

ZONING BOARD OF APPEALS

SEPTEMBER 19, 2002

PRESENT

Chairman Powell-Keery
George Fellows
John Dole
Lou Grammatico
Michael Flavin

ABSENT

OTHERS PRESENT

Donna Stassen, Zoning Board Secretary
Tom West, Highway Superintendent
Trustee Theodore Rauber, Village Board Liaison

Bradley Downs-Hartman	42 Hillside Drive
Lillian Powell	90 Nichols St.
Jeffrey Firkens	2743 Sweden Walker Road
Sue Rossi	14 Timber Ridge Drive
Linda Boone	65 Martha Street
Christopher Karelus	Schultz Associates
Mike Reid	53 Clark Street
Bob Krochalis	36 Hillside Drive
Joan Quigley	151 Maplewood Ave
Margaret Schiano	65 Martha Street
Robert Burgdorf/Nixon Peabody	Clinton Square, Rochester
Robert Bringley/Parrone Engineering	189 Harvington Drive
Bob Garlick	2824 Nichols St

PUBLIC HEARING

The application of Lucy Downs-Hartman, 42 Hillside Drive for an area variance for a proposed fence approximately 80 feet in length and 6 ft. high, whereas the maximum height allowed is 4 feet, pursuant to Chapter 140-1 A (1) of the village code in an R-1 Residential District. Such proposed fence to be located at 42 Hillside Drive, Spencerport, NY.

Bradley Downs-Hartman presented his application to the board stating that the purpose of the fence was to allow for privacy from the neighbor behind him. The house to the rear has a lot of outside storage, and the fence would block this from the Hartman's view. Such fence would be constructed of dog-eared board on board.

Superintendent West: I was approached by a neighbor, she asked whether or not both sides of the fence would be maintained.

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Chairman Diana Powell –Keery: Yes, it will be the responsibility of the applicant to keep both sides of the fence maintained.

Mr. Krochalis: I live next door to the property, I have no objection what so ever I think the fence will actually add to the property.

The Public Hearing was closed at 7:15 p.m.

Superintendent West stated that the fence will be placed under a power line, in the village right of way, and will need to be accessible at all times.

George Fellows: Are you replacing the existing chain-link fence?

Mr. Downs-Hartman: Yes.

George Fellows: Where were you looking at placing the fence? The survey shows .02, so basically you are asking for it right on the line.

Mr. Downs-Hartman: Yes.

Superintendent West: We will need to get all the way around the utility pole.

Mr. Downs-Hartman: They get to it now with a fence there.

Superintendent West: That was with a four foot fence, we are talking about a six foot fence. Where is the fence in proximity to the pole now.

Mr. Downs-Hartman: It is right up against the pole now.

Superintendent West: It will have to be pushed back away from the pole.

George Fellows: How much room will you need.

Superintendent West: I would say at least two feet all the way around the pole.

Mr. Downs Hartman: There is a drainage problem in the back, it would be on the other side of the fence, there is a ditch and they have small children.

Superintendent West: You would have to fill that in, the village is not responsible for drainage back there. The best thing to do is take care of it when you are putting up the fence.

John Dole: How would a two foot jog around the pole work?

Tom West: That is fine, if the fence has to be taken down it will be your responsibility to put it back up, I just want you to understand that up front.

Diana Powell Keery: Maybe a removable fence in that area, or a gate there would work, but still it needs to be two feet from the property line.

Mr. Downs Hartman agreed to those conditions.

After board discussion the following resolution was offered.

RESOLUTION NO 120

INTRODUCED BY GEORGE FELLOWS
SECONDED BY JOHN DOLE

Resolved that the application of Lucy Downs Hartman, 42 Hillside Drive Spencerport for an area variance for a proposed fence approximately 80 feet in length and 6 ft. high be approved pursuant to Chapter 140-1.A(1) of the village code.

Such approval based on the following criteria:

1. Such fence will not have a negative impact on the neighborhood.
2. Nor, will such proposed fence have any adverse environmental impact on the neighborhood.

Furthermore, the following conditions have been placed on such approved variance.

1. Fence to be open constructed as defined in the application.
2. Homeowner to maintain both sides of the fence.
3. Fence to be placed no less than six (6) inches from the property line, except for a two (2) foot clearance from the utility pole on all sides.
4. Such fence to be installed to professional standards with the good side of fence facing outwards.

