

At a meeting of the Zoning Board of Appeals of the Village of East Aurora, New York, held at the Village Hall, East Aurora, New York on the 14<sup>th</sup> day of February 2019

PRESENT:

John Spooner, Chairman  
John Pagliaccio  
Molly Flynn  
Joe Cassidy  
Bruce Mitchell, Alternate

ABSENT:

Michael Croft

ALSO PRESENT:

William Kramer, Code Enforcement Officer  
Nancy Burkhardt, Deputy Village Clerk  
Daryl Martin, Architect, Representing the owner of 197 Maple Road  
Roberta Zimmerman, 358 North Street  
Karla Zimmerman, 844 Parkside Ave, Buffalo NY, 14216  
Leigh Zimmerman, 112 Township Rd. Oneonta, NY 13820  
Margaret Zagrobelny, 342 North St.,  
Tony Rosati, 350 Oakwood Ave

Chairman John Spooner opened the meeting at 6:00 PM. Chairman Spooner requested a motion to approve the minutes from January 22<sup>nd</sup>. Member Joe Cassidy motioned to approve the minutes, Member Bruce Mitchell seconded the motion with unanimous approval.

Member Molly Flynn motioned to close the meeting of the Zoning Board of Appeals at 6:00 PM, seconded by Member Cassidy with unanimous approval.

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**IN THE MATTER OF THE APPLICATION OF**

**Daryl Martin – 197 Maple Road**

**Village Code §285-17 D(1) required front yard is to be 20% of the lot depth (31'8").**

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Chairman, John Spooner opened the meeting at 6:00 pm and introduced the (5) members of the Zoning Board of Appeals which constitutes a quorum.

IT APPEARING that all parties