

**ZONING BOARD OF APPEALS
MONDAY, JANUARY 27, 2014**

Members Present: Susan Marteney, Scott Kilmer, Mario Campanello, Ed Darrow

Absent: Deborah Calarco

Staff Present: Andy Fusco, Corporation Counsel; Lane Paulsey, Code Enforcement

APPLICATIONS APPROVED: 36 Madison Ave, 96 N. Division St.

APPLICATIONS DENIED: none

APPLICATIONS TABLED: none

Ed Darrow: Good evening. Welcome to the City of Auburn Zoning Board of Appeals. I'm Board Chairman Edward Darrow. Please silence all cell phones. Tonight we will be hearing 36 Madison Ave and 96 N. Division St.

First approving the minutes from our December session. I ask that we table that seeing as we just received them today and most of us have not had a chance to review them. All in favor? Carried.

Has everybody reviewed the minutes from the August session? No? How about the November session? Okay. They are on the agenda so we'll have to catch up on them.

36 Madison Ave

Ed Darrow: I believe the gentleman contacted Corporation Counsel. He's homebound, in a wheelchair and is unable to attend so therefore he asked that we conduct the hearing in his absence. It is an area variance for Philip LaGravinese of 36 Madison Ave. The applicant is requesting an area variance for the placement of a handicap ramp in his front yard. Set back is twelve foot, applicant is asking for a variance of seven foot four inches. There are drawings attached. Have all members had a chance to review the application? Any questions or concerns?

Mario Campanello: I have a question. According to the drawing, it says 36 and then there's another that says 36-38. Is that a single family home?

Susan Marteney: It's a duplex. There are two houses stuck together, there are two front doors.

Ed Darrow: When I viewed the property that's what I saw.

Mario Campanello: By looking at this drawing is it safe to assume that ramp is going to cross over in front of the other resident's front door?

Susan Marteney: No, it stops before the porch starts.

If the house were built today it couldn't be built because it's too close to the sidewalk anyway. It's an old neighborhood. There's absolutely no place that a ramp could be built in that yard. I think the side yard is, maybe, four feet wide. It's a good looking ramp. The gentleman obviously needs it if he can't even get out. And today is truly not a great day to get out if you have any kind of disability. If you can't get out of your house it really curtails your enjoyment of things. I think in terms of that it's certainly not a self-created hardship. It's a necessity for someone to get out of their home.

Ed Darrow: One thing I would like to point out under our discussion is I think it would be a good idea that we put a sunset clause on this variance that when Mr. LaGravinese no longer resides at this residence that the variance for the handicap ramp expire and has to be removed.

Susan Marteney: Does he own the house? He didn't put any information..that was a question I had in terms of number eleven, none of that's filled in.

Scott Kilmer: Number five is blank.

Ed Darrow: It doesn't say in question five that the property owner is different than him. So question five on page two of our packet would require a different name if it's other than the applicant.

Susan Marteney: But he also doesn't fill out question eleven at all either. Is that a problem?

Andy Fusco: It isn't as someone who's a veteran like you will recall, the rules regarding area variances have changed so that really the economic injury is no longer an element under NYS law. It goes more to the aspect, in fact it goes to the aspects you will make as part of your motion. So the fact that he didn't answer eleven regarding how much he paid for the property and things like that is not particularly troublesome to me.

Susan Marteney: Just checking. I was going to say that it's an old neighborhood, everybody has porches, all the houses are close to the sidewalks, it's a good looking ramp in terms of its impact on the neighborhood.

Ed Darrow: Is there anyone present wishing to speak for or against this application? Seeing none, hearing none I shall close the public portion so we can discuss this amongst ourselves? Thoughts?

Scott Kilmer: I agree with Susan and also that a sunset clause should be added.

Chair will entertain a motion.

Susan Marteney: I will make a motion to grant Philip LaGravinese of 36 Madison Avenue an area variance for the placement of a handicap ramp in the front yard at 36 Madison Avenue. In this area the required set back, he is requesting an area variance of seven feet four inches. I move to approve this area variance with a sunset clause should he moved from the house the ramp must be removed 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 variance is not substantial, and;
- The area variance will not produce an adverse impact on the environment of or physical conditions in the neighborhood, and;
- The applicant's difficulty was not self-created.

Ed Darrow: We have a motion. Is there a second?

Scott Kilmer: Second.

Ed Darrow: Roll call please.

All members vote approval.

Ed Darrow: The area variance for 36 Madison Ave for the handicap ramp has been approved.

96 N. Division St.

Ed Darrow: 96 N. Division St. Sir, please approach, give your name, your address and please tell us what you'd like to do.

Nathan Parkman, 96 – 98 N. Division St.: I just want to be able to keep the shed that was existing in the garage prior to me building my garage.

Ed Darrow: Could you tell us a little history about the shed? How did this come about?