Such fence is a type two action and no further environmental review is required.

Ayes: Powell-Keery, Fellows, Dole, Grammatico, Flavin
Nays: None

Next on the agenda, the application of ESL Federal Credit Union, 100 Kings Highway S. Rochester, NY for the following two (2) area variances and a special permit for signage on property located at 41 Nichols Street, Spencerport.

1. A proposed front setback of 30 feet whereas the minimum required is 50 feet, pursuant to Chapter 140-21-C.(2)(a) of the village code in a B3 Commercial District.
2. A proposed rear setback of 10 feet whereas the minimum required is 50 feet, pursuant to Chapter 140-21-C(2)(a) of the village code in a B3 Commercial District.
3. A proposed special sign permit for two (2) signs with a total square footage of 41.5 feet whereas a special permit is required for any signage exceeding 32 square feet, pursuant to Chapter 140-26-C.(1) of the village code in a B3 Commercial District.

Robert Burgdorf an attorney with the law firm of Nixon & Peabody will be presenting the application to the board along with Robert Bringley of Parrone Engineering.

Robert Burgdorf: This is an application to replace TR Sullivan's drive-in with an ESL ATM. It will be a single drive-up ATM with a canopy and significant landscaping and buffering as long as it complies with the ATM Safety Act. There are certain requirements that must be met. Lighting will also have to comply with all ATM laws. The lighting has been designed to fit in with the architecture of the village. A lot of changes have been made from the standard ESL design to fit with the character of the village.

With this location being the entrance to the village a lot of thought has gone into the aesthetics.

Currently the Charbroil fits in this area with much concrete and paving, a lot of this area will be replaced with landscaping.

This application has already been in front of the Planning Board and the Architectural Review Board. We are here for variances tonight.

There really is not too much that can be done with this parcel. This is a very small oddly shaped parcel, the ATM is better in terms of setbacks than the Charbroil, let alone anything else you could put on this spot. This application does not show any detriment to the community, we believe this will better the community.

A letter was read into the record from Mr. Guck (applicants file).

Mr. Burgdorf responded to Mr. Guck's concerns with the following comments.

1. Landscaping has been proposed and ESL will work along with the Planning Board to develop the best possible barriers.
2. The headlights shining at the house, again part of that will be addressed with landscaping at the Planning Board level this will be dealt with effectively.
4. The proposed sign will be lit along Nichols Street, this will have no effect on the property to the south.
5. The concern with safety, a possible robbery; there could be a robbery at the Charbroil, I really don't know how to address that. ESL as far as I know hasn't had any problems with that at their ATM's. That is why there is a safety act.
6. Snow plowing and lawn mowing, there will be less to snow plow than what is there now. There will be more lawn mowing, there will be more grass, But it will be cut during business hours, most likely during the week and not on weekends.
7. Traffic has been dealt with extensively at the planning board level.

Mr. Rossi asked how tall and how bright the parking lot lights would be.

Mr. Burgdorf: The lights are shielded inside as requested by the Planning Board, so that all lighting is directed properly and there will be no spillage. The lighting must comply with the ATM safety act.

Mr. Rivoli addressed to the Board his concern with traffic flow patterns in that area.

Chairman Powell Keery stated to the audience that this application is still in front of the Planning Board awaiting comments from the DOT. They are welcome to attend and voice their concerns at the next meeting.

Mr. Burgdorf stated that it should be kept in mind that this is a very unique parcel in terms of how small it is for a commercial lot, the fact that it is in one of the entrances to the village. I can't think of a better commercial use for this small property than an ATM and also deliver green space back.

The public hearing was closed at 7:35 p.m.

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Chairman Powell Keery stated that Building Inspector Jack Crooks, could not be here this evening but in his opinion this is a good use for this property.

George Fellows: Will that be the only lit signage, the one on the building?

Mr. Burgdorf: Yes, there will be recessed lighting from the roof and a certain amount of foot –candles, which are required by law.

After board discussion the following resolution was offered.

See attached Resolution No 121.

Next on the agenda is the application of Brennon & Bonita R. Caton of 111 Coleman Ave, for an area variance for a proposed addition resulting in a lot occupancy of 30% whereas the maximum lot coverage is 25% pursuant to Chapter 140-11 in an R-1 Residential District. Such proposed addition to be located on property at 111 Coleman Ave, Spencerport.

