

TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

TOWN HALL, 225 COLUMBIA TURNPIKE, RENSSELAER, NY 12144 (518) 694-4011 FAX (518)477-2386

MEMORANDUM

EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES AUGUST 8, 2017

Members

Jeff Pangburn, Chairman
Joyce Lapham
Kurt Bergmann
John Conway, Jr
Matt Ostiguy
Bob Seward III

Also Present:

George Hoffman, Attorney
Kateri Rhatigan, Stenographer

CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Pangburn called the meeting to order and determined a quorum of six (6) members were present. Domenico Pirrotta was absent. Introductions were made.

OLD BUSINESS:

ZBA Appeal #2017-08 – Cleary – Start Avenue – Area Variance for the proposal to construct on an undersized lot without the required frontage.

The following was read and/or referenced as being in the file.

- A follow up Planning Board Recommendation was provided by Ralph Viola

Chairman Pangburn referenced several letters that were made part of the file and there were marked as Exhibits #2017-08C through #2017-08Q. Chairman Pangburn asked William Cleary if he had anything new. William Cleary stated that the information is still all the same, he added that there are at least ten homes on the street that are 60' x 100' lots. Chairman Pangburn asked if the Board had any questions. There were none.

- Chairman Pangburn asked the applicant to clarify that he had owned the house and lot attached to this current vacant lot. William Cleary stated that was correct.

Chairman Pangburn asked if there was anyone in the public that had something new to add to the appeal.

- James Madden stated that originally there were multiple lots that went with number two Start Avenue when it was sold and the one in question was not.

- Teresa Toth stated that there may be many lots that are 60' x 100' but they met the requirement back in then.

- A resident spoke and stated that the Army Corp stated that the houses in that area were built on a swamp, it's a really wet area, and there are many sewer system issues and black mold problems. Some photos were submitted and marked as Exhibit #2017-08S, 08T, 08U, 08V and 08W.

- A resident stated that he was with Terry Toth when the Town came out and stated that there were already sewer problems.

- Richard Cicero stated that sewer is an issue and the drainage adds to it, it infiltrates the sewer system and he feels the issue is self-created. The Town Zoning Law when it comes to a corner lot frontage stated that each frontage matters. This is also out of character for the neighborhood.

- A woman stated that each year, her downstairs floods with brown waters. She lives in a raised ranch and had to have the foundation repaired.
 - A man spoke and stated that there are a lot of emotions here, water damage is tough and it is definitely self-created.
 - A woman stated that her mother lives on Start Avenue the water is so bad. There are three drainage spots on the lot in question on Start Avenue; the sewer goes right through the property. A packet of photos were marked as Exhibit 08X.
 - A man talked about frontage on all streets, and that people fly on Phillips R
 - A woman stated that this is self-created; she wanted to buy the house and vacant lot. Her house has flooded.
 - A woman asked since the required frontage is 75' why are they allowed variances.
 - A resident who lives next door to vacant lot stated they have spent a lot of money fixing problems.
 - Tom Gullo of 55 Phillips Road stated it has cost him money to make repairs, and can't mow a portion of his 80' x 150' property due to existing drainage issues.
 - A woman asked if you give a variance and then there are car accidents, is the Town liable.
 - Teresa Toth stated that a Planning Board members used a CAD program to plot the lot size, asked if the Town paid for that.
 - A man asked that if the issue was lot size.
- Chairman Pangburn asked if there were any questions from the Board. There were none. Chairman Pangburn asked William Cleary if he had anything to add. He stated that no one has ever approached him to buy the lot.

Motion by Matt Ostiguy to close the public hearing. Seconded by Bob Seward III.
Motion carried by a 6-0 vote.

PUBLIC HEARINGS:

ZBA Appeal # 2017-14-Heizman-516 Third Avenue Ext.- Special Use Permit for Home Occupation & Area Variance for sign.

The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendation
- Planning Board Recommendation and supplemental report by Matt Polsinello
- ZBA Application, Authorization Form, Short EAF, Denial, Special Use Permit & Area Variance Criteria, Bldg. Permit Application

Erik Heitzman presented the proposal to the Board. He is proposing an internet auto sales business where the applicant's only come to the home to sign paperwork . He stated his house is all surrounded by commercial businesses. Erik is also proposing an 18 square foot sign, only a 3 square foot sign is allowed. Erik stated that the sign he's proposing will not obstruct anything and that there are signs all around him. Chairman Pangburn asked the Board if anyone had any questions.