Nathan Parkman: When I purchased the property there was a metal shed existing there. There's a concrete foundation that the metal shed sat on but it was only four and one half feet tall, it wasn't very functional, it was falling apart. What I did was replace the side walls with wooden walls to make it eight foot tall on the inside so I could walk around in it easy. It used to be a tool shed but I've recently changed it into basically a large dog house. I own two German Shepard dogs, one's a female, one's a male. I also built a dog house in the back yard when I owned just the female dog but now that I have two, on occasion when the female goes into heat I need to separate them. If she does get pregnant it's on my call, like right now wouldn't be ideal for a female dog to get pregnant so if she goes into heat now I'd like to be able to keep them separated. I've recently purchased one of those metal kennels from Tractor Supply Co. and attached it to the side of the shed and made an access hole so the dog can go either out or in but still be separated from the remaining portion of the fenced in back yard. But I do know by law that I still have to have some type of shelter for a dog that's outside. So if I have the two dogs separated there's the dog house that's in the fenced in portion of the back yard and now what used to be a tool shed that's being used as a big dog house.

I believe it was two summers ago I built a garage, 750 square feet, and now owning this nine foot by 13 foot shed puts me over the 750 foot allowance.

Ed Darrow: Is that it, sir?

Nathan Parkman: That's basically it.

Ed Darrow: Any questions from the board?

Andy Fusco: The detached garage was built with a building permit?

Nathan Parkman: Correct.

Andy Fusco: Funny it wasn't caught then.

Nathan Parkman: I do believe when I was in the process of building that, Lane came over and they weren't aware that my yard was as big as it is so I don't believe they knew that shed was mine. From my house to my garage is about 20 feet and from the back of my garage to my fenced in portion of my back yard is another 15 feet and the fenced in portion is 60 feet wide by 200 feet deep.

Andy Fusco: Your drawing shows that, the shed is rather far back.

Nathan Parkman: Unless you're in my back yard you really can't see it. It was existing there but not knowing that was part of the 750 square feet that was my screw up to begin with. When Code Enforcement came over to check on the building and its progress it was easy to confuse that not being part of my property.

Scott Kilmer: The small shed is pre-existing the garage, right?

Nathan Parkman: Correct.

Scott Kilmer: How did it get discovered that the small shed was an isSusan then?

Nathan Parkman: I think one of the times Lane was over I mentioned it was mine and that's when he brought up that I needed to get a variance for it.

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? Please approach and give your name and address for the record.

Kathleen Baran, 94 N. Division St.: My property is adjacent to Mr. Parkman's. Reads statement into the record: Attachment 1.

Ed Darrow: Any questions for Mr. Baran?

[Inaudible]

Kathleen Baran: That's because there's a relationship between the fact that that one was not included in the original. If that was all considered and then I was notified that he needed a variance to build it because of the percentages, again that's a little confusing to me, I was concerned that wasn't taken into consideration in the first place so I don't see why he would be allowed to keep the building. If you're going to give him a variance to keep it then I feel like my rights are being jumped on.

Ed Darrow: Is there anyone else present wishing to speak for or against this application?

Nathan Parkman: I just want to clarify a couple things. The device protruding out of the building is a vent for a furnace I recently installed. It's not a security camera. She brought up a good point, the overhang. How I understood it was the foundation itself couldn't be within the three feet of the property line. If that's the case I was unaware of the overhang being included myself.

Ed Darrow: Is it the building footprint or the building overhang doesn't count?

Lane Paulsey: The footprint.

Nathan Parkman: I'd have to put a tape measure on it but I believe the overhang is 16 inches so it's not hanging over her property. So water and snow run off still

falls on my side of the fence. In isSusans with the dogs wandering onto her side, that shouldn't happen anymore. There were holes in my fence and I've recently replaced my fence line between my house and her house. We've tried to refrain from letting my younger son bring them out as many times it was when he was trying to bring them that they would wander. Or he didn't latch the gate properly. We've tried to take steps ourselves to minimize that.

Ed Darrow: Is it your intention to breed dogs for profit?

Nathan Parkman: Absolutely not. My intention is that I want to breed my female two times because I've known in the past that after the second time you breed them they calm down quite a bit. She's still young, just over two years old now. I own one male and one female and that's all the dogs I want to have at that property but I plan on breeding my female one more time this summer and after that I'm going to have her fixed because at that point she should mellow down quite a bit.

Ed Darrow: So it's your testimony that twice, it's not for profit, it's strictly to calm down your female.

Nathan Parkman: Absolutely. I think breeding a female more than twice, in my opinion, is over breeding anyways. One more time and she'll be done.

Ed Darrow: Any other questions from board members?

Andy Fusco: Who owns the stockade fence?

Nathan Parkman: That's me.

Andy Fusco: How close to the property line is it?

Nathan Parkman: It's probably one foot into my property. It's hard to tell right now in the snow, I'd have to find the survey marks again. The stockade fence was existing prior to me buying the house. All I did was replace the old junk panels with new ones on the existing four by fours already in the ground. One four by four was broken so I had to replace that. I didn't move the fence line, I didn't put the fence line in, I just went off what was already existing.

Andy Fusco: The dog run that's attached to the existing metal shed you're seeking the variance for, does that count in any of the square footage violations, Lane?

Lane Paulsey: Not at this time.

