

**ZONING BOARD OF APPEALS**  
**MONDAY, MARCH 28, 2016**

Members Present: Laurie Walter, Stephanie DeVito, Scott Kilmer, Susan Marteney, Rick Tamburrino, Mario Campanello, Ed Darrow

Absent: None

Staff Present: Brian Hicks, Code Enforcement; John Rossi, Corporation Counsel

**APPLICATIONS APPROVED:** 39 Genesee St., 217 Grant Ave and 161 North St.

**APPLICATIONS TABLED:** 55 Washington St.

**APPLICATIONS DENIED:** 349 Clark St.

Ed Darrow: Good evening. Welcome to the City of Auburn Zoning Board of Appeals. I'm board chairman, Edward Darrow. Tonight we will be hearing 55 Washington St., 349 Clark St., 39 Genesee St., 217 Grant Ave and 161 North St. I ask you at this time to please silence all phones or put them in manner mode.

As we do not have a quorum for the minutes they shall be held until the next meeting.

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**39 Genesee St. C2 zoning district. Area variance for off-site advertising signs. Applicant: Cayuga/Seneca ARC c/o Ed Sayles.**

Ed Darrow: Invites the applicant to speak.

Ed Sayles: ARC has a long-term lease with 39 Genesee St. They would like to improve the design for the front window to increase visibility of ARC and what it does and also to help solicit sponsors and thank those that support the group. It will also dress up the window.

Ed Darrow: Questions the size of the sign.

Ed Sayles: No bigger than 2' x 4'. One on each side of the tree at the sidewalk.

Ed Darrow: Opens the public hearing. There are none wishing to be heard. Public hearing is closed. Asks the board for comments.

Scott Kilmer: Is okay with the size of the signs. Thinks the size/dimensions should be part of the motion.

Ed Darrow: Agrees. 2 signs at 24" x 24". Asks for a motion.

Susan Marteney: Makes a motion for approval of an area variance for two (2) off-site advertising signs measuring 24" x 24" each as submitted in the plot plan for Cayuga/Seneca ARC at 39 Genesee St. because the applicant has proven the following elements:

- The area variance will not produce an undesirable change or detriment to the character of the neighbourhood or the properties in the neighbourhood.
- The benefit sought cannot be attained by a method other than an area variance.
- The area variance is not substantial.

- The area variance will not produce an adverse impact on the environment nor the physical conditions of the neighbourhood.

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

Scott Kilmer: Second.

All members vote approval. Motion carried.

Ed Darrow: Your variance has been approved. Please see Code Enforcement Office for all necessary permits before beginning work.

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**55 Washington St. R2 zoning district. Use variance for a restaurant/tavern in an R2 zone. Applicant: John Stevens.**

Ed Darrow: Invites the applicant to speak.

John Stevens: Requesting a use variance to return the premises to a commercial enterprise instead of a residential use.

Ed Darrow: Questions if an agreement for parking has been negotiated.

John Stevens: States that it is being discussed.

Ed Darrow: States that parking is part of the consideration for approval due to limited parking in the neighborhood. There is an e-mail from a neighbor upset with an existing restaurant and that they don't want an increase of the existing problems with a new commercial enterprise. On street parking would be relieved with some type of off-street parking agreement. Financial information does indicate a hardship to return to residential use.

Rick Tamburrino: Questions costs of vacancy.

John Stevens: Between tenancies.

Rick Tamburrino: But vacancy is not an expense. Water, sewer, etc. those are expenses.

Ed Darrow: If we were to move forward it would be with the contingency of securing off-street parking.

Scott Kilmer: Questions number of parking spots being negotiated.

John Stevens: About 20.

Scott Kilmer: And the agreement will also include maintenance, snow removal, etc.?

John Stevens: Yes.

Ed Darrow: With previous businesses they were getting 30 – 35 spots over there.

John Stevens: It was a different owner then. I don't know what the current owner needs for himself.

Steve Selvek: Reviews SEQR and recommends a negative declaration.

