

**ZONING BOARD OF APPEALS
MONDAY, AUGUST 25, 2014**

Members Present: Susan Marteney, Mario Campanello, Ed Darrow, Deborah Calarco, Matthew Quill, Stephanie DeVito, Scott Kilmer

Staff Present: Andy Fusco, Corporation Counsel; Brian Hicks, Code Enforcement

APPLICATIONS APPROVED: 30 Augustus St., 25 Myrtle Ave, 333 N. Marvine St.

APPLICATIONS TABLED: 56-58 Clark St.

APPLICATIONS DENIED: 42 Frances St., 217 Grant Ave-Rue 21 Store

Ed Darrow: Good evening. Welcome to the City of Auburn Zoning Board of Appeal. I'm board chairman, Edward Darrow. I'd like to ask you to please either silence or turn off your cell phones. Tonight we will be hearing 56-58 Clark St., 30 Augusts St., 42 Frances St., 25 Myrtle Ave, 333 N. Marvine Ave and 217 Grant Ave.

**56-58 Clark St. Use variance for an auto service station. (Adjourned from June meeting.)
Applicant: Joseph Calcagno.**

Ed Darrow: First on the agenda is 56-58 Clark St. They contacted this board and are requesting another adjournment to next month due to the counsel representing them has been called out of town this evening. Any problems with an adjournment until next month? Seeing none, 56-58...

Andy Fusco: Let the record reflect this is upon stipulation with the counsel for the applicant and through no fault of the board.

Ed Darrow: Let the record reflect 56-58 Clark St. is adjourned until our next regularly scheduled meeting in September.

**30 Augustus St. Area variance for pole barn exceeding allowable square footage.
Applicant: Darren Gamache**

Ed Darrow: 30 Augustus St. Please approach, give your name and address for the record and tell us what you'd like to do.

Darren Gamache, Copley St.: I am currently renting on Copley St. and I have a current purchase agreement with the homeowners at 30 Augustus St. Everything is going as planned through the banks and the attorneys and we should be closing within a week. My intentions were to create a building in the back for workshop/storage; 18 wide by 30 long to be constructed pole style type building complete with concrete floor. Two windows in the front and side, a steel door in the front and a seven foot bay door on the east end of the building. The building on the exterior is going to utilize the siding that coincides with the siding that is currently on the house and the color of the one stall garage that's currently there. The only thing I didn't provide the board, because they

didn't have them at the time, was letters from both neighbors on the east and west side and I currently have those. If I could present them. (distributes letters to board)

Ed Darrow: You realize what the variances are that you are looking for, correct?

Darren Gamache: I believe so.

Ed Darrow: One is an area variance in excess of the 10% primary structure volume. Your primary structure volume is 11, 088. Accessory structure is 7,128 so the volume is 64% of the primary structure. An area variance of 42 SF also over the allowed maximum 750 SF allowed for the structure itself. Because a single accessory structure is only allowed 750 SF and this is 42 over that at 792.

Questions from the board?

Andy Fusco: Sir, what are your hobbies? You say you're building this to advance your hobbies.

Darren Gamache: Just a little wood working projects.

Andy Fusco: Are there any commercial endeavors involved?

Darren Gamache: Negative.

Andy Fusco: You don't sell anything?

Darren Gamache: No.

Scott Kilmer: Where would the structure go on your map here? Would it go to the opposite side of where the present garage is now?

Darren Gamache: There should be a diagram submitted with the packet that I submitted.

Susan Marteney: There is one. It's hand drawn. It's not really in proportion.

Darren Gamache: You have to open it up.

Scott Kilmer: When you look at the property now there's a chain link fence across the back, that's not the property line, right?

Darren Gamache: From my understanding through the survey the property line is beyond the chain link fence.

Scott Kilmer: There's a boat back there now. Would that boat sit on this property?

Darren Gamache: There's no boat there.

Scott Kilmer: There was today, beyond the chain link fence.

Darren Gamache: That's not my property.

Scott Kilmer: That's what I'm asking.