- John Conway Jr. asked how the sign affect his business. Erik answered that it's for advertising.
- Kurt Bergmann asked if the applicant will rely on the sign for walk in business. Erik stated that it's just for advertising of the business.
- Matt Ostiguy asked Erik to clarify what will be on the sign. Erik stated his logo, names of business, phone number and website.

●Bob Seward III asked the applicant how many employees he'll have. Erik stated that it's just him. Bob also asked the exact location of the business. Third house on the left from Krey Boulevard.

●Matt Ostiguy asked how long the applicant had been running the business. Erik stated that he was just starting it up.

●Bob Seward III asked if the sign would be lighted and what the height would be. Erik stated it's only about two feet off the ground and it would be lighted just at night.

●Chairman Pangburn asked the applicant if he had a site plan of the site. Erik stated that he did not.

●John Conway Jr. asked what the lot size of the property was. Erik stated that he did not know.

Chairman Pangburn asked if the Board had any questions There were none. Chairman Pangburn asked if there was anyone in the public who wanted to speak in favor of or opposition to the application. There was no one present to speak in favor or opposition. Chairman Pangburn stated that he would like the Building Inspector to look into the signs that are located along Third Avenue Extension prior to the Board acting on the Area Variance. The workshop for the Area Variance will be scheduled for the September 12, 2017 meeting.

Motion by John Conway Jr. to close the public hearing. Seconded by Kurt Bergman.
Motion carried by a 6-0 vote.

ZBA Appeal # 2017-17-Hoffman-302 Columbia Turnpike- Area Variance for proposed addition on west side of building.

The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendation
- Planning Board Recommendation
- ZBA Application, Authorization Form, Short EAF, Denial, Area Variance Criteria, diagram of location of proposed addition, Bldg. Permit Application

Frank Palumbo of CT Male and Tom Hoffman the owner of Hoffman's were both present. Frank Palumbo showed the Board the plan of the proposed addition that the Board also had. Frank stated that it would be difficult to put the addition anywhere else on the site. Frank stated that materials for the operation of the car wash would be stored in the addition and also that the addition will match the rest of the building. Chairman Pangburn asked the Board if there were any questions.

●John Conway Jr. asked if the variance they are asking for the setback is for storage only. Frank stated that it was.

●Kurt Bergmann asked if the construction will match the existing building. Frank stated that they don't make the same brick anymore that the main building is constructed from but they will match it to the best of their ability.

●Chairman Pangburn asked if there will be a doorway into the addition from the car wash. Frank stated that yes there will be as well as a door along the end of the sidewalk to the building. The building will be screened well.

●Matt Ostiguy asked what the height of the addition will be. Frank stated it will be single story with a flat roof and will not extend above the rest of the building.

Chairman Pangburn asked if the Board had any questions. There were none. Chairman Pangburn asked if there was anyone in the public who wanted to speak in favor of or opposition to the application. There was no one present to speak in favor or opposition.

Motion by Bob Seward III to close the public hearing. Seconded by Joyce Lapham.
Motion carried by a 6-0 vote.

ZBA Appeal # 2017-18-Hitchcock-7 Rugby Road- Special Use Permit for proposal of home occupation (vehicles being stored at residence).

The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendation
- Planning Board Recommendation
- ZBA Application, Authorization Form, Short EAF, Denial, Special Use Permit Criteria, diagram of location of proposed addition, Bldg. Permit Application

The applicant, Travis Hitchcock stated that he wants to park two trucks, trailers and plows on his property for his landscaping business. Travis stated that the size of the area he is using is small compared to the size of his property. Travis stated that he doesn't feel it disrupts any neighbors. Travis stated that his vehicles are parked on a gravel stone area and would plant some trees or put up a fence if necessary. Travis stated that he maintains everything well.

●Chairman Pangburn asked if he has any employees, how many trucks he has, and if the employee comes to his house. Travis stated that he has one part time employee who comes to the house and has two trucks for the business and one personal truck.

●Matt Ostiguy asked if he stores anything else at his house for the business.

Travis stated that he has a couple of wheel barrels.

●Kurt Bergmann asked if he has a shed to store the equipment. Travis stated he stores them in his trailer.

●Bob Seward III asked if he's storing any landscaping materials. Travis stated that he is not.

●Chairman Pangburn asked if he had any extra vehicles, for back up, how long he's been operating the business and when he expanded the parking area. Travis stated he does not have any back up vehicles, he's been operating the business for five years and he expanded the parking area in the fall of last year and put the stone down this spring.

●Matt Ostiguy asked if the applicant had an alternative spot to park his business vehicles. Travis stated he did not.

