

**Zoning Board of Appeals  
Meeting Minutes  
September 28, 2015**

Present: J. Wright, G. Cleveland B. Natoli, E. Morano, F. VanAlthuis

Absent: S. Sutton, R. Shackleton

Staff: Amy Donnison, Jason Lawrence

\* Alternates with voting power are noted in **bold**.

**I. Call to Order**

The meeting was called to order at 7:04 PM by Chairwoman J. Wright. J. Wright stated that the Board is made up of volunteers to enforce the regulations put in place by the Common Council, and that they have up to 62 days to make a decision on the request before them. The decision that will be made is based solely on the information presented to them during the hearing process. There are 2 variance requests and 1 Special Permit request before the board this evening.

**II. Public Hearing: Frederick Goldby – 32.5 South Mitchell Street**

The public hearing was opened at 7:05 PM. The following exhibits were entered into evidence:

1. Application from Frederick Goldby.
2. Community Development report date September 24, 2015
3. File Photo of property
4. No correspondence received in support or opposition of this proposal.
5. One phone call received from owner of 37 Mitchell stating he had no concerns regarding this proposal.
6. Tax map showing the parcel
7. Public hearing notice (mailed to all properties within 500 feet of the applicant).

A. Donnison read the Community Development report and noted that a Chenango County 239 Review was not required due to the distance from a municipal boundary and main road. A. Donnison also noted that there was one phone call received from Wm. Smith of 37 Mitchell inquiring of the details of the proposal. Mr. Smith stated he had no concerns. No phone calls nor correspondence received in opposition to this proposal.

**Frederick Goldby, owner of 32.5 South Mitchell Street**, states he wishes to construct a carport approximately 24' wide and 16' deep. Mr. Goldby occupies this house, it is located on a dead end street and has only 4 houses on it of which all are rentals except the one he occupies. The only traffic on the street is to the 4 homes located there. Mr. Goldby states his home is directly across the street from the property occupied by the Donnelly's that have been taken to court by the City of Norwich several times for the large accumulation of garbage that really never goes away it just changes from time to time. The need for this carport arises because even though he has a small 2 car garage his wife's vehicle occupies one spot and Mr. Goldby stated he makes picnic tables and the materials and tools are stored in the other spot. This carport would make it easier and safer as he is disabled.

J. Wright asked if this carport structure would have sides. Mr. Goldby stated no and that the depth of the carport is 16' which will come out from the front of the existing garage. B. Natoli asked if the driveway and parking area will be blacktopped. Mr. Goldby said he would like that but at this time money is an issue. E. Morano asked if the side lot line setbacks would be met. J. Lawrence stated yes. E. Morano asked how he arrived at a depth of 16'. Mr. Goldby stated that it was just a guess at the length needed to cover his car.

Chairwoman J. Wright asked if there were any additional questions.

### **III. Findings and Determinations: 32.5 South Mitchell Street:**

1. Request is for a 4' street setback variance.
2. Current structure has a street setback of 32 feet.
3. Proposal is for a 16' deep carport
4. Currently has an enclosed 2 car garage attached to primary structure, one bay is used for spouse vehicle, 2<sup>nd</sup> bay is used for material storage.
5. Proposed carport is 24' x 16'
6. Carport would be located in front of existing garage.
7. Property owner is disabled and carport would make it safer to exit and enter vehicle.
8. Character of the neighborhood is unusual in that it is a dead end street with only 4 structures on it.

9. All the structures immediately around Mr. Goldby are rental properties.
10. Property is located in an R-2 zone
11. No opposition to the proposal
12. No support for the proposal – a phone inquiring about proposal details and stating he had no concerns.
13. No undesirable change will be produced to create a change in the character of the neighborhood.
14. Benefit to applicant may be able to be achieved with a smaller variance
15. Requested variance is not substantial
16. Proposed variance would not have an adverse effect or impact on environmental conditions in the neighborhood.
17. Alleged difficulty was self-created.

Motion made by E. Morano to approve an area variance request of 2' which allows for the construction of a carport 14' in depth rather than the 16' as requested. Seconded by G. Cleveland. Ayes all, approved.

**Motion Approved: 5 ayes; 0 nays.**

Ayes – J. Wright, G. Cleveland B. Natoli, E. Morano, F. VanAlthuis

Nays – None

Abstained – None

**IV. Public Hearing: Otsego Medical Services, – 157 East Main Street**

The public hearing was opened at 7:30PM. The following exhibits were entered into evidence:

1. Application from Otsego Medical Services.
2. Community Development report date September 21, 2015
3. Photo of property & Signage
4. No correspondence received in support or opposition of this proposal.
5. Tax map showing the parcel
6. Public hearing notice (mailed to all properties within 500 feet of the applicant).

A Donnison read the Community Development report and noted that a Chenango County 239 Review has not been received at this time. A. Donnison also noted that there have been no phone calls nor letters in support nor in opposition to the proposed signage.

Matt Northrup noted a story of a patient who seen the sign as they were driving by one day and noted the physicians names. This patient had previously seen one of the Dr.'s listed on the sign but the patient thought that this Dr. had left the area and only due to the names on the sign were they able to resume their care with the physician they are now seeing. M. Northrup distributed copies of other signs in the area and did not believe the request for a sign of 20 square feet would not change the character of the neighborhood as they felt many of these other signs were in excess of the request before the ZBA for 157 East Main Street. J. Lawrence noted that some were but were in a zone which allowed larger signs or they were perhaps grandfathered in or had requested and received a variance. Without having all of the addresses of the signs in question it could not be determined which case applied to which sign.

Annie Perkins understands a mistake was made in regard to proper steps being taken to get approval and apologizes that a request for a variance even has to be made. A. Perkins states that they are willing to do whatever the board suggests to make this situation right.

