

**Village of Penn Yan Zoning Board of Appeals
Meeting Minutes April 25, 2016**

**111 Elm Street
7:00 pm ROOM 202**

PRESENT: STEVEN OWENS-Chairman, ARTHUR PIKE, RUTH DAVIS, BARBARA STEWART, WOODY STENZ – ALT., KEVIN M^CLOUD – VB Liaison, LYNN DURYEY-Board Secretary.

ABSENT: THOMAS BARDEN

PUBLIC PRESENT: Roger A. Ribble, Jennifer and Joseph Hines, Teresa and John Vivier

Chairman Owens introduced the new Village Board liaison, Kevin McCloud. Chairman Owens then acknowledged the absence of Board member Barden and recognized alternate, Woody Stenz, as a voting member for the hearing.

A MOTION by Art Pike and a **SECOND** from Woody Stenz to approve March 28, 2016 minutes.

All in favor - 5. Carried

FIRST MATTER:

Application from Roger Ribble II to subdivide 122 Garfield Ave with road frontage on one new lot less than 70 feet.

A MOTION by Art Pike and a **SECOND** from Woody Stenz to bring the application to the floor for discussion.

Roger A. Ribble was present and explained the lot he wanted to subdivide had total road frontage of 132 feet so any configuration he came up with to divide it would result in one with non-conforming road frontage. He said there was a house on the approximately 2 acre lot that he wanted to split off leaving a second, larger parcel vacant. This vacant lot, he said, might be combined with neighboring land at some point in the future. In that event, which he said would take roughly 5 years, he would decide on a plan for the newly expanded piece of land. Board member Stewart asked if he planned to build on the vacant portion of land created by the subdivision. Mr. Ribble said he did not because he could not without building out a length of the non-conforming land that abutted Garfield for a driveway. This expense, he cited, would force him to sell any buildings he built on the vacant land to recoup driveway costs, and in the end there would be no financial gain to any of it. She asked if he planned to build on the expanded land if he combined the vacant lot with neighboring land in the future. Mr. Ribble said he had not thought that far into the future and was just asking for a subdivision of the present lot. There was some additional discussion about minimum road widths related to dedicated village roads (50') and private driveways (40').

The Board then conducted the Balance Test and from the application they found;

Benefit could not be achieved by other means since minimum road frontage for one lot would create non-conformance in the second and subsequently require construction of a drive to access the second at an expense prohibitive to the property owner.

There were no neighbors present to express opposition either in writing or verbally.

The reduction in road frontage was moderate and would not cause an undesirable change in the neighborhood character or to nearby properties.

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There would be no adverse physical or environmental effects as a result of less road frontage.

The alleged difficulty had been self-created but, the Board found the request an acceptable modification for an older section of the village.

All in Favor – 5.

VARIANCE GRANTED for 50.3 foot road frontage on one of the two lots created after the subdivision of 122 Garfield Avenue, Penn Yan, New York.

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NEXT MATTER:

Application from Teresa Vivier for a change of use variance to allow a taxi business in a residential zone, and to allow front yard parking at 246 East Elm Street.

A MOTION by Art Pike and a **SECOND** from Woody Stenz to bring the use and area variance requests to the floor for discussion.

Teresa and John Vivier were present. Ms. Vivier explained they were in a location where they were having uncompromising financial issues with the leasing agent with the likelihood the instability would continue. She said they looked for affordable property to relocate but found nothing in the village then decided on their Elm Street property but learned residential zoning would not allow their business. She indicated they were forced to charge a certain rate, through market experience, and this restricted their income so they were unable to afford anything in the village zoned for their business. Mr. Vivier mentioned they also entertained the idea of buying outside the village but realized that was not financially viable either since their service area was predominantly inside the village limits. He explained that small town taxi services are only profitable if they are situated close to the bulk of their clientele. He also said they planned to look for another property in the future if they became significantly more profitable. Board member Stewart asked what their hours of operation would be. Ms. Vivier said they opened at 7:00am and were open until 10:00pm Monday-Friday, until 2:00am Saturdays and closed at 7:00pm on Sundays. Chairman Owens asked about the number of clients and Ms. Vivier said there was an average of 45 calls per day. Board member Stenz asked how many employees they would have and how many parking spaces and vehicles they had. Ms. Vivier said there was 1 part time employee. Mr. Vivier stated there were 4 taxis and 2 buses, an existing 3-bay garage and room to park 15 vehicles. Board member Stenz also asked if they had thought about running the business out of their own home and if they thought about complaints from the Elm Street neighbors. Mr. Vivier said he would not run the business out of this home because it would inappropriately impede on their personal life and he said the Elm Street neighbors were used to business use of the location from its history. He also noted there was a 6' high fence and the rear of the property was not readily visible. Chairman Owens reported there was a prior variance for a taxi service that was granted due to the fact that it was determined to be 'an essential service' for the village. He also pointed out if public transportation was developed by the county it would become a tax payer burden as opposed to this privately owned service.

Board member Stewart asked about the front yard parking they were requesting and Ms. Vivier said the two spaces were exclusively for tenant use so there would be no interaction between the tenants and the taxi business in the rear for reasons of convenience and safety. Chairman Owens asked for the measurements of the requested front yard parking. Mr. Vivier said it would be 3 feet from the east lot line and would be a gravel pad 19 feet by 19 feet.

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A MOTION by Art Pike and a **SECOND** from Woody Stenz to bring the application to the floor for discussion.

Jennifer and Joseph Hines were present. Mrs. Hines explained their attached garage had been issued a permit by the village code department and work had begun when the neighbor notified them machinery and building material stacks were straying onto their property. She said an examination of their survey conclusively proved she was correct along with the fact that their property line was closer than they realized. The Hines stated they ultimately spoke with the code officer, Bruce Lyon, who had to place a stop-work order on their project since they were less than 10 feet from an irregular section of the lot line on that side. After looking at the photographs supplied by the Hines Board member Stenz pointed out the lack of any structures anywhere near that lot line making the error conceivable. Chairman Owens asked how they intended to mitigate water runoff from the roof of the garage so it did not shed to the neighbor's property. Mr. Hines indicated he went over that with his contractor who said he would install an eaves trough.

The Board then conducted the Balance Test and from the application they found;
Benefit could not be achieved by other means due to the irregular configuration of the lot at the only location appropriate for the attached garage.

There were no neighbors present to express opposition either in writing or verbally.

The building placement at 4.5 feet from the lot line would not cause an undesirable change in the neighborhood character or to nearby properties.

There would be no adverse physical or environmental effects other than conveyance of storm water due to an increase in impervious surface which would be mitigated with the installation of an eaves trough.

The alleged difficulty had not been self-created after consideration of the unusual lot line.

All in Favor – 5.

VARIANCE GRANTED to allow a 4.5' setback for an attached garage at 127 Lincoln Avenue, Penn Yan.
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OTHER BUSINESS:

Special ZBA meeting for Birkett Mills' height variance.

Chairman Owens explained Birkett Mills was unable to wait for the monthly ZBA meeting in May since their order for the grain bin was required the first week of May or they would lose their opportunity to place the order this season. He reminded everyone the meeting was scheduled for Tuesday, May 31st at 4:00pm.

Choose alternate day for May meeting due to the Memorial Day holiday.

The board chose Tuesday, May 31, 2016.

Board member Stewart mentioned she wanted more clarification on variance application because she didn't understand the request well enough by just the code book numbers.

A MOTION by Art Pike and a **SECOND** from Woody Stenz to adjourn the meeting at 8:45pm.

All in favor - 5. Carried.

Submitted by:

Lynn Duryea, Board Secretary