – Before your client purchased the property they were aware.

Mr. Chalson – No her daughter. The owner of the house, his client, was never talked to – never discussed this. His sister-in-law has problems on disability. Loves calling people and she called Code Enforcement and drove them crazy.

Ms. Sarah Skulteti, 623 River Rd. – Is looking for clarification. She thought they wanted to enlarge the kitchen. The existing kitchen is tiny she can see them wanting to enlarge it. Two people would be bumping into each other. Now it sounds like they are going to build an exact duplicate of that building next to that building and try to have parking spaces for four people because you need two parking spaces for each residence.

Mr. Chalson – No it's only two people.

Ms. Skulteti – How are they going to do that? The street itself it's not 25' it's only 16.6" wide so getting traffic in and out of there and parking on the street it's tricky getting out. A lot of times people park on the side of the street from that house and another house. It makes it difficult for us to maneuver.

Worried about the trash and construction materials, as they put them out July 19th or that weekend and it hadn't been picked up for regular trash. It did get picked up this afternoon. The microwave oven and dehumidifier are still there. They are against it.

Mr. Dave Skulteti, 623 River Rd. – Their lot is on the corner of Palmer St. & River Rd. Their driveway is directly across from that lot. His experience since they've owned the lot has not been very good. The road is narrow 16.6" so when you go to back out you don't have much room to back out. He measured the Price Chopper – between parking spots its 25'9". The road is over 9' narrower than the driveway through Price Chopper.

Here are the problems he's had. On August 1st and 2nd when they were over working they didn't park on their property they were parked on the street. For two days he couldn't get his truck off of his property cause there were cars parked on the opposite side of the street. The builder seems to think he has a right-of-way on his lot as he pulls into his lot first to back into that lot. He's had a pickup truck since 1980, no problem backing into his lot, doesn't need to pull into anyone else's lot. Long ago when the sewers were put into town they put fill from the roads in that lot to fill it in. Dump trucks never had to use his lot to back up onto that lot. Has a problem with traffic on that road, parking on that road and his driveway being blocked. He has contacted the Town Highway about the problems with the street.

Mr. Andrew Clark, 26 Jewell Ave. – The only comments he wants to make is this parcel has been a rental for many years. He's had some personal issues with some of the renters with their kids on his property. He was ecstatic when these people purchased the property. He noticed they are trying to make improvements to the property which is great. He hears plans for this

addition which isn't going to affect him as much as it's going to affect these guys as they live across the street. Has no personal problem with that. Only thing he doesn't want is a two family house because in the future he doesn't want it to become a rental for someone who's going to buy it and just rent it out. Would be nice if they could come into an agreement with whoever makes these decisions to make it a single family versus a two family. Should be a denial for a two family right out of the gate.

Mrs. Smith, 20 Newman Ave. – The neighborhood has been mostly comprised of single family homes. There are a lot of children in the neighborhood. Slowly turning into a neighborhood where there's been a lot of rentals. Palmer St. is very narrow and those lots are very small, that's going to make less room for cars to park hard for people to navigate the road. Keep it completely a single family home not a rental. Her main concern is the traffic on the corner as a lot of people use this little road.

Mr. Phillip Smith, 20 Newman Ave. – His opposition is it's a two family house. That three street neighborhood is kind of isolated – Clark, Jewell, Newman and Palmer on the end. Moved there twenty five years ago and everybody has made improvements. Understand people have moved due to the economy they need to rent the house. He was here six months ago, standing room only, and a guy on Clark got a two family. It's a dump. There are already five two families in the three street area. They don't attract people that care about them. He is opposed to this.

Mr. David Williams, 3 Charmel Dr. – Won't discourage anyone wanting to beautify their property cosmetically or structurally. Does not welcome a two family in the area. There's just not room there for this as it's a small street and small lot. If the garbage that's been laying over there for the last month is a preview of their actions he's not too happy with that.

Mr. Roy Moore, 715 River Rd. – Agrees it's already too close to the road. They want to put a breezeway another structure and two car garage on the other side of that. Road is too narrow for that.

