

September 5, 2001

Zoning Board of Appeals

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, September 5, 2001 at 3:30 p.m.

Members Present: Chairman Jack R. Engdahl, Suzanne B. Howig, Richard A. Hanson, Thomas Nalbone

Members Absent: Thomas Cardman, Tammy Donato, Timothy Thomas

Others Present: Acting City Clerk Debbie C. Patti, Building Inspector Larry Scalise, Corporation Counsel Marilyn Fiore-Nieves

Chairman Engdahl called the meeting to order. He stated that the petition of Crown Atlantic Co., had been pulled.

VINCENT C. CARUSO – 48 HUXLEY STREET

The secretary read the petition of Vincent C. Caruso, 48 Huxley Street, Jamestown, New York for an area variance to park cars to be repaired on a gravel surface behind the building on the property located at 1709 Washington Street, in a C-M zone, owned by Vincent C. Caruso, 48 Huxley Street. (Section 300-502A – Automotive use areas shall be surfaced with a dustless and durable surface, proposed is gravel. Section 300-502F – The required setback for automotive use areas is 10', proposed is 0' on the north side and 8' on the south side.)

Vincent C. Caruso, 48 Huxley Street stated that he would like to park cars behind his place of business on Washington Street. He stated that behind the building now there is stonewashed gravel that has been rolled. He stated that he cleaned up the property since he obtained the property. He stated that he would have ten to fifteen cars repaired at his registered car repair shop.

Ms. Howig wondered if the place would be lighted.

He stated that Girton's Flowers is located on one side of the property, which is lighted. Southern Tier Builders is on the other side of him and they are lighted also.

Ms. Howig moved to approve the petition, which was seconded by Mr. Nalbone.

Carried: 4 ayes, 0 nays

JAMES SCOMA – 705 JEFFERSON STREET

The secretary read the petition of James Scoma, 705 Jefferson Street, Jamestown, New York for an area variance to demolish the existing garage and construct a 22'x24' garage 1' from the south property line on the property located at 705 Jefferson Street, in a R-2 zone, owned by James Scoma. (Section 300-317 Accessory Structures – The required setback for an accessory structure is 5', proposed is approximately 1'.)

James Scoma, 705 Jefferson Street appeared he stated that there is a garage on the property now that he would like to tear down and replace with a new one. He stated that he is asking for an attached two-car garage instead of a one and a half car garage.

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Mr. Scalise stated that he met with Mr. Scoma. He stated that the proposed garage will be further from the rear property line than before but the same as what the side property line is now.

Ms. Howig wondered if there was any problems with drainage and whose property it would drain onto.

Mr. Scoma stated that it would drain onto his property.

Mr. Hanson moved to approve the petition in view of the fact that it would be no closer to the property line than the existing garage, which was seconded by Mr. Nalbone.

Carried: 4 ayes, 0 nays

JOE SCAPELITTE – 545 WILLARD STREET

The secretary read the petition of Joe Scapelitte, 171 Falconer Street, Jamestown, New York for an area variance to permit the reuse of an existing 4'x8' sign on the property located at 545 Willard Street in a R-1 Zone, owned by Corner Stone Christian Church, 545 Willard Street, Jamestown, New York. (Section 300-710 – The maximum area for a sign in the R-1 District is 2 square feet, proposed is the reuse of an existing sign approximately 32 square feet {4'x8'}.)

Joseph Scapelitte, 171 Falconer Street, appeared on behalf of the petition. He stated that he would like to keep the sign that is on the premises now. He said that they would just like to paint the sign.

Mr. Nalbone asked what the facility is currently used for.

Mr. Scapelitte advised that it was empty.

Mr. Nalbone asked what it would be used for.

Mr. Scapelitte replied that it was unsure. It was purchased personally and taxes were being paid on it. He advised that the name on the sign was in honor of his grandmother and they looked at it as his escape from the city.

Mr. Nalbone asked if it is a private residence.

Mr. Scapelitte stated that it is.

Mr. Nalbone questioned why he needed the sign.

Mr. Scapelitte advised that it was a tribute to his grandmother.

Irving Leonard, 493.5 Willard Street, Jamestown spoke against the petitioner. He stated that he saw about thirty people on the property one day and the noise was terrible.

