

**Zoning Board of Appeals
Meeting Minutes
One Court Plaza
June 24, 2013**

Present: J. Wright, E. Morano, B. Natoli, R. Shackelton, S. Sutton, P. Mennis

Alternates: *

Absent: G. Cleveland, M. Cornelius

Staff: Todd Dreyer, Amy Donnison, Jason Lawrence

Also Present:

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

I. Call to Order

Chairperson J. Wright called the meeting to order at 7:00 PM. Chairperson J. Wright stated that the Zoning Board of Appeals is made up of volunteer members. In order to approve a request, 4 yes votes are required. (If the County 239 committee denies the request, the ZBA must have a majority plus 1, or 5 votes in order to approve.) The ZBA has up to 62 days to make a decision. All evidence must be presented during the hearing, don't assume the board knows anything. The ZBA does not write nor can it change the Zoning or Sign Ordinance. The Common Council has the authority to change the Zoning and Sign Ordinance. In the granting or denying of variances and special permits, the ZBA must substantiate the reasons for such granting or denial. A decision by the ZBA may be appealed to the court by filing an Article 78 appeal. There is 1 case before the Zoning Board this evening: an Area Variance request.

II. Public Hearing: Richard Caputo – 17 Clinton Street

The public hearing was opened at 7:02 PM. The following exhibits were entered into evidence:

1. Application from Richard Caputo dated May 29, 2013.
2. Community Development report dated June 17, 2013.
3. Photographs of property
4. Property survey map showing current and proposed addition
5. Copy of tax map of property
6. 239 Review Submission & Response
7. No correspondence or phone calls received in opposition.

8. One letter received in support of proposal from neighbor Jacquelyn Howe of 19 Clinton Street.
9. Public Hearing Notice (mailed by the City to all property owners within 500 feet of the applicant).

A. Donnison read the Community Development report and noted that there had been no phone calls or correspondence received in opposition to the proposal and one phone call received in support of proposal from Letha Cole of 25 Birdsall Street. Also received a response from the Chenango County 239 Review Committee which stated they have no concerns.

J. Wright stated that she had previously inquired about some trees in the photo to see how close they were to existing garage. R. Caputo stated that the trees are near the rear property line and are not as close to the garage as they appear. R. Caputo noted the reason he wanted this addition is because he is downsizing his painting business and wishes to store his equipment in the addition. No paints or related chemicals would be stored there because the building will not be heated and he could not have paints freeze. All paints and related chemicals would continue to be stored elsewhere in a heated location. The property survey map shows trees along the property line which were planted by Mr. Benanati many years ago as a boundary marker. It is possible that at least 1 or 2 of these trees will be removed if the request is approved so that there would not be any nearby overhanging limbs that could come down and cause damage.

J. Wright asked if there were any other alternatives considered to obtain more storage space without having to encroach upon the 5' setback. R. Caputo stated that he has looked at other options on his property and if he built it out towards the middle of his backyard it would be limit a lot of use of the backyard. This property is narrow but deep which is why he would like it to go directly off the rear of existing garage. Also considered if the only way to keep it to the rear of the existing garage and still have the addition meet setback requirements he could construct it so that the side near the property line has a jog in it. This jog would however cause an increase in construction costs since the roof lines would not match up. R. Caputo again stated that his proposed addition is his first choice but would make adjustments if he had to. B. Natoli noted that if a jog was put in on the one side to meet setback requirement and if to make up for that space there was another jog put in on the other side of garage making it stick out it also would not be as aesthetically pleasing.

P. Mennis inquired about access to the proposed addition. R. Caputo stated he plans to cut a 5 foot wide opening into the rear wall of existing garage. This width would allow easier moving of his equipment. R. Caputo also plans to install an overhead garage door on backyard side of addition to unload bulkier and more frequently used items. There have been no plans drawn up at this time because he didn't want to go to the expense of paying for plans when the location that he desires may not get approved and he would have to have them redrawn.

E. Morano asked when the garage was built. R. Caputo stated he did not know. J. Lawrence speculated that it was quiet a long time ago because this garage is made of the old type cinder blocks that include actual cinders. R. Caputo stated the addition would be wood frame construction. P. Mennis inquired how long he had resided in the house. R. Caputo thought since about 1989. E. Morano asked if anyone present knew what the setback requirements were back when this garage may have been built. A. Donnison stated that the earliest zoning ordinance book seen in the office is dated in the early 60's. E. Morano noted the reason for his question is to see if perhaps this garage as well as other buildings in the city were constructed illegally way back then.

Chairman J. Wright asked if anyone present had any further questions or comments. There were none. The public hearing was closed at 7:20 pm.

