

May 3, 2006

Zoning Board of Appeals

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Proceedings by Authority

State of New York,  
City of Jamestown, ss:  
Council Chambers

The regular meeting of the Zoning Board of Appeals of the City of Jamestown, New York was held on Wednesday, May 3, 2006, at 3:30 p.m.

Members Present: Chairwoman Tammie L. Donato, Ellen Ditonto, Richard A. Hanson, Suzanne B. Howig, and Charles Nazzaro

Members Absent: Mary Lou Edwards and Timothy Thomas

Others Present: Director of Financial Services/City Clerk James N. Olson, Corporation Counsel Marilyn Fiore-Nieves and Larry Scalise

Chairwoman Donato called the meeting to order. We have five members in attendance today and three petitions to read. Would you like to start with the first petition?

**BURGETT AND ROBBINS – 15 EAST 5<sup>TH</sup> STREET**

The Secretary read the petition of The petition of Dalton J. Burgett & Dale C. Robbins, of Burgett & Robbins, 15 E. 5<sup>th</sup> St., Jamestown for an area variance to pave the parking lot approximately 110' ± x 34' ±, located to the north of the structure at 15 E. 5<sup>th</sup> Street in a C-2 Zone owned by Burgett & Robbins. (Section 300-0502 – Design & Layout Standards – The required setback for automotive use areas is 10% of the width/depth of the property, but no less than 10'. The required setback from Potters Alley is 12', proposed is 0'. The required setback from the eastern property line is 12', proposed is 0' ±.)

Chairwoman Donato: Thank you. Do we have anybody here representing the petition? You can go to that microphone over there. Did we get it tested? Everything is recorded so please state your name and your address.

Dale Robbins: I am a partner in the law firm of Burgett and Robbins. My partner came last year, but could not be here today, in support of the application. My purpose of coming today is for an area variance to construct a parking lot.

Chairwoman Donato: I work right across the street from you and I agree that it would be nice to do but I don't think it's disgusting. I don't walk through it, that's true. I don't walk through it. Do we have any questions from the Board for this gentleman at all?

Richard Hanson: You are currently using it for parking and you're just going to pave it?

Dale Robbins: Yes. We've been using it for parking, pretty much as we are using it now since 1989. It's just gotten to a point where we need to pave it. We have placed stone there.

Richard Hanson: That gets plowed up?

Dale Robbins: It gets plowed up in that area.

Suzanne Howig: Has there been any problem with children playing in there at night. I mean, if you get it paved?

May 3, 2006

Dale Robbins: Well there are problems with children playing, at this point, everywhere in that neighborhood at night.

Suzanne Howig: Yes, I know, but I was thinking, are you going to close it off or not?

Dale Robbins: I think we would only make it more difficult if we close it off. We're probably going to do something. For some reason, in the last year, people have been driving through from the Alley to the Street. We are going to take steps to prevent that from occurring, but in terms of preventing people from walking through, I don't see us doing that.

Ellen Ditonto: Dale, what about the drainage issues. If you pave it?

Dale Robbins: We're going to install a drop inlet and have drainage to the drop inlet.

Ellen Ditonto: Okay, so you've had that all run through the staff.

Larry Scalise: Yes, that's been addressed. They had the engineer, Jerry Erickson, put together the site plan, that's what's in the packet.

Ellen Ditonto: Right, perfect.

Chairwoman Donato: We, obviously don't have anybody in the audience that wants to discuss this, either for or against.

Ellen Ditonto: I think it will improve the neighborhood, so I would like to move that we agree to the Zoning Board of Appeals recommendation here for the area variance. That it will not have an adverse effect on the neighborhood. And that would go to Dalton J. Burgett and Dale C. Robbins, of 15 East 5<sup>th</sup> Street, P. O. Box 3090, Jamestown, New York.

Charles Nazzaro: Second.

Larry Scalise: Before the vote, I would just like for clarification, there was a clerical error somehow from the petition to the notice that went out. There's also another variance, another setback from the north property line which is zero and it was on the copy of your application you can see where I hand wrote it at the bottom.

Ellen Ditonto: So could I amend it to have both of those.

Larry Scalise: Amend it to include that the north property line also be a zero setback.

Ellen Ditonto: Okay. That the setback for the north property line be at zero as well as the required setback to Potters Alley at zero.

Larry Scalise: Correct.

Carried: 5 ayes, 0 nays

Dale Robbins: Thank you very much. Take care, thank you.

**PAUL H. SILZLE, JR. – 21 CLYDE AVENUE**

The Secretary read the petition of The petition of Paul A. Silzle, Jr., 21 Clyde Avenue, Jamestown for an area variance to construct a 15' 4" x 24' 0" deck on the east side of the house at 21 Clyde Avenue owned by Paul A. Silzle, Jr. and Karen M. Silzle in an R-1 Zone. (Section 300-0305 – R-1 Single-Family Residential District – the required side yard setback is 10% of the

May 3, 2006

lot width, but no less than 5'; proposed is 0'. The proposed deck will be built up to the existing fence on the property line.)

Chairwoman Donato: Okay, and we do not have Mr. Silzle.

Larry Scalise: No one is here because they had a good turn of fortune where they had an opportunity to go to Disneyworld for an extremely outrageous price and they couldn't pass up the opportunity. And this was discovered after they had submitted the petition. I might be able to answer questions if the Board feels comfortable entertaining, reviewing the petition.

Richard Hanson: I was over there looking at that property the other day and it would appear that there is a deck up to the fence on the west side of the house, not the east side of the house, already there. If they were to do it on the east side of the house, it would be right up to the driveway, and block the driveway.