Jeffery Firkins general contractor will be representing the Caton application to the Board.

Mr. Firkins stated to the Board that with the lot size the only option was to go out to the rear of the property. The addition will expand the kitchen and add a laundry area to the first floor. In order to do so, a variance will be required for an additional 5% lot occupancy.

Mr. Phil Dow: Will granting this variance for 30% set a precedent?

Diana Powell Keery: We have granted other variances for lot occupancy and yes, when we make a decision it does set a precedent.

Mr. Dow: How close will the addition be to the garage.

Mr. Firkins: At least four (4) feet away from the garage, the intention is to keep everything the same height, If you know this property it is very well maintained inside and outside.

The public hearing was closed at 7:50 p.m.

For the record Zoning Board member Michael Flavin will be abstaining from the vote.

Diana Powell Keery stated that Building Inspector Jack Crooks memo dated September 10, 2002 states that in his opinion the additional 5% lot coverage will have little impact, he has recommended that gutters and downspouts along the south side of the existing structure should be connected to the gutters of the new addition and directed to the rear of the property to insure that drainage is directed to the rear of the property.

After board discussion the following resolution was offered.

RESOLUTION NO 122

INTRODUCED BY GEORGE FELLOWS
SECONDED BY JOHN DOLE

Resolved that the application of Brennon and Bonita Caton of 111 Coleman Ave, Spencerport for an area variance for a proposed addition resulting in a lot occupancy of 30% whereas the required maximum lot coverage is 25% be approved pursuant to Chapter 140-12-A.(1)(b) of the village code.

Such approval was based on the following criteria:

1. The structure will not have a negative impact on the neighborhood.
2. Nor, will such structure have any adverse environmental impact on the neighborhood, primarily due to the positive drainage on the rear slope of the property.

Furthermore, the following conditions have been placed on such variance:

1. Gutters and downspouts along the south side of the existing structure should be connected to the gutters of the new addition and directed to the rear of the property.
2. Stamped drawings must be provided prior to the issuance of any building permits.
3. A building permit must be secured from the Building Department prior to any construction.

Such addition is a type 2 action and no further environmental review is required.

Ayes: Powell-Keery, Fellows, Dole, Grammatico

Nays: none

Abstain: Flavin

Next on the agenda is the application of Michael Reid, 53 Clark Street for two area variances for a proposed newly sub-divided site located at 55 Clark Street, Spencerport.

1. A proposed lot frontage of 47.87 feet whereas, the minimum width required is 80 feet pursuant to Chapter 140-12-A.(1)(b) of the village code in an R-2 Residential District.
2. A proposed front setback of 29.6 feet whereas the minimum front setback is 50 feet pursuant to Chapter 140-12-B.(1) of the village code in an R-2 Residential District.

Christopher Karelus of Schultz Associates will be representing the Reid application.

Christopher Karelus stated the need for the variances is the layout of the property and in keeping with the character of the neighborhood. Many of the houses along Clark Street are less than the 50 feet requirement in place now. This project does not pose any impact to the physical or environmental character of the neighborhood.

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Christopher Karelus furthermore stated that this variance is self created that factor is evident, what the client is hoping to do is to take the same quality that he maintains in his home now at 53 Clark to his proposed new home at 55 Clark Street.

Plans were shown to the audience.

Janet Plucknette: I live at 32 Ballard Ave, We don't want anymore houses built. I understand that Mr. Reid wants to build a bigger home for his family and be able to stay in the village, but we just had four (4) new houses go up behind us and we are not real happy about another one going up. I don't know what to think. I know that the Gallaghers are very concerned about where this house is going to be on their property line. I need to find out where this house is going to be built, how the property will be divided. Where is your house going to be built?

You people are making a city out of the village, there is nothing left around here to make it nice anymore. We have almost an acre lot in the village and everyone keeps building around us. I understand Mr. Reid's position you like the Village of Spencerport you want to stay here, your parents live across the street, great person nothing against you.

Chairman Powell-Keery: You need to address the board.

Mrs. Plucknette: Why do you keep changing the laws?

Chairman Powell Keery: We are not changing the laws we allow relief to the existing code.