Chair asks for a motion to accept a negative declaration on SEQR. So moved by Scott Kilmer, second by Mario Campanello. All members vote approval. Motion carried.

Ed Darrow: Opens the public hearing.

Rita Loperfido: Has rental property at 61 Washington St. near Balloon's and this proposed enterprise. This little strip of land here has been very residential. I have two nice families in my property now. The house next door has been renovated nicely. Another house next to mine is kept up very nicely. Balloon's is not operated constantly, it's more of a dinner establishment versus a bar or tavern atmosphere. My concern is that we're going from a nice, relatively quiet residential neighborhood to having all sorts of rubbish in the yards all over again, loud people at night walking up and down the street, arguing, fighting. Tenants have had to clean up the yard every day from trash from patrons. This has been the history when it used to have a bar much like what I think will be going back in there. Noise has also been an issue. I don't know what exactly is going in there or the hours but I have a real concern that's it's going to turn the neighborhood around and not in a good way. I don't believe it's in the neighborhood's best interest for this establishment to be open.

Letter from neighbor Patricia Garighan read into the record.

Ed Darrow: Asks John Stevens to re-approach. Asks if he attempted to sell the property before.

John Stevens: Was listed for five years. There was no interest.

Ed Darrow: Knows it had been rented to a social club at one point.

Asks for any further comments from the board.

Scott Kilmer: Asks the seating capacity.

John Stevens: About 90.

Scott Kilmer: Questions hours of operation.

John Stevens: Will close early. Nine or ten during the week, eleven Fridays and Saturdays.

Scott Kilmer: Questions how early it will be open.

John Stevens: Has not decided yet if three meals or just lunch and dinner will be available.

Scott Kilmer: Questions if music will be played.

John Stevens: None. Wants an atmosphere conducive to conversation.

Stephanie DeVito: Questions if it will be a venue for events.

John Stevens: No. There are no plans for that.

Ed Darrow: Questions if the internal layout will remain the same.

John Stevens: Yes.

Susan Marteney: Questions if outdoor space will be utilized.

John Stevens: In good weather, yes.

Ed Darrow: Questions if he still owns the adjacent property behind the outdoor area.

John Stevens: Yes.

Ed Darrow: Once the use variance has been decided an area variance will need to be sought for parking. Questions if the parking issue should be decided first.

Board states parking issue should be decided.

Scott Kilmer: Questions if establishment will ever be operated solely as a bar and not a restaurant.

John Stevens: Never.

Ed Darrow: Closes the public hearing and asks the board for comments.

Rick Tamburrino: Economic hardship needs to be shown.

Ed Darrow: We do have that in this month's received information showing how much it would cost to convert to an apartment.

Rick Tamburrino: There should be objective evidence for the expenses. What constitutes a financial hardship?

Ed Darrow: For everyone it's different. To me it's the cost of conversion to a residence and the character of the neighborhood. Parking bothers me and I think that needs to be secured first. The cost to renovate plus taxes and expected rents do not make it worth it to me. You need to make your own decision. I don't think there will be a large impact to the neighborhood if off-street parking is provided.

Susan Marteney: Asks if people still park on the south side in the wide sidewalk area.

Ed Darrow: The used to and that is one of the things that needs to be alleviated.

Susan Marteney: Considering up to 45 cars could be coming and going 20 spaces is not enough.

Ed Darrow: If at full capacity all the time which is unlikely. Look at uses in the past.

Susan Marteney: It would behoove Mr. Stevens to know the actual capacity and the number of parking spaces actually needed before voting.

All members agree.

Ed Darrow: Requests Mr. Stevens to check actual capacity and number of parking spaces needed and to also realize that people will still continue to park in the street and it is legal for them to do so.

Scott Kilmer: We need a hard number on the spaces needed.

Ed Darrow: Asks if the board agrees to table this item. All agree.

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**349 Clark St. R2 zoning district. Area variance for 12x12 shed too close to property line. Applicant: John Loyster.**

Ed Darrow: Invites the applicant to speak.