●Kurt Bergmann asked how he accesses Rugby Road. Travis stated that he can make a turn out to go either way.

●John Conway asked why the applicant came before the Board. Travis stated that someone made an anonymous phone call to the Town so he is following through with the complaint.

Chairman Pangburn asked if there was anyone present to speak in favor of or opposition to the application.

●A woman from 12 Rugby Road stated that the vehicles change at any time. That the business was grown with hard work.

●Mrs. Wasson stated that the equipment occupies the R-1A property. That the northwest corner of the property is used as a dump site abutting two properties, the north front of the property has long grass, that the trucks idle for a long period of time and that it's devaluing the neighborhood. She submitted photos which Chairman Pangburn marked as Exhibit 2017-18A.

●Mrs. Grace from 11 Rugby Road stated her property borders the side where vehicles are parked, dumping pile has grown, many vehicles, noise, intolerable situation, idling trucks, submitted pictures which were marked as Exhibit #2017-18B

●Jane Hitchcock, Travis's grandparent, used to own the property, the clippings are a mulch pile, and the fence was put in the front to stop people from the baby sitting service next door from parking there. Travis is trying to make a living.

●Richard Grace stated that the business is not keeping with the neighborhood, read a letter on behalf of a neighbor: Rocco Acquilano from 14 Rugby Road, marked as Exhibit #2017-18C.

Chairman Pangburn read a letter from Kim Thomas of 16 Thomas Avenue marked as Exhibit #2017-18D & Lori Guay from 17 Rugby Road marked as Exhibit #2017-18E.

●Dave Tremont of 8 Rugby Road stated that all of this is neighbor problems, he lives across from the applicant and doesn't have any issues with the business.

●Mark Taratus from the neighborhood spoke and stated that the applicant is looking to change the law and quoted (Section's "3.126", 3,9.1 (F) Home Occupation Standards & 3.11.1 #5 Special Use Permit Standards) and asked who enforces the law. Chairman Pangburn stated that the code enforcement officer does.

●A woman again stated that in regards to the letters received that those people aren't affected.

●Travis Hitchcock stated that vehicles over 8,600 pounds are considered commercial and that the stuff on his property that was referred to is not from his business, it's his own personal stuff.

Chairman Pangburn asked if the Board had any other questions. There were none. Chairman Pangburn asked if there was anyone in the public who wanted to speak in favor of or opposition to the application. There was no one present to speak in favor or opposition.

Motion by Matt Ostiguy to close the public hearing. Seconded by Joyce Lapham. Motion carried by a 6-0 vote.

SEQR DETERMINATIONS & RECOMMENDATIONS:

ZBA Appeal #2017-08 – Cleary – Start Avenue – Area Variance for the proposal to construct on an undersized lot without the required frontage.

This is a type II Action-there is no further action necessary.

ZBA Appeal # 2017-14-Heizman-516 Third Avenue Ext.- Special Use Permit for Home Occupation & Area Variance for sign.

MOTION for: Zoning Board of Appeals to Declare SEQR Lead Agency

In regards to **ZBA Appeal # 2017-14-Heizman-516 Third Avenue Ext.- Special Use Permit for Home Occupation & Area Variance for sign.**

The Zoning Board of Appeals has determined that this is an Unlisted Action is progressing an uncoordinated review under SEQRA, and declares itself the Lead Agency.

Motion by: Chairman Pangburn;

Second by: John Conway Jr. (*Discussion*)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

MOTION: In regards to **ZBA Appeal # 2017-14-Heizman-516 Third Avenue Ext.- Special Use Permit for Home Occupation & Area Variance for sign.** The Town of East Greenbush Zoning Board of Appeals hereby determines, based on the information and analysis submitted for Part 1 of the Short Environmental Assessment Form and other materials submitted by the project sponsor, or otherwise available to the reviewers, and after careful review of Part 2 – Impact Assessment, that the proposed action will not result in any significant adverse environmental impacts.

Motion by: Chairman Pangburn;

Second by: Matt Ostiguy (*Discussion*)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

ZBA Appeal # 2017-17-Hoffman-302 Columbia Turnpike- Area Variance for proposed addition on west side of building.

This is a type II Action-there is no further action necessary.

In regards to **ZBA Appeal # 2017-18-Hitchcock-7 Rugby Road- Special Use Permit for proposal of home occupation (vehicles being stored at residence).**

The Zoning Board of Appeals has determined that this is an Unlisted Action is progressing an uncoordinated review under SEQRA, and declares itself the Lead Agency.