Mr. Scapelitte stated that when he has come before to the Zoning Board, he has never had any problems. He stated that they had a family reunion up at the property. He did not believe that they were noisy, but if they were, he wished that Mr. Leonard had addressed him. He stated that he tries to help serve the community. He reassured Mr. Leonard about the sign. He stated that the neighbors that he has spoken to have thanked him for beautifying the neighborhood. He stated that he may at some point in time turn it into a retreat center.

Mr. Leonard stated that he has nine acres and that the noise...

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Chairman Engdahl stated that the concerns with noise are not what the Zoning Board is concerned with. Mr. Engdahl stated that the sign is the only thing that they are voting on, nothing regarding noise.

Shirley Daner, 497 Willard Street, stated that she thinks that the sign is gaudy. She stated that they have heard too many things on what is going to happen to the property. She stated that if it's a church, than she would like to see a sign that says it's a church. She thinks it is too gaudy and too large for a residential area.

Fred Fuhrer, 511 Willard Street, adjacent to the property, stated that he is not appearing to complain about the sign or to complain about anything. He would like to know what the use will be for the property and will it be in compliance with an R-1 Zone.

Mr. Scalise stated that if the use is not a permitted use, it would come before the Zoning Board for a variance. He stated the permitted uses of the property.

Mr. Nalbone moved to deny the petition of Mr. Scapelitte, which was seconded by Mr. Hanson.

Carried: 4 ayes, 0 nays

DAVID A. JOHNSON – 118 CROWN STREET

The secretary read the petition of David A. Johnson, 118 Crown Street, Jamestown, New York for an area variance to construct a 16'x23' addition to the existing garage approximately 1' from the east property line on the property located at 118 Crown Street, in a R-1 Zone, owned by John Johnson, 61 Duquesne Ave., Celoron, New York 14720. (Section 300-317 – The required yard setback for an accessory structure is 5', proposed is approximately 1' to the east property line.)

Dave Johnson, 118 Crown Street stated that he would like to put an addition onto his garage to house a racecar and other things.

Chairman Engdahl asked if there was an addition on the garage now.

Mr. Johnson stated that there was not. He stated that there is now a shed, where he plans to build, which will be coming down.

Mr. Nalbone asked if Mr. Johnson owned the property.

Mr. Johnson replied that his parents own the property and he is purchasing.

Steven Maggio, 228 Summit Avenue, Jamestown stated that he was appearing on behalf of his mother. The two concerns that he stated she had was the noise if they were going to work on the race cars there and the other concern being drainage.

Mr. Johnson replied to Mr. Maggio concerns. He stated that before his car had no muffler. He has put a muffler on the car. He said the addition will be straight up the driveway. He went on to discuss the drainage stating that the runoff would not go towards the Maggio residence.

Mr. Maggio stated that he doesn't think that he adequately addressed the drainage problem. He also wondered if the car would still be loud even if there was a muffler on it.

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Chairman Engdahl wasn't sure that they could do anything about the noise, because it is a garage. He stated that Mr. Johnson's automobile is quieter now. However, he felt that drainage was an issue.

Mr. Johnson stated that it would be running on his own property. He stated that he spoke to the neighbors who had no problem with the addition.

Mr. Scalise advised that the code did not permit drainage to be directed onto another person's property.

Mr. Maggio stated that he is not opposed to the petition; he just would like to voice the concerns of his mother. He stated that if he could make accommodations for the drainage that would help.

Ms. Howig moved to approve the petition of Mr. Johnson, which was seconded by Mr. Nalbone.

Carried: 4 ayes, 0 nays

HORIZON PERSONAL COMMUNICATIONS – 111 W. 2ND STREET

The secretary read the petition of Cathy J. Bardenstein, Esq. As agent for SBA Properties, Inc. and Horizon Personal Communications, Inc., 19 W. Main Street, Suite 750, Rochester, New York for an area variance to erect wireless telecommunications antennas approximately 12' high on the property located at 111 W. 2nd Street, in a C-3 zone, owned by Marquee Tower Inc., 111 W. 2nd Street, Jamestown, New York. (Section 300-215 There shall be no more than 4 antennas on a building in a C or M district, proposed is 6. No antenna shall stand higher than the highest point of the primary structure, proposed antennas shall be approximately 12' taller than the highest point.)