John Loyster: Would like to install a 12' x 12' shed on property at the corners of Clark and Belmont attached to a 10' x 18' existing garage. Did not realize property line was only seven inches from the garage.

Ed Darrow: Asks if the applicant realizes he cannot increase a non-conformity. There is a problem in knowing that you shouldn't have but did anyway. This is a large property, why wasn't the shed placed where a variance wouldn't be required? This board is required to give the least amount of variance needed. A different placement could have been picked.

Stephanie DeVito: What are your plans for aesthetics?

John Loyster: Plan to side shed and garage. Garage is over 100 years old and I've been slowly repairing it.

Rick Tamburrino: Asks for clarification of square footage needed.

Brian Hicks: There is a one foot by twelve foot encroachment into the secondary front yard. It would increase the non-conformity no matter where attached to the garage. It is separated from the garage by three feet it would be okay.

Mario Campanello: Questions why the shed is being attached.

John Loyster: For storage.

Ed Darrow: Opens the public hearing. There are none wishing to be heard. Public hearing is closed. Asks the board for comments.

Scott Kilmer: This is a self-created hardship. If allowed to stand it would undermine the authority of Codes.

Members agree.

Rick Tamburrino: Was application for permit made before or after the shed was installed?

Brian Hicks: I'm not certain but I do know he had been in the office to discuss matters with another officer.

Ed Darrow: As a reminder we make our motions in the affirmative but that doesn't mean you have to vote that way. You can vote your conscience.

Any other discussion?

Susan Marteney: We have made a suggestion that he move the shed to another space.

Ed Darrow: No variance would be needed then.

The chair will entertain a motion.

Rick Tamburrino: Makes a motion to approve two area variances for the applicant to construct a 12' x 12' shed attached to the garage: 1) enlargement of a non-conforming structure and 2) 1' x 12' of the required 12'6" secondary front yard setback for John Loyster at 349 Clark St.

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

Scott Kilmer: Second.

Ed Darrow: Roll call with an explanation please.

Susan Marteney: No, because there are other alternatives to attaching it to the garage.

Laurie Walter: No, as there are other options.

Mario Campanello: No, he has a lot of room and he should have checked before constructing.

Rick Tamburrino: No, he has other options to exercise without asking for a variance.

Stephanie DeVito: No, for the reasons we have just spoken of as well as having it erected before obtaining approval and a permit.

Scott Kilmer: No, same reasons. It was indicated here tonight that he actually knew he shouldn't have built it first.

Ed Darrow: No, I feel there are other alternatives and he was advised by Codes that he couldn't do it and went forward anyway.

The variance is not granted.

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**217 Grant Ave C3 zoning district. Area variance for height of pylon sign. Applicant: Metropolitan Signs.**

Chair invites applicant to speak.

Tim Kerstetter, property manager: Request is a variance to elevate the height of the pylon signs at each end of the plaza for safety and wind load.

Dave Razzante, Metropolitan signs: Signs are 15 – 16 years old and comprised of I beams with angle iron structures. Problem is with wind load as there is no air space between cabinets as there should be. We are redesigning the structures to accommodate future needs of tenancy and to accommodate the wind load. The height will be increased by 8'3" with 2 ½ feet being air space. The tenant sign faces are based on square footage and the signage will match what end of the plaza the store is located. Increased height is also for traffic visibility. Neon is being replaced with LED and fired with electronic ballasts which creates energy savings and is environmentally sounder.

Rick Tamburrino: Questions if the foundation will be the same.

Dave Razzante: Yes. The Hess side has sunken so if it is determined to be unsafe it will be replaced as existing.

Rick Tamburrino: Questions wind loads.

Dave Razzante: It will balance out but will be safer with the new materials.

Rick Tamburrino: Questions the brightness of the LEDs.

Dave Razzante: Will match output of neon.

Ed Darrow: Opens the public hearing. None to be heard. Closes the public hearing and asks board for comments.

Scott Kilmer: Doesn't think it's a big deal and will be a safer structure and more visible.