Tina unknown last name and unknown location – Moved in three years ago – nice neighborhood. She's used that street often and there's a blind spot when you come up that street. Too close to the road can't imagine how they are going to fit another addition on to that house and make it safe.

Mr. Walls closed the Public Hearing.

Mr. Geisenhof, Ordinance Office, given the extensive amount of time and guidance given to the owners of this property, explaining that they would be creating their own hardship if they bought this home knowing that a use variance was required for the creation of a two family dwelling, denial of the use and area variance is recommended.

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 make no determination as to whether the applicant meets the four tests of a use variance.

Town Planning recommends an unfavorable advisory due to the hardship being self-created.

Drainage Coordinator made no comment.

Urda Engineering – The application conforms to the Cod of the Town of Chenango, Chapter 73, Article VII, Sect. 73-23 C variances, however the hardship is self-inflicted regarding the 2-family request. The granting of the 2-Family variance would not be in harmony with the general purpose and intent of this chapter. No objections to the request for the front setback as the existing building and adjacent building appear to have the same setback. As currently presented, an unfavorable advisory is recommended. We question if an alternative configuration could be developed that would not be construed as a 2-family residence by code.

- JAMES L. POTENZIANO – 52 Overbrook Dr. – TM095.19-1-47 – Application for Triple Area Variances for a driveway setback from 10’ to 2’-6” for a detached garage with less than required side yard setback from 10’ to 7’-5” and exceeding the maximum height from 16’ to 19’.

Mr. Walls conducted the Public Hearing.

Mr. Walls – Let’s take these one at a time – First one is a driveway setback 10’ reduced to 2’-6”.

Mrs. Lynn Potenziano – She spoke with the office about the proposed idea for the detached garage looking at existing features of her property. The first variance is a technical correction for an existing piece of property that will not be affected by the project is the current driveway. The curvature of the widest point; it’s not an area to be affected by the project it is affect by the change in code when the house was originally built to the new standards in 2008. This was an opportunity to correct the record. This was not originally intended as part of their original request just updating the record properly.

Mr. Walls – How about the second one the side yard setback 10’ to 7’-5”.

Mrs. Potenziano – The line of the property goes at an angle and part of the structure will be at 10’ and part will be at 7’-5” based on the property line. If they were still under the guidelines of when the home was built that would have been a 5’ side yard setback and they wouldn’t need to discuss this; but because of the 2008 changes and the new code a 10’ setback is now required.

Mr. Walls – Why do you need 19’ height. Is it going to be consistent with the height of the house?

Mrs. Potenziano – It is designed to match the pitch of the house. Cosmetically they do plan on making it look like the house and it will be a continuous appearance.

Mr. Walls – Do you think the structure/garage will change the character of the neighborhood.

Mrs. Potenziano – No. It is setback to the back part of the home. If anything it offers some privacy between herself and her neighbor. The decks on the back of the houses are parallel to one another and they do look at each other. They own some classic cars and they want to bring them home to store them. They have children who are coming of age to drive them. Lots of reasons why they need extra storage space as they have a pool and would use some of the garage for pool things.

Guy Howard, 150 Port Rd., developer of Poplar Hill Estates – When the subdivision was designed and issued all the deed restrictions the side deed restriction is 15’ and the town restrictions don’t apply to his deed restrictions. Believe they were a thirty year deed restriction. People who built homes up there are all aware of them. If somebody starts building 10’ – additions and stuff – it’s going to change the character. These people paid a fair amount of money for their lots. Most of them are large homes and they like the way it is. That’s why he was able to sell the subdivision the way it is.

Don’t have houses, like some areas, town restriction when he started was 6 and 9 you could have houses that were 12’ apart. That wasn’t the idea he wanted larger lots instead of 80 lots in the subdivision he cut it down to 63 lots so what you have is what we classify as Poplar Hill Estates not houses on top of each other.

According to his attorney anybody in the subdivision could call their attorney and stop the construction based on the deed restriction; which are on file with the county clerk’s office.