Darren Gamache: Joe Carbonaro, the property owner

Scott Kilmer: Does his goes down and in back of yours?

Darren Gamache: It does. Yes, that's his property, that's not my property. His does an 'L' shape. My property limits are just beyond the chain link fence. The rest of that mowed area in the back belongs to the owner of 32, Joe Carbonaro.

Ed Darrow: Any other questions? Members, any other questions? No?

You may be seated, sir, but we reserve the right to recall you.

Is there anyone present wishing to speak for or against this application? Seeing none and hearing none I shall close the public portion so we may discuss it amongst ourselves.

Thoughts?

Susan Marteney: Neither of the neighbors are opposed. We have letters from both neighbors on either side of the house so he's obviously discussed it with them.

Ed Darrow: I personally don't think that the structure itself, just being 42 SF over is substantial. It really isn't. That's always something I've felt the 750, when you consider what we have these days, really it's something that should be looked at at some point in time by Council.

Susan Marteney: Also the back yard slopes down so it's not as though it's going to impose. It's not on a hill and going to overpower the house or the neighbors' houses. They're going to see onto the roof almost.

Ed Darrow: Any other thought? Concerns? If not the chair will entertain a motion.

Susan Marteney: I move to approve the area variances for Darren Gamache at 30 Augustus St. for two area variances to construct and 18 by 30 pole barn at the rear of the property. One area variance is in excess of the allowed 10% primary structure volume. Primary structure 11,088 volume, accessory structure 7,128 volume equaling 64% of the primary structure and an area variance of 42 SF over the allowed maximum of 750 SF proposed an existing total of 792 SF. I move to approve this area variance because the applicant has proven the following five elements:

- The area variance will not produce an undesirable change or detriment to the character of the properties in the neighborhood, and;
- The benefit sought cannot be attained by any other method other than an area variance, and;
- The area variance is not substantial, and;
- The area variance will not produce an adverse impact on the environment nor the physical conditions of the neighborhood, and;
- The applicant's difficulty was not self-created.

Ed Darrow: We have a motion do I have a second?

Scott Kilmer: Second.

Ed Darrow: We have a second. Roll call please.

Deborah Calarco: Abstains for coming in late and not hearing the entire presentation.

All other members vote approval.

Ed Darrow: Congratulations, sir, your variances have been approved. See Code Enforcement before beginning any work for proper permitting.

Area variance for front yard parking, extension of current parking are. Applicant: Stephen and Teresa Roof.

Ed Darrow: 42 Frances St. Please approach, give your name and address for the record and tell us what you'd like to do.

Stephen Roof: We own property at 42 Frances St. where customarily it's income property. A two-family house. Customarily the tenants have parked one to the side of the house and one just shading in front of the front porch. Code Enforcement told us this is not a proper use of the property. But, when we bought the property it was out understanding this was how the property was used. We sought letters from three of the previous owners of the property that all indicate that they used the property in exactly the same format. I had two letters available at the time that I submitted my packet, one had not come in yet. I have a copy of that letter. (distributes letter) We just want to continue using the property as it has customarily been used for the past 30 years.

Andy Fusco: The prohibition on front yard parking dates to what year, Brian, if you now?

Brian Hicks: I don't know.

Ed Darrow: Anything else to add, sir?

Stephen Roof: I believe that covers it.

Ed Darrow: Any questions from board members?

Andy Fusco: I think what we're going to have to do is determine whether this is a pre-existing non-conformity. The proof before us goes back to 1982. I don't, off the top of my head, know the date of the prohibition of front yard parking. Whether it pre-dates 1982 or post-dates 1982. From the proof you've presented us it does appear to have been continuous since 1982 so that you may in fact qualify as a pre-existing non-conformity if the statute or the local law was enacted subsequently to 1982. I don't have the answer to that off the top of my head. I think that it would behoove of to give me the opportunity to research that. During the pendency of the research and the timing of the, or providing the application, the enforcement is stayed so you are allowed to

park there until we come to this determination. If it is in fact a pre-existing non-conformity then the proper remedy would be a letter to that effect acknowledging that either by me, the board or Mr. Hicks. If it is not a pre-existing non-conformity then we would go to the next step next month to determine whether a variance is warranted or not. The reason I say this, sir, front yard parking is frowned upon in the City of Auburn and it's not to say that I know what these seven people are thinking or not because I don't, I've not spoken to them about it. It may be easier for us to take a look at the question before we make these seven people decide.