Ed Darrow: Agrees.

Laurie Walter: Does this set a precedence for size?

Ed Darrow: Each sign is individual and judged on its own merits for that site so no.

Chair asks for a motion.

Susan Marteney: I move to approve the area variance for Dave Razzante of Metropolitan Signs at 217 Grant Ave requesting two area variances to increase the height of two pole signs: 1) eight feet over the maximum allowed height of 30 feet with base landscaping for both signs and 2) 53.35 square feet over the allowed maximum of 100 square feet total divided as follows: an increase of 35.35 square feet at the eastern end (Hess entrance) and an increase of 18 square feet at the southern end (McIntosh Dr.) as per plans submitted because the applicant has proven the following elements:

- The area variance will not produce an undesirable change or detriment to the character of the neighbourhood or the properties in the neighbourhood.
- The benefit sought cannot be attained by a method other than an area variance.
- The area variance is not substantial.
- The area variance will not produce an adverse impact on the environment nor the physical conditions of the neighbourhood.

Mario Campanello: Seconded.

All members vote approval.

Ed Darrow: The variance is approved. See Code Enforcement Office for necessary permits before beginning work.

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**161 North St. C5 zoning district. Area variance for conversion to bed and breakfast. Applicant: Harry and Sunnee Dow.**

Ed Darrow: Invites applicant to speak.

Harry Dow, 161 North St.: Requesting three variances for size of the garage, driveway width variance and roof height of the garage. Would like to amend the pitch to match that of the house.

Ed Darrow: Questions current pitch of the house to configure possible increase of height needed. Measurements could be up to nine feet over the 15 allowed.

Scott Kilmer: So the ridge would be 24 feet.

Ed Darrow: Yes, to match the house.

Rick Tamburrino: Would be the maximum. You could construct it at a lesser height.

Ed Darrow: Opens public hearing. None wish to be heard. Closes the public hearing and asks the board for comments.

Scott Kilmer: We are always speaking of conformity and aesthetics and that's what he's trying to do. It won't come close to anything on Park Ave.

Ed Darrow: Asks for a motion.

Susan Marteney: I move to approve the area variance for Harry and Sunnee Dow of 161 North St. requesting three area variances for an attached garage and driveway expansion: 1) 30 square feet over the allowed maximum of 750 square feet for an accessory structure. The Applicant has an existing shed of 240 SF and is proposing a garage of 540 SF for a total of 780 SF); 2) ten feet over the allowed maximum of 15 feet right height; and 3) five linear feet over the allowed 20 linear feet maximum width for a driveway because the applicant has proven the following elements:

- The area variance will not produce an undesirable change or detriment to the character of the neighbourhood or the properties in the neighbourhood.
- The benefit sought cannot be attained by a method other than an area variance.
- The area variance is not substantial.
- The area variance will not produce an adverse impact on the environment nor the physical conditions of the neighbourhood.

Stephanie DeVito: Second.

All members vote approval.

Ed Darrow: The variance is approved. See Code Enforcement Office for necessary permits before beginning work.

### **Housekeeping.**

Ed Darrow: As a note, when asked for your views saying that you agree with what someone else says only is not valid. You need to state your own reasoning.

Minutes that need to be approved:

8/24/15 – all members vote to approve.

10/26/15 – all members vote to approve.

2/26/15 – all members vote to approve.

Steve Selvek: There is a NYS requirement that Zoning and Planning Board members each receive four hours of training annually. We as Staff have failed in providing these opportunities so within the next few months we will be developing a plan to allow that training to happen. If we are challenged in the future we want to be sure that isn't an issue that can be brought against us.



Also, a question asked earlier was if this board was governed by precedent and ultimately as a ZBA you are governed by precedent however in the case you can show there's reason to remove yourself from that particular precedent you are not required to decide the same way.

Ed Darrow: Next meeting is scheduled for April 25, 2016 at 7:00 p.m.

Meeting adjourned.

Recorded by Alicia McKeen