Mr. Walls – Understand what he is talking about is a declaration restriction for the whole area and please understand that is a contractual relationship between all the people in the subdivision. We do not enforce restrictive covenants.

Mrs. Potenziano – To be very honest she doesn’t recall that document but she can say they are not establishing precedence. There is a structure much larger than what she is proposing at 28 Fernwood. It has been there now for several years. With respect to the document Mr. Howard was speaking of she is aware of other things that were stated as permissible and one small example would be sheds and there are seven of them in the neighborhood. When they submitted their house plans to Mr. Howard the homes needed to be all built 3200 square feet or larger. There are homes that are less than that. They complied with the square footage but future homes

have not. There are plenty of things that could poke holes in – fenced in back yards. She is not establishing a residence.

Mr. Walls – Understand that’s between you and your neighbors.

Mr. Phillips – This has nothing to do with the Zoning Board as it’s a community issue.

Mr. Walls closed the Public Hearing.

Mr. Geisenhof, Ordinance Office, recommends approval of the triple area variance. Also recommends that the homeowner check their deed restrictions.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the application and have determined that the project is not subject to review under Section 239-L and M of General Municipal Law as the project site is not located within 500 feet of the State or County interests covered under the law.

Urda Engineering has reviewed the application and has found that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land. Similar instances exist within the subdivision. To achieve the applicant’s interest the variance request is necessary for reasonable use and is a minimal request to achieve the use. The granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The increase in height will not be in contrast with the existing structure or adjacent residence. The driveway currently exists and the variance is to address the existing condition and extension. A favorable advisory is recommended.

Drainage Coordinator recommends drainage approved.

Town Planning recommends a favorable advisory and a building permit being required.

- ARTHUR J GRISWOLD – 5 S. Frederick Rd. – TM112.07-2-34 – Application for an Area Variance to expand a driveway with less than required side yard setback from 10’ to 1’-5” & Use Variance to allow a recreational vehicle forward of the front building line.

Mr. Walls conducted the Public Hearing.

Mr. Walls – Please explain the driveway portion of your application.

Mr. Griswold – He is looking to expand his driveway. His property line is on a slight angle so the side driveway setback would be from 10' to 1'-5". The new driveway would be 10' wide and go back about 50 to 60'.

Mr. Walls – Let's discuss the R.V. – what's the size of the R.V.

Mr. Griswold – The R.V. is 32' in length and is about 8'-5" in width. He and his wife saved to purchase the R.V. They have six children and the cost of hotels and restaurants can be expensive. When they purchased the vehicle they were not aware that it needed to be placed alongside or behind the house. He is a fireman/paramedic and works long hours. His wife stays home to take care of the children.

Mr. Walls – Is there any place else you could place the R.V. on your property to be code compliant.

Mr. Griswold – No not really as on the other side of the house there is an uphill slope as does the rear. Plus that side section is fenced in. Due to the increase in the vehicle insurance storing it offsite would prove to be a financial hardship. The only good place for the R.V. would be on the left side; which once parked would be approximately 16' in front of the house. Can't move it back any further as they'd have to excavate the slope at the rear of the house.

Mr. Walls – Do you think this would have a negative impact in the neighborhood or create a safety problem.

Mr. Griswold – We live on a cul-de-sac so the R.V. has never been obstructive to other driver's view. There is plenty of visual area. The R.V. has been 26' from the edge of the front property line.

Mr. Walls closed the Public Hearing.

Mr. Geisenhof, Ordinance Office, recommends approval of the area variance and use variance with the condition that the RV be parked off site from November 1 to April 30 each year.

Mr. Phillips – Explained that he had two phone calls regarding this variance. They told him they don't like having the R.V. in the residential neighborhood and they don't want to see one in the area. They have a problem with the R.V. but not the driveway.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the case and has not identified any significant countywide impacts associated with the proposed project. The Town ZBA should ensure that the project would not encroach on the adjacent residential property.