Stephen Roof: Certainly. What you're talking about is a grand-fathered situation?

Andy Fusco: Correct.

Stephen Roof: That was my original thought that that is what it would be.

Ed Darrow: So we would just adjourn this while our counsel researched it until our next regularly scheduled meeting next month.

Stephen Roof: All right.

Andy Fusco: I apologize for not being prepared for tonight. This would be a relatively easy thing to address had I not had other things to do today. We just did amend this local law this year so the legislative history of it is going to be fairly easy for me to arrive at. And what I'll do, members of the board, is send you and I'll send Mr. Roof an e-mail with my findings? Do you have your e-mail address, sir?

Stephen Roof: Provides e-mail address.

Andy Fusco: Very good, thank you, sir.

Stephen Roof: Will I be informed of the date of the next meeting?

Ed Darrow: It will be September 22nd.

Andy Fusco: And in the interim you are permitted to park there. The enforcement is stayed on the application.

Ed Darrow: May the record show 42 Frances St. is adjourned until September 22nd pending research by Corporation Counsel.

**25 Myrtle Ave. Area variance for front yard parking, extension of current parking area.
Applicant: Shawn Walter.**

Ed Darrow: 25 Myrtle Ave, please approach, tell us what you'd like to do and give us your address for the record.

Shawn Walter, 25 Myrtle Ave: We are looking to replace the degraded black top driveway with concrete and in the process we would like to widen that driveway to 18 feet in front of the house for two vehicles to park. It currently, at 18 feet it would exceed the code by three to four percent

or three feet, three percent based on the lot width. It would also overlap the front porch approximately a foot and a half as it shows in that sketch. The pictures in the packet there with [unknown] show approximately where the existing driveway is the narrowest, the middle is the code limited driveway which is 15 feet or 30 percent of the lot width and the last one is the proposed driveway.

Ed Darrow: Also, let the record show that Sherry Stark, the owner of 25 Myrtle Ave, has submitted paperwork this evening giving Shawn Walter permission to apply for this variance.

Andy Fusco: The wording of this is that she gives permission, this isn't on her property is it?

Shawn Walter: Yes, it is. It's my wife. And I was informed that...

Andy Fusco: Oh, this is that case. I get it, I remember.

Ed Darrow: Any questions from board members?

Deborah Calarco: Is it possible to move it the other way?

Shawn Walter: No, the current driveway is on the property line. The other side, I don't know if you can see on the pictures well enough, the driveway borders the side to the house and the property line. It's a fairly narrow lot. The whole lot is 49 ½ feet wide. I will state, and I believe I put it in there as well, our driveway borders the neighbor's driveway but it's almost 50 feet of grass before the next neighbor's so it's not like it's a consistent black top or concrete down the side of the street.

Andy Fusco: Any thoughts on this, Mr. Hicks, one way or the other?

Brian Hicks: My only concern is the portion in the front of the house that constitutes front yard parking.

Ed Darrow: Any other questions, thoughts, concerns?

Deborah Calarco: Questions parking of truck.

Conversation between Ms. Calarco and Mr. Walter off mic and inaudible.

Shawn Walter: On that side of the house the property line is, I haven't measured, it's two maybe three feet off the side of the house over there. They did a good job of building the house right to the edges.

Susan Marteney: Lots of neighborhoods are like that. People didn't have cars and they weren't thinking ahead 100 years ago.

Ed Darrow: Any other questions?

Mario Campanello: 20 feet from the front of the porch to the lot line?

Shawn Walter: Yes.

Ed Darrow: Any other questions from board members?

Deborah Calarco: How long was the original driveway there?