Andy Fusco: For what reason?

Lane Paulsey: It's only considered a fenced in area, a dog run, it's not a building.

Susan Marteney: Because it doesn't have a roof? Any kind of roof that distinguishes a dwelling?

Lane Paulsey: It has to be able to be habitable. If it had a roof I would call it a building. Right now it's just a dog run.

Scott Kilmer: Before you put the new garage up did you have to get a variance for that building?

Nathan Parkman: I was unaware, like my neighbor said when I first bought the house, there were two metal sheds, one of them was falling apart and it was just me waiting on the time to take it apart. I wasn't planning on keeping that shed at all. I was unaware that the second shed, I didn't realize I had to add both. If I knew that shed was included I would have applied for a variance to begin with.

Ed Darrow: But you did get a permit?

Nathan Parkman: I did get a permit for the garage, yes.

Susan Marteney: And the garage is 735 square feet so that's fine. I think part of what might have happened was because that fence is there, you wouldn't think it actually is part of that property.

Ed Darrow: Any other questions from board members? You may be seated, sir.

Is there anyone else present wishing to speak for or against this application?

Seeing none, hearing none I will now close the public portion so we can discuss it amongst ourselves.

Thoughts? Concerns?

Susan Marteney: Ms. Baran brings up problems that aren't within our jurisdiction; a dog barking and other issues with the property which don't have to do with a variance, it's not under our control.

Ed Darrow: You're absolutely correct.

Andy Fusco: It may have to do with the element of compatibility of the neighborhood, it may not. You'll be the one making the motion.

Ed Darrow: For my opinion I'm looking at it as we have a structure or structures that exceed the 750 square foot by 112 ½ square feet. Today there could be dogs in there. In five years there could be a garden tractor, shovels and a rake because it's a building. So next month he may move and we don't know what the next owner may do with the property. To me it's a dog house because he has the chain link

dog run attached to it. That's how I'm seeing it. I'm focusing on the fact that he's 112 ½ square feet over the 750 allotted and I can see that the size of the property, the way it's divided up, that he pulled the permit for the garage and how easy it would be not to think the other shed wasn't his when Codes went down because it is a large lot. I do sympathize with his neighbor but he also has a large piece of property there.

Susan Marteney: A lot of dog playground.

Ed Darrow: It's not like he's trying to squeeze this on a quarter acre lot.

Scott Kilmer: I'm a little comforted by the fact that he's not going to run a dog breeding or dog kennel.

Ed Darrow: That was my concern.

Scott Kilmer: If you look at the numbers it's not a huge area variance. What we see a lot of here just comes down to being good neighbors. Take care of your animals, take care of your property.

Ed Darrow: Any more discussion? Any more thoughts? Mario?

Mario Campanello: No, I agree with everybody.

Ed Darrow: The chair will entertain a motion if we're ready.

Susan Marteney: I have one question; are your dogs all licensed?

Nathan Parkman: I recently received something from the city that I have to renew my female's license. My male, I don't know if my girlfriend did that, she takes care of a lot of things for me. I can call first thing tomorrow morning to see if he's licensed and take care of it if needed.

Susan Marteney: I would make a motion to grant an area variance of 112.5 square feet over the allowed maximum of 750 square feet for the installation of a 9 by 13 shed for Nathan Parkman of 96-98 N. Division St. 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 variance is not substantial, and;
- The area variance will not produce an adverse impact on the environment or physical conditions in the neighborhood, and;
- The applicant's difficulty was not self-created.

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

Scott Kilmer: Second.

Ed Darrow: Roll call, please.

Susan Marteney: I will vote yes as long as Mr. Parkman also becomes a good neighbor and gives attention to his dogs' licensing and continues to be a good neighbor.

All other members vote approval.

Ed Darrow: I feel the amount of the area variance is not substantial. Sir, your variance has been approved. See Code Enforcement for any permits. Thank you.

Is there any other business to come before this board this evening? Andy?

Andy Fusco: I would just like to introduce Bill Tracey seated here in the front row. He lives on S. Herman Ave and has expressed a possible interest in joining us, filling one of the two vacancies that we have. I think I've circulated e-mails to all of you indicating that if there are people you know of that can help us by coming up to a full complement of seven members, the mayor and I would appreciate it. As you know the charter calls for a balance between Republicans and Democrats on the board. With the current two vacancies that have just been created by resignations and one who didn't want a term renewed, we can have a Republican or a Democrat or two Democrats. So if there's anyone that you know of who wishes to join us, please get Mayor Quill or me their names. We'll go from there.

Ed Darrow: We can have one Republican or two Democrats?

Andy Fusco: Presently we have three Republicans and two Democrats. Mr. Tracy is a Republican so if he wishes to apply then we would have to have a Democratic candidate. So we can have up to two Democrats or one Republican and one Democrat. I'll speak with Mr. Tracey after the meeting to see if it's something he would like to do. As I said if any of you have any suggestions the mayor and I would love to hear it.

Ed Darrow: Anything else? So moved. We're adjourned.

Recorded by Alicia McKeen