Urda Engineering has reviewed the application and determines that given the consent of the immediately adjacent neighbor, a favorable advisory is recommended. Give the short distance requested, he recommends that the driveway layout be based on known survey monuments or survey stake out to assure it does not encroach on the property line. Similar to prior applications, consideration should be given to any variance being specific to this ownership and expire at change of owners.

Letter of support from Annamarie Mastronardi, located at One S. Frederick Rd.

Letter of denial from Adam & Cheryl DeVoe, located at 10 S. Frederick Rd.

Town Planning Board recommends a favorable advisory to expand the driveway going back to the exposed side concrete step up to allow the variance for the side yard setback and contingent upon the RV being parked off site from November 1st to April 30th each year and the entire proposed area being black topped.

Mr. Phillips – Would like to change the agenda a little. The gentlemen to our left is leaving us this month and is heading south and would like to thank him for spending years with us. Thank you Mr. Grannis it’s been great.

WITHDRAWAL

- 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.

A motion was made by Mr. Ruston, seconded by Mr. Grannis, and unanimously carried to withdraw this 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.

ROLL CALL: AYES – 5 NAYS – 0

- 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.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, and unanimously carried to withdraw this 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.

ROLL CALL: AYES – 5 NAYS – 0

VOTES ON PUBLIC HEARINGS

- UPS STORE – Michael Belz/Mark Nagle – 1235 Upper Front St. – TM#111.20-2-1 – Application for a Use Variance to utilize additional 3 flags as ground signs and an Area Variance to exceed the maximum allowed from 30' to 65.55'.

A motion was made by Mr. Doolittle, seconded by Mr. Grannis, and unanimously carried to approve this application for a Use Variance to utilize additional 3 flags as ground signs and an Area Variance to exceed the maximum allowed from 30' to 65.55'.

ROLL CALL: AYES – 0 NAYS – 5

Mr. Grannis – He doesn't like them and thinks they are ugly as they always get faded and fall down. In that plaza alone we let UPS have them then others ones start so now you have an amusement park. We have a bunch of illegal signs out there now. Doesn't think they belong in the Town – other Towns don't have them.

Mr. Phillips – Feels Tom and Mike are very busy right now citing those other ones.

Mr. Doolittle – Doesn't think this Board has permission to locate signs in DOT right-of-way. Could never vote to approve anything like that.

Mr. Ruston – We're not voting on the placement of them.

Mr. Phillips – We're voting on if they can have three not where they are placed.

Mr. Grannis – Just the Use Variance to allow the flags.

Mr. Doolittle – Doesn't know where the right-of-way goes through could be the middle of the hot dog stand, behind it or where the right-of-way goes through because the right-of-ways on Front St. are not exactly a straight line.

Mr. Phillips – He's going to say something very personal – his wife returns all of her QVC stuff

at this store. They have great service, but three more signs is not going to grab more business. We're trying to clean up Front St.

Mr. Grannis – Last week he was in Endwell – there's not a flag as they are doing away with tall polls and using monuments. They are bringing everything down.

- BETTY WHITE – 4 Palmer St. – TM#112.06-5-30 – Application for a Use Variance to allow a 2-family home in a residential zone & Area Variance for front yard setback from 30' to 6'-7".

A motion was made by Mr. Waskie, seconded by Mr. Ruston, and unanimously carried to approve this application for a Use Variance to allow a 2-family home in a residential zone.

ROLL CALL: AYES – 0 NAYS – 5

Mr. Ruston – What he sees when he looks at the drawing is two houses tied together by a mudroom with a garage at either end. That makes two houses for him.

Mr. Grannis – He agrees that's what he sees. Again you have a garage on each end. They talked about putting a kitchen in the basement for someone that's a whole different thing when you put in a structure. A lot of people have two kitchens but this you have a whole complete bedroom, living area, bathroom, kitchen, and a breezeway which connects. He can see why Don has concerns.

Mr. Fenson – His previous letter that wasn't accepted he can't make it more than a breezeway and keep the existing rooms of the existing house.

Mr. Phillips – Understand but right now this is for the members of the Board for discussion.

Mr. Grannis – It's a concern as one of the neighbors said before twelve months from now that house could be sold and it becomes a two family.