Cathy Bardenstein, SBA Properties, stated that she would like to put up wireless telecommunication antennas on top of 111 W. 2nd Street. She stated that they would like to put six antennas up to get adequate coverage. She said that they would be twelve feet above the highest point. She explained that the antennas would be able to withstand 100 mph wind gusts.

Mr. Scalise expressed the opinion that there was a flaw in the zoning code as it applies to the height of antennas on the tops of buildings. From a planning standpoint, they would prefer them to go on the tops of existing buildings which would be less intrusive.

Mr. Nalbone moved to approve the petition.

Ms. Bardenstein stated that she has an environmental assessment form that must be voted on before the resolution.

Mr. Scalise stated that normally the Planning Commission would do this. He stated that the Zoning Board of Appeals doesn't usually take the lead agency on these types of things.

Corporation Counsel Fiore-Nieves advised that the Zoning Board of Appeals may take the lead agency on this petition.

Mr. Nalbone moved to declare the Zoning Board of Appeals for this petition the lead agency, which was seconded by Ms. Howig.

Carried: 4 ayes, 0 nays

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Mr. Hanson moved to approve the Environmental Assessment Form.

Carried: 4 ayes, 0 nays

Mr. Nalbhone had previously moved to accept the petition, which was seconded by Ms. Howig.

Carried: 4 ayes, 0 nays

JAMES PAIGE – 1306 WASHINGTON STREET

The secretary read the petition of James V. Paige, Jr., 775 Fairmount Avenue, WE, Jamestown, New York for an area variance to construct a 17 space parking lot 7.8' from the front property line on the premises located at 1306 Washington Street, in a C-M Zone, owned by James V. Paige, Jr. (Section 300-502 (F) - The required front yard set back for an automotive use area is 10', proposed is 7.8'. Section 300-506 - The required number of parking spaces is 20, proposed is 17.)

James Paige, 775 W. Fairmount Avenue W.E., Jamestown, appeared on behalf of the petition. He stated that they are proposing to build a 7,200 to 8,000 square foot retail store. He stated that the properties on 14th Street do not have any grass in front of their properties nor do the properties on either side of the parcel. He went on to say that the tenants for this proposed building do not want a large flower area that they will not be able to maintain because of the amount of traffic. They want something that can be swept and is easy to maintain. He stated that they have drawn this to show the lighting plans and have addressed all the things that they received from the site plan approval process.

Mr. Scalise advised that this is not the same plan which the board received in their packets. He distributed the revised plan to the board members.

Mr. Paige reviewed the revised plan. He advised that the plan showed an enclosed dumpster, a 12" storm sewer, a landscaping plan which included the size, species and caliber, and the installation of a solid fence on the rear of the property. The neighbor had expressed a desire to keep the trees as a buffer rather than the fence. He stated that Mr. Scalise had said that would be acceptable if the neighbor agreed.

Mr. Scalise corrected Mr. Paige and stated he said that it was negotiable and probably would not be a big problem. He did say that they could change between the two. This issue could be addressed at staff level and did not need to be discussed at this meeting. They are only concerned with the setback issue and the parking.

Mr. Paige went on to point out the lighting that he had been requested to add at site plan review.

Chairman Engdahl asked concerning their area if there were any problems that he could see with the new drawing.

Mr. Scalise advised that they needed to look at the plan as submitted with the application which showed the setback reduction as 7.8' and the reduction of the number of parking spaces to 17. He stated that the staff did not have any opposition to these two requests.

Ms. Howig clarified that the board could only look at the original plan, not the one distributed today.

Mr. Scalise replied in the affirmative.

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Mr. Paige stated that they could go back to site plan review. He expressed frustration that they would not be able to get the building into the ground this year.

Mr. Scalise reminded Mr. Paige that site plan approval is the responsibility of the Planning Commission not the Zoning Board.

There was discussion regarding the time constraints and site plan approval from the Planning Commission. There was further discussion regarding the changes made to the plan and whether he must go back to the Planning Commission and get their approval again.

Mr. Hanson asked about the 7.8 feet of grassy area versus the 8-foot area.

Mr. Paige stated that he wants to have the 7.8 feet so that he has enough room for parking.

Mr. Nalbone moved to approve the petition of James V. Paige, which was seconded by Mr. Hanson.

Carried: 4 ayes, 0 nays

There being no further business the meeting was adjourned.

Debbie C. Patti
Acting Secretary
Zoning Board of Appeals