IV. Findings & Determinations for Richard Caputo re: 17 Clinton Street

Applicant wishes to extend existing garage which is currently 22' x 24' making the entire garage 22' x 54'.

The existing garage according to survey map is just under 2' from the property line

The neighboring garage according to survey map is 10'9" from property line.

Proposed addition would extend beyond where the neighboring garage ends.

Addition would be constructed of wood rather than concrete.

Currently there is approximately 12' separation between the 2 buildings – which is more than is each owner had built 5' from the property line.

Lot is not substandard by open space requirement definition for R-2.

Phone in support of proposal was received.

Letter in support of proposal was received.

No opposition was received.

Tree line is behind the structures not between them.

No 239 review committee concerns.

No paint storage or related chemicals to be stored on site – per state fire code requirements.

Entire garage will be sided to match the house.

This parcel is a single family and would remain so.

This property is located in a neighborhood which is primarily residential.

It would not create an undesirable change in the character of the neighborhood or a detriment to nearby properties.

It does not seem feasible to expect the homeowner to construct an addition with a jog in it to obtain additional storage space and meet setback requirement.

The requested variance is substantial.

The requested variance would not have an adverse impact on the physical or environmental conditions in the neighborhood.

The alleged difficulty was self-created.

J. Wright noted that the Zoning Board has always been very cautious about area variances and reviews each request based on the individual circumstances, neighborhood, lot size as well as any other factors they may need to make the best determination possible. This lot is very small and there doesn't appear to be any other area on the parcel where the needs for additional storage could be met at a reasonable cost. E. Morano stated that even though the lot is small the neighboring houses are all quite a bit away from this structure.

Motion made by B. Natoli to approve the enlargement of existing garage to 22' x 54' as proposed, following existing building line and setback. All NYS Building & Fire Codes to be met in regards to paint and chemical storage. Seconded by R. Shackelton.

E. Morano asked if anyone could clarify the meaning of substantial as it relates to item #3 on the list of criteria. E. Morano stated that if it is in regards to the addition in relation to the existing structure then it does seem to be substantial. E. Morano is concerned that by giving these approvals is the ZBA eroding neighborhoods and where do you draw the line? B. Natoli stated that he believed the current zoning regs were setup to aid with new construction to improve tight neighborhoods. Some existing homes are built right on the property line when there did not seem to be any zoning regulations in place. Current zoning encompasses entire neighborhoods wherein each of those parcels is not the same in size nor do they have the same size structures on them. Not all have been maintained equally over the years and as time goes on he believes a property owner who has shown they take care of their property and wish to improve upon it further should be permitted to within reason of course which is why the Zoning Board of Appeals is here to make sure the applicant can get their needs met and still protect the neighborhood. S. Sutton stated that he agrees with B. Natoli's summary. J. Wright wanted to remind members that R. Caputo stated he would relocate/adjust his building plans but that it would not look as nice and would be more costly. S. Sutton stated that in regards to E. Morano's question about where does this stop. He doesn't believe it does, not as long as the times keep changing, car sizes change, desires to improve the structures on property, needs change and we all are guilty of needing more space for storage than we need to live but the

one thing that does not change is the size of property lots. R. Shackelton asked if it is the job of the Zoning Board to enforce the zoning ordinance. A. Donnison stated no – it is the job of the Code Enforcement Office to enforce current zoning and when the applicant is denied a request due to not meeting those requirements that is when they apply to the ZBA for consideration of a variance.

Discussion followed regarding additional interpretations of “substantial” as well as setting precedents.

Motion Approved: 6 ayes; 0 nay.

Ayes – J. Wright, E. Morano, P. Mennis, B. Natoli, S. Sutton, R. Shackelton

R. Caputo thanked the board and stated that he can appreciate the pressure they are under to keep residents happy in regards to improving their properties but still try to maintain separation for reasons such as fire safety and that if he had been denied because the board felt it would have been a hazard he would have understood.

VI. Approval of minutes:

The minutes of May 20, 2013 were approved on a motion made by E. Morano. Seconded by S. Sutton. Ayes All. Carried.

VII. Other:

J. Lawrence stated that a letter was sent to the YMCA regarding the requirement to remove the temporary sign on the corner of Mechanic Street and North Broad Street. J. Lawrence also stated that the BID is still reviewing the section of the Sign Ordinance that affects properties located within the BID and changeable copy signs but that these things do take time. S. Sutton thanked his fellow board members for making tonight’s meeting such a lively one!

V. Adjournment:

There being no further discussion, the meeting was adjourned at 8:22pm on a motion made by E. Morano. Seconded by P. Mennis. Ayes All. Carried.