Shawn Walter: I would say the black top is at least 20 years old based on the degradation, the location and the width of the driveway. Actually there was some concrete poured that was marked 1974. I would say that it's originally with the house.

Ed Darrow: Any other questions?

You may be seated but we reserve the right to recall you?

Is there anyone present wishing to speak for or against 25 Myrtle Ave? Hearing none, seeing none I shall close the public portion so we may discuss this amongst ourselves.

Thoughts?

Scott Kilmer: Back when these houses were built a lot of them didn't have one car much less two. You just can't function today without both people having jobs and that requires two cars.

Matt Quill: It's a very small lot and one of the reasons in there is the vandalism. I can attest to the vandalism in that neighborhood. There are cars getting tires slashed, keys, baseball bats to the mirrors and it seems like most of the time that happens it's to the cars that are on the street, not in the driveway. I don't like front yard parking but I think this is the minimum to ask for what he needs.

Ed Darrow: I understand, I live around the corner. My wife had clothes stolen off the clothesline in the back yard. Why they would steal clothes is beyond me. No, it's minimal, very minimal.

Deborah Calarco: I'm not a fan of front yard parking but I agree given the circumstances it doesn't give us much option.

Ed Darrow: And that's why it's a case by case basis. Any other thoughts? Concerns? If not the chair will entertain a motion.

Susan Marteney: I move to approve the area variance for Shawn Walter at 25 Myrtle Ave in order to install front yard parking per submitted plot plan because the applicant has proven the following five elements:

- The area variance will not produce an undesirable change or detriment to the character of the properties in the neighborhood, and;
- The benefit sought cannot be attained by any other method other than an area variance, and;
- The area variance is not substantial, and;
- The area variance will not produce an adverse impact on the environment nor the physical conditions of the neighborhood, and;
- The applicant's difficulty was not self-created.

Ed Darrow: We have a motion, is there a second?

Stephanie DeVito: Second.

Ed Darrow: We have a second. Roll call, please.

All members vote approval.

Ed Darrow: Your variance has been approved. Please see Code Enforcement for any permits before work begins. Thank you.

**333 N. Marvine Ave. Area variance for garage exceeding allowable square footage.
Applicant: Joseph Kessler**

Ed Darrow: 333 N. Marvine Ave, please approach, give your name and address and tell us what you'd like to do.

Joe Kessler, 333 N. Marvine Ave: I'm requesting a variance to build a two-car garage that exceeds the current code allotment of 750 SF. I'd like to build a garage 30 feet wide by 32 feet deep. Also the height restriction is limited currently to 15 feet. I'd like to get a correct pitch on this not to exceed 20 feet in height to provide some added storage in this garage. I have some photos with me that I was not able to submit at the time I put my request in. I also have letters from two neighbors, one right next door and also one right across the street where they have approved and condones what I want to do. (distributes materials) I just have the originals of the letters, I can show those as well.

Ed Darrow: The letters will have to be retained for the record.

Joe Kessler: The photos there, there's five or six pages there and the initial ones show what the lot looks like, it's quite a large piece of property, it's about 170 feet wide by 220 feet deep. I also have a photo in there, I had a maple tree taken down because I need to put a garage up because the current one I have was built in the 1930's, it was an addition put on the house and it's so close to get to the back yard, it's so overgrown. In restoring this piece of property, I put a lot of time and thought into building this garage and the reason I'm going so big, I originally started with something a little more modest but when you start talking to people they say to make sure you make it big enough with all the stuff people have. I limited it to this current size. The piece of property from my current driveway to the lot line is 47 feet. In the draft of the drawing it shows where the new garage would be with a minimum of 15 feet to the lot line on the south side. The current garage is to be demolished. It's in disrepair and not worthy of salvaging. I would also be removing a shed in the back yard. To store lawn furniture, patio furniture, riding lawn mowers. My concern overall is that we have three vehicles and I just want to maintain the security of what we do have. I'm also looking, with the size of this, should the need ever arise, if someone were to be wheelchair bound at least have it wide enough.

Andy Fusco: Do you have any handicapped members in your family?