Mrs. Plucknette: I am totally confused, if you make a rule why do you change it, I know everyone has circumstances but now everyone having circumstances, it is getting out of control. You are not going to have any green space left in the Village, that is why I moved out of the city because we were right on top of each other, guess what, you are going to push me out of here. You are letting everybody build, build, build.

This may not effect me that much it is my neighbors that have been here 40- 50 years. You are going to make a city out of the village that is all I have to say.

If there is someway that I can get a copy of this for my neighbors, if you guys want to make a city out of a village god bless you guys.

Chairman Powell Keery: This has been on file in the Village Office and everyone was notified.

Mrs. Plucknette was showed where the proposed new home would be located in proximity to her house.

Mrs. Plucknette: Is your pool going to be on the edge of the Gallagher property.

Superintendent West: No, there is not going to be anything on anyone's property.

Mrs. Boone: I am the principal of St. Johns, I have a few concerns that I would like to address.

Is there a possibility that Clark Street could be extended?

Superintendent West: We can not extend the road, there is a conduit for fiber optics. I don't ever foresee building a road over fiber optics. There is not enough to make a swing there either.

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Mrs. Boone: My concern with the possibility of the road being extended, is that is our designated path for our emergency preparedness plan.

Mrs. Boone: When the houses were built on Ballard Ave, there was an awful lot of construction noise, which was very distracting to the students. The developer did respond to our complaints and we were able to work that out. Also, we have security lighting around the school, we have had a problem with vandalism. We have lights on that side of the building, we don't want to have to turn those off if they bother the Reid's.

Mr. Reid: They bother us now, I have designed the house so there are no windows facing that side just for that reason.

Mrs. Plucknette: When I moved into the village, I was told the property behind me was owned by Ogden Telephone, and would never be developed, than the property became available, and now we have another housing development.

Michael Flavin: When I lived on Sawyer Street I was told the land behind me would never be developed, it is now Cherokee Bluff. I moved into the Village, things change that is part of life.

Mrs. Plucknette: What I have learned is if there is a vacant piece of property, don't believe what you hear, call and find out for yourself. I will tell you; go ahead keep building because you are going to make a city out of this village and it wont be someplace special anymore.

Chairman Powell Keery: Mrs. Plucknette, we are not here to talk about Ballard Ave we are here to talk about Mr. Reid's property. We understand your point.

Mrs. Plucknette: These are very large variances.

George Fellows: If he tipped the house around we wouldn't even be here. It would conform to the code.

Mrs. Plucknette: In closing I would just like to say, that my husband is upset about this, there is nothing we are going to be able to do about it, and that is all I am going to say. I have voiced my opinion, my husband's and probably all my neighbors.

The public hearing was closed at 8:15 p.m.

It was established that the driveway will no longer be shared, there will now be a turnaround area.

George Fellows asked if this plan could affect snowplowing.

Superintendent West: No.

Louis Grammatico: Why couldn't this house be turned.

Superintendent West: Because of the utilities, not only ours but the telephone company also.

After board discussion the following resolution was offered.

RESOLUTION NO 124

INTRODUCED BY GEORGE FELLOWS
SECONDED BY MICHAEL FLAVIN

Resolved that the application of Michael Reid, 53 Clark Street, Spencerport for two area variances for a proposed newly sub-divided site located at 53 Clark Street be approved pursuant to the following:

1. A proposed lot frontage of 47.87 feet pursuant to Chapter 140-12-A.(1)(b) of the village code.
2. A proposed front setback of 29.6 feet pursuant to Chapter 140-12-B.1) of the village code.

Such approvals were based on the following criteria:

1. Reduction in frontage and front setbacks are minimal issues because the lack of continuation of Clark Street.
2. Such variances will not have a negative impact on the neighborhood. Nor, will there be any adverse environmental impact on the neighborhood with the granting of such variances.

Furthermore, the following condition has been placed on such variances:

1. Such application should return to the Planning Board for further site plan review.

Such variances are type 2 actions and no further environmental review is required.

Ayes: Powell-Keery, Fellows, Dole, Grammatico, Flavin

Nays: none

APPROVAL OF MINUTES

Motion was made by Chairman Powell- Keery seconded by John Dole and carried unanimously that the minutes of May 16, 2002 be approved as read.

ADJOURNMENT

Motion was made by Chairman Powell-Kerry seconded by George Fellows and carried unanimously that the meeting be adjourned at 8:35 p.m.