E. Morano stated that it is his opinion that a designer and an installer of any signage is obligated to review the sign ordinance in the municipality in which they have been hired to work. E. Morano also noted that he has never chosen a Dr. because of his signage.

A. Perkins stated that they can cut the height down and move some of the shrubbery to make sign more visible if it lowered. B. Natoli noted that since this organization was in contact with the codes office in 2012 and was told the proposed signage at that time was not permitted by right how did it come to pass that now in 2015 they went ahead and put up pretty much that very sign? A. Perkins stated that the employee that was corresponding with the City of Norwich Codes Office at that time was no longer employed and no one had any idea that this had even been discussed in 2012. A. Perkins also noted that no one in their organization currently even thought to look at the sign ordinance and again apologized for this oversight. A. Perkins noted that pleading ignorance to the sign ordinance is no excuse.

## **V. Findings and Determinations: 157 East Main Street:**

1. Request is for a 20 square foot free standing sing – 4 square foot is allowed by right.
2. Request is for 7'6" high sign – 6' height is allowed by right.

3. Street setback will be exceeded.
4. Proposed sign will be one sided
5. No permit was requested for the sign recently put in place
6. Sign recently put in place had a phone number (not permitted & was wrong #) that owner has now removed.
7. Surrounding neighborhood is mixed: residential, car dealership, fairgrounds.
8. Parcel exceeds open space requirements
9. Property is located in an R-1A zone
11. No opposition to the proposal
12. No support for the proposal
13. Variance request is substantial
14. No undesirable change will be produced to create a change in the character of the neighborhood.

Discussion: B. Natoli suggested they just remove the sign and meet the current sign ordinance dimensions since Ms. Perkins stated they are willing to do what is needed to correct the situation. B. Natoli feels that if you let this request pass when they have clearly stated they would do what was necessary to make it right how do you respond to those businesses that do comply when they see this? E. Morano stated 16 square feet is indeed a very substantial variance request and would hold the designer/installer accountable for any costs this business has incurred. J. Wright appreciates the concern that the signage needs the Dr.'s names but agrees that if they are a little more creative with the font and size the sign could be made to work within the confines of the sign ordinance.

B. Natoli made a motion to accept the sign variance request as written. Seconded by E. Morano. Nays all. Denied.

**Motion Approved: 0 ayes; 5 nays.**

Nays – J. Wright, G. Cleveland B. Natoli, E. Morano, F. VanAlthuis

Ayes – None

Abstained – None

## **VI. Public Hearing: Edward Capria & James Downey – 90 Silver Street**

The public hearing was opened at 8:00 PM. The following exhibits were entered into evidence:

1. Application from Edward Downey.
2. Community Development report date September 21, 2015
3. File Photo of property
4. No correspondence received in support or opposition of this proposal.
5. Two phone calls received stating there are no concerns regarding the proposal pending traffic review.
6. Tax map showing the parcel
7. Public hearing notice (mailed to all properties within 500 feet of the applicant).

A Donnison read the Community Development report and noted that a Chenango County 239 Review has not been received at this time. A. Donnison also noted that 2 phone calls were received. One was from Mrs. Reihl of 27 Berry Street stating that she has no concerns with the proposal. A second one was from Steven Kingsley of 89 Silver Street inquiring about the type of professional office being proposed. Mr. Kingsley stated he had no opposition to the proposal as long as there is no major change to the neighborhood such as the case was when the dance studio relocated to the neighborhood.

E. Downey stated he is semi-retired from Travelers Insurance Company as a trial lawyer and is also a retired Army Col. E. Downey stated that it was his brother Jim Downey who suggested he come back to Norwich. He has picked up some municipal work since brother Jim has become a judge and is in the position to be selective of his clients yet has maybe seen less than a dozen clients in past 10 months. E. Downey has been renting space from Frank Revoir and decided since he didn't see clients on site only rarely he could no longer justify the cost of the office space and family suggested he use a room in the property at 90 Silver Street house that has been in the family for a long time and is only used for family gatherings and a place for visiting family to stay. Sometimes he is out of town for up to 3 weeks at a time so there will be very little activity in the building. There will be no changes made to the existing structure. If he has a client that is handicapped he will go the client's home as this house is not handicap accessible. E. Downey states that he has no interest in putting any signage of any kind on the building.

Chairwoman J. Wright asked if there were any additional questions. None.

## **VII. Findings and Determinations: 90 Silver Street:**

1. Special Permit request is for a professional office to locate into residential home.
2. Property is a single family home and will remain the same.

3. Area in home to be used as office space is 12' x 12'
4. Off street parking is available for 4 to 5 cars.
5. Most of the legal work is per diem from other law firms
6. Property is located in an R-2 zone
7. No signage request is forth coming – any will meet current sign ordinance.
8. Property meets all open space requirements.
9. Neighborhood is mixed residential, home occupations and the local museums.
10. No opposition to the proposal
11. 2 phone calls stating there were no concerns about the proposal unless it increased traffic significantly – which it has been determined it shall not.
12. The proposal will not be injurious to the neighborhood.

Motion made by E. Morano to approve the Special Permit request to locate a professional office at 90 Silver Street as requested. Seconded by B. Natoli. Ayes all, approved.

**Motion Approved: 5 ayes; 0 nays.**

Ayes – J. Wright, G. Cleveland B. Natoli, E. Morano, F. VanAlthuis

Nays – None

Abstain - None

**VIII. Other Business**

F. VanAlthuis made a motion to approve the minutes of July 27, 2015 Seconded by E. Morano. Ayes All.

**IX. Adjournment:**

There being no further discussion, the meeting was adjourned at 8:30pm on a motion made by B. Natoli, seconded by G. Cleveland. Ayes All. Carried.