Motion by: Chairman Pangburn;
Second by: Kurt Bergmann (*Discussion*)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

MOTION: In regards to **ZBA Appeal # 2017-18-Hitchcock-7 Rugby Road- Special Use Permit for proposal of home occupation (vehicles being stored at residence).** The Town of East Greenbush Zoning Board of Appeals hereby determines, based on the information and analysis submitted for Part 1 of the Short Environmental Assessment Form and other materials submitted by the project sponsor, or otherwise available to the reviewers, and after careful review of Part 2 – Impact Assessment, that the proposed action will not result in any significant adverse environmental impacts.

Motion by: Chairman Pangburn;
Second by: Joyce Lapham (*Discussion*)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

WORKSHOPS:
ZBA Appeal #2017-08 – Cleary –Start Avenue – Area Variance for the proposal to construct on an undersized lot without the required frontage.

Resolved, That the Board of Appeals makes the following findings of fact:

1. There will be an undesirable change in the character of the neighborhood as numerous surrounding properties have significant lot sizes greater than the minimum required.
2. There is no other method available to the applicant as the property is bound by three streets all with substandard frontage.
3. The requested variance is not substantial due to the request of only nine feet of the 75 feet.

4. The proposed variance will have an adverse effect on the neighborhood as documented by numerous neighbor comments on the character of the neighborhood and as evidenced by the tax map showing numerous larger parcels in the immediate vicinity.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for the proposal to construct on an undersized lot with a proposed front yard dimension of 48.6 ft. be DENIED.

This resolution was moved by Jeff Pangburn and seconded by Bob Seward III at a meeting duly held on August 8, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway	<u>No</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

ZBA Appeal # 2017-14-Heizman-516 Third Avenue Ext.- Special Use Permit for Home Occupation

Resolved, That the Board of Appeals makes the following findings of fact:

1. The application has been reviewed and determined to be compliant with the 7 criteria as defined in Section 3.11 of the Town's Comprehensive Zoning Law; and the requirements of a Home Occupation as defined in Section 3.9 of the Town's Comprehensive Zoning Law; therefore be it

Resolved, that the application for a Special Use Permit for the operation of a home occupation involving a home office for online motor vehicle sales with no vehicles being stored on the premises be Granted for an initial period of 18 months with no conditions.

This resolution was moved by John Conway Jr. and seconded by Kurt Bergmann at a meeting duly held on August 8, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

ZBA Appeal # 2017-17-Hoffman-302 Columbia Turnpike- Area Variance for proposed addition on west side of building.

Resolved, That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as this small addition will be virtually unnoticeable to the neighbors and people who drive by Hoffman's car wash.
2. There is no other method available to the applicant as reported by the presentation there is no other place to put this small addition for storage on any other location on the property that would not be more obtrusive.
3. The requested variance is not substantial as it is an approximate 5.03' variance.
4. The proposed variance will not have an adverse effect on the neighborhood, the addition will not be very visible due to landscaping and general blending into the building, and no neighbors came out to speak against this variance request.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for the proposal to construct a 27.33" x 8.67" storage room attached to the northwest side of the building with a side setback of 6.97 feet be GRANTED with no conditions.

This resolution was moved by Bob Seward III and seconded by John Conway Jr. at a meeting duly held on August 8, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

ZBA Appeal # 2017-18-Hitchcock-7 Rugby Road- Special Use Permit for proposal of home occupation (vehicles being stored at residence).

Resolved, That the Board of Appeals makes the following findings of fact:

1. The application has been reviewed and determined not to be compliant with the 7 criteria as defined in Section 3.11 of the Town's Comprehensive Zoning Law; nor the definition of a Home Occupation as defined in Section 3.9; therefore, be it

Resolved, that the application for a Special Use Permit for the proposal to store landscape business equipment at their home in the Residential District (R-1A) Zoning District be Denied.

This resolution was moved by Jeff Pangburn and seconded by Matt Ostiguy at a meeting duly held on August 8, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

NEXT MEETING: The next time the Board will meet is September 12, 2017. The August 22, 2017 meeting is cancelled.

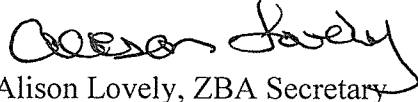
APPROVAL OF MINUTES:

Approval of the July 25, 2017 meeting minutes are tabled.

MOTION TO ADJOURN

There being no further business before the Board, the meeting was adjourned upon a motion by Chairman Pangburn. Seconded by Bob Seward. Motion Carried by a 6-0 vote.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Alison Lovely". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Alison Lovely, ZBA Secretary