Joe Kessler: No, currently I don't and hopefully never will. But I know when you get two vehicles in the garage and open up both doors it does limit it.

Ed Darrow: Actually, viewing the pictures of the house, anything less than a 7/12 pitch wouldn't look proper in there. Not with the roof line you have. If you went with a 4/12 pitch it just wouldn't fit in.

Joe Kessler: No, and I want to keep the architectural integrity of the house, it's a great piece of property and, again, I've put a lot of time into it. I really love the area, I love the neighbors. I've redone the house and this is going to be the last step other than maybe re-doing a deck in the next year or so. I work with an architect and I do have a contractor who builds homes, a very reputable contractor and he's going to be doing the work. One other thought, I tried to move the garage back a little bit. The current one from the rear view is a two-story and in order to do that I'd probably need to spend another 10-15,000 dollars and it's probably going to cost upwards of 45,000 as currently proposed.

Susan Marteney: And one will enter the garage facing the house, the doors will be on that side?

Joe Kessler: Yes. The future plan would be in that area to maybe put a little patio with a pergola over it. And then have a straight walk through into the garage.

Ed Darrow: Any other questions from board members?

Matt Quill: How long have you lived there?

Joe Kessler: Ten years.

Ed Darrow: Any other questions?

You may be seated but we reserve the right to recall you.

Is there anyone else present wishing to speak for or against this application? Seeing none, hearing none I shall close the public portion so we may discuss it amongst ourselves.

I think the thing that speaks volumes to me with this perfectly prepared application is the fact that no other property variances are needed with the size of the garage. It's just the area, that is goes over the 750 and the height. There are no rear yard, no side yard setbacks required, no percentage of grass area, no volume. I think it's pretty important that it's just those two.

Scott Kilmer: The house is a beautiful house and when I drove by the thing I commented on was that I thought the existing garage looks inordinately small compared to the house, it looks out of place. I think your proposed plan is going to look a lot more suitable there, balance it out.

Susan Marteney: I don't think I would pull my car into it either, it looked a little dicey on the one corner.

Ed Darrow: Any other thoughts, discussion?

Deborah Calarco: We've discussed before that the maximum amount should be changed in the Code.

Ed Darrow: Yeah, 750 I maintain is small. That's not even a realistic 2 ½ car garage these days.

Any other thoughts, concerns? If not the chair will entertain a motion.

Susan Marteney: I move to approve the area variance for Joseph Kessler of 333 N. Marvine Ave for an area variance to construct a 960 SF garage which is 210 SF over the allowed maximum of 750 SF for a total of 960 SF because the applicant has proved the following five elements:

- The area variance will not produce an undesirable change or detriment to the character of the neighborhood or the properties in the neighborhood, and;
- The benefit sought cannot be attained by any other method other than an area variance, and;
- The area variance is not substantial, and;
- The area variance will not produce an adverse impact on the environment nor the physical conditions of the neighborhood, and;
- The applicant's difficulty was not self-created.

Ed Darrow: We have a motion, do we have a second?

Scott Kilmer: Second.

Ed Darrow: We have a second. Roll call please.

All members vote approval.

Ed Darrow: Your variance has been approved. Please see Code Enforcement for any permits before beginning construction. Thank you.

217 Grant Ave, Rue21. Area variance to increase square footage of façade sign exceeding allowable.

Ed Darrow: We have 217 Grant Ave. They're not here. Any opposition to a one month adjournment?

Matt Quill: We keep doing hit and miss with this guy.

Ed Darrow: We heard the case and then they decided, either of you correct me if I'm wrong, the size of the letters they put up were not adequate with everybody else's in the plaza to they want to increase in the size to be more similar to everyone else in the plaza so that's why he's coming back again. I don't know why he isn't here tonight but it's generally customary that if they don't show or call to give them one adjournment before dismissing it.

May the record show 217 Grant Ave is adjourned to our next regularly scheduled session.

Anything under housekeeping?

Meeting adjourned. See you next month.

Recorded by Alicia McKeen