Mr. Ruston – Knock down the mud room and you have two houses.

Mr. Waskie – If the use variance goes down there's nothing to say that they couldn't come back for an area variance to put the addition on the house with a little different reconfiguration.

Mr. Phillips – That's right. That would go through Mr. Geisenhof's office if they wanted to make it a single family with a different rendition and then they still may need because of the side yard a variance.

Mr. Geisenhof – If they show a single family home – if you approve the setback for an addition.

Mr. Grannis – One thing else when we look at this doesn't say what the original house is. Kitchen on the main floor and kitchen downstairs.

Mr. Chalson – Which is being torn out right now. That's where the garbage came from as the homeowner didn't get a dumpster they put it out.

Mr. Grannis – How many bedrooms are in there?

Mr. Chalson – The bedrooms are about 8' x 8' and there are two of them.

Mr. Phillips – Knows the neighborhood well as he drives through it several times. He has an issue with it being two separate homes. The option is open to come back to Mr. Geisenhof's office and make it a single family. They may still need a variance but it's a single family.

A motion was made by Mr. Doolittle, seconded by Mr. Grannis, and unanimously carried to approve this application for an Area Variance for front yard setback from 30' to 6'-7".

ROLL CALL: AYES – 0 NAYS – 5

Mr. Grannis – One quick question. We do this variance that's flush with the front of the house that's there now so if they make changes to this, it meets a single family, they don't have to come back to us?

Mr. Doolittle – Yes they have to come back to change the variance.

Mr. Phillips – Yes if the side yard setback is encroached or front yard is encroached it has to come back.

Mr. Geisenhof – If you grant one now anticipating they come back with another plan for straight across addition one family same setback approve it now. Is that okay?

Mr. Walls – They need to do this as part of the package. Wait for new submissions part of a package.

- JAMES L. POTENZIANO – 52 Overbrook Dr. – TM095.19-1-47 – Application for Triple Area Variances for a driveway setback from 10' to 2'-6" for a detached garage with less than required side yard setback from 10' to 7'-5" and exceeding the maximum height from 16' to 19'.

A motion was made by Mr. Grannis, seconded by Mr. Doolittle, and unanimously carried to approve this application for an Area Variance for a driveway setback from 10' to 2'-6.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Phillips – Do you understand what Mr. Howard is saying? Before we even get into this you could end up with some lawsuits.

Mrs. Potenziano – It's funny about him bringing this up there are so many deviations.

Mr. Phillips – Understand every neighborhood has them. Regardless to what happens here right now but your covenants may do something else to you. Hopefully not but they may just so you know. The covenants are in your deed but that's not our job.

A motion was made by Mr. Waskie, seconded by Mr. Grannis, and unanimously carried to approve this application for an Area Variance for a detached garage with less than required side yard setback from 10' to 7'-5".

ROLL CALL: AYES – 5 NAYS – 0

Mr. Waskie – It's interesting he lives in the area and he thinks they are doing what's best for the area. Have people who put up a six car garage on Fernwood Ln. If you look at the map where they are they also own property in the back which is a green area right now and he'd like to keep it that way for the integrity of the area. He can go in and level it, take the ramp off his current driveway, and put up a big garage in the back. It would affect probably ten neighbors and you'd see it from the road. He could just level it but he wants to do what's best for the neighborhood. That's a recourse he could have.

Mr. Phillips – That's why we come from different neighborhoods – great perspective.

Mrs. Potenziano – There is a lot of setback behind the back wall.

A motion was made by Mr. Waskie, seconded by Mr. Grannis, and unanimously carried to approve this application for an Area Variance for a detached garage and exceeding the maximum height from 16' to 19'.

ROLL CALL: AYES – 5 NAYS – 0

- ARTHUR J GRISWOLD – 5 S. Frederick Rd. – TM112.07-2-34 – Application for an Area Variance to expand a driveway with less than required side yard setback from 10’ to 1’-5” & Use Variance to allow a recreational vehicle forward of the front building line.