Larry Scalise: Had the Applicant put down the east side on the application?

Richard Hanson: Yes.

Larry Scalise: That's how it wound up there and, unfortunately, I didn't catch it and no one else did through the process.

Chairwoman Donato: Well, being that there is nobody here representing this, I guess we need to decide whether we want to, with this error, table it until next month, where it is clarified, or if we feel that we can make the assumption based on conversations with Larry that it is on the west side?

Suzanne Howig: Larry, how much space is there between the house and the back of that lot?

Larry Scalise: They did submit their survey here. There is a fair amount of land approximately, it's almost half the depth of the property which is 120' more or less so you're looking at maybe 60' from the back of the house out. But if you look at their survey, the back of their house is actually an attached garage and I don't believe there's any connection from the living space in the house through the garage to put it on the back. The way the house is laid out itself, now they can actually come out of the house straight on to the deck versus going through the garage to get to it if it were placed on the rear of the house.

Chairwoman Donato: Any thoughts?

Ellen Ditonto: Jim, is there any correspondence?

James Olson: There is the letter that I handed out to you that I will put into the record.

April 25, 2006

I am scheduled to be on the agenda at the May 3<sup>rd</sup> public meeting for the Zoning Board of Appeals. Unfortunately, I will be out of town all that week. I spoke with you last week and you thought it would not be a problem keeping this on the May agenda as long as I thought there would be no opposition from any of the neighbors, with my neighbors property that the deck goes up to being the most important. I spoke with Martin Kuhre, (whose property the deck goes up to) on Saturday April 22<sup>nd</sup> and he told me that the deck is fine with him. He spoke with Larry Scalise a couple of weeks ago and told Larry the same thing. He also said he would not be attending the meeting on May 3<sup>rd</sup>.

Please let me know if you think this letter will be sufficient enough for the meeting.

May 3, 2006

You can call me at 665-5410 ext. 156 if you have any questions.

Sincerely,  
Paul Silzle, Jr.

Ellen Ditonto: Larry, can you tell us if they looked at other options? I mean in terms of wrapping that deck so they can still come out where the current exit is and wrap it to the rear of the house?

Larry Scalise: No, I did not discuss that with Mr. Silzle.

Ellen Ditonto: I mean, that would still keep it within the zoning, I mean it would not be more than 5' from the property, right, if they did that?

Larry Scalise: Yes, I mean, if they could. I'm not sure, I can't remember if I saw a swing set out in the back yard or not.

Ellen Ditonto: It's a really tight lot.

Larry Scalise: A lot of the houses along there are, fit in there rather snug. I know we've had a couple other properties on the street come in for variances for various reasons over the years as well.

Richard Hanson: I think because there are so many questions, and the Silzle's aren't here, we should table it until next month.

Suzanne Howig: I'll second that.

Carried: 5 ayes, 0 nays

Chairwoman Donato: Okay, we will table petition number 2 until next month.

#### **DAVID E. WEBSTER – 162 STOWE STREET**

The Secretary read the petition of The petition of David E. Webster, 162 Stowe Street, Jamestown for an area variance to remove the existing garage in an R-1 Zone at 162 Stowe Street and construct a new 24' x 24' detached garage, no closer to the property line than the existing garage, owned by David E. and Eroita Webster. (Section 300-0317 – Accessory Structures – the required side yard setback for a detached garage is 5'; proposed is 2.21', which is no closer to the property line than the existing garage which is to be replaced.)

Chairwoman Donato: Okay. Mr. Webster. Will you step to the microphone, please? Maybe give us a little bit more of a verbal description of what your intentions are?

David Webster: Yes, it's just, it will be a 24' x 24' garage, placed relatively in the same place as the existing garage. The only effect that it would have on any neighbors' property at all is that it would set further back on the lot. Currently, if I put it anywhere else, you know, move it further off the line, because of where our house is situated it would make it impossible to get your car in or out of the garage.

Chairwoman Donato: Does anybody have any questions of Mr. Webster?

Ellen Ditonto: The existing garage is, it looks almost like a flat roof garage.

David Webster: Yes it is.

May 3, 2006

Ellen Ditonto: Are you going to be peaking that?

David Webster: Yes.

Suzanne Howig: Is there a drainage problem with that?

David Webster: No.

Chairwoman Donato: Have we any correspondence on this? We have a letter. In the meantime, do you want to ask a question?

Suzanne Howig: Will the garage be sided or painted?

David Webster: It will be sided with vinyl siding.

Suzanne Howig: Okay.

David Webster: Approximately the same as the house is.

Chairwoman Donato: Okay, we are going to read a letter in.

James Olson: I am the owner of the property located at 158 Stowe Street, Jamestown, and is located adjacent to 162 Stowe Street, Jamestown, owned by David and Rita Webster. Mr. Webster informs me that he is constructing a new garage on his property and is asking for a zoning variance to the south side of the building. It will be placed in the same relationship to my north boundary as his present structure. I have no objections as it is not going to have any effect on my property.

Sincerely, Joseph Wasko

Chairwoman Donato: And we have no one in the audience to speak, either for or against this petition. Anybody have any further questions?

Richard Hanson: Since it would be an improvement to the property and the neighborhood, I would move that the petition of David Webster to replace his garage be approved.

Suzanne Howig: Second.

Carried: 5 ayes, 0 nays

Chairwoman Donato: You've been approved. Good luck with your garage.

David Webster: Thank you very much.

There being no further business, the meeting was adjourned.

James N. Olson  
City Clerk