Mr. Doolittle – Think about this an eight foot high R.V. one foot of ground to stand on. How are you going to do it?

Mr. Phillips – He agrees. We’re doing just the driveway first even though they are combined we’ll do the driveway.

Mrs. Kinne – There is a letter from the neighbor that she has no problem with it.

Mr. Doolittle – But she’s not staying there forever and putting an imposition on someone else.

Mr. Phillips – Mr. Geisenhof suggested if the owner sells or moves it’s rescinded but we can’t ask them to pull up the driveway.

Mr. Doolittle – That’s a big vehicle. He’s got a lot of excavating or crown rearrangement to get that back in there.

Mr. Waskie – He was there today.

Mr. Phillips – We’re just talking about the driveway. He may not want to do the driveway if the other part doesn’t happen.

A motion was made by Mr. Grannis, seconded by Mr. Ruston, and unanimously carried to approve this application for an Area Variance to expand a driveway with less than required side yard setback from 10’ to 1’-5”.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Phillips – So the driveway is approved. Now we’ll get down to the Use Variance of the motor home that he wants to park out front.

A motion was made by Mr. Ruston, seconded by Mr. Doolittle, and unanimously carried to approve this application for Use Variance to allow a recreational vehicle forward of the front building line.

Mr. Waskie – Can there be an amendment to that and add the Planning Board recommendations of Nov. 1st through April 30th the R.V. is parked off site and the variance is in affect as long as the property doesn’t change hands that once it changes hands it’s null and void.

Mr. Grannis – Another issue was the length of it – how far back to go with it?

Mr. Doolittle – Who said they saw it parked on the lot today? How far out was the front of the vehicle from the front of the house?

Mr. Waskie – He didn't go all the way back.

Mr. Griswold – It's going to be back a lot further once everything is done than where it is right now.

Mr. Waskie – Would it be fair to say it's going to be equal to the playhouse?

Mr. Griswold – Probably a little further than that. It's going to be sticking out in front of the house about 15'.

Mr. Doolittle – The house is how many feet from the road?

Mr. Griswold – The house itself from the edge of the road is 41'.

Mr. Doolittle – 41' and it's going to stick out 15' beyond the front of the house.

Mr. Griswold – It will be 26' from the edge of the driveway to the motor home.

Mr. Grannis – So you said it's 32' so the driveway has to go back 17' from the house. So that's what he'd like to have in there.

Mr. Griswold – Both of his cars are longer than the R.V. and will stick out passed the house.

Ms. Kinne – Believe he agreed to remove the roof over the side door in order to make room.

Mr. Phillips – This is a sticky wicket. It's been a sticky wicket for the ordinance with folks that, and Tom correct me if he's stepping out of turn; but they've spent umpteen million hours with people complaining about motor homes. The communications received last night was this side of Town is okay but not my side.

Mr. Ruston – In his neighborhood there's been a whole lot of issues raised with regard to R.V.'s being parked in front of the line. All of the people there become compliant – thinks they are compliant or the ones in his immediate vicinity have. He's the wrong one to talk about this because he's just opposed to it generally. There are reasons why he doesn't own a car trailer for instance as he doesn't have anywhere to park it. That's his feeling on this.

Mr. Grannis – He's curious as to everyone's feelings on this. We have had other circumstances.

Mr. Phillips – We've had a lot of ugly ones. He's with Gordon you buy something like that you have to have a place to put it. You don't have then don't buy it.

Mr. Griswold – We weren't aware of this when we purchased it.

Mr. Phillips – He understands, but it's a self-created hardship. That's what it amounts to no matter how you look at it. There's no way around it. Is there any other discussion on this?

A motion was made by Mr. Ruston, seconded by Mr. Doolittle, and unanimously carried to approve this application for Use Variance to allow a recreational vehicle forward of the front building line.

ROLL CALL: AYES – 0 NAYS – 5

ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Waskie, seconded by Mr. Ruston, to adjourn the meeting at 8:41 p.m.

Respectfully submitted,

Nancy Schnurbusch,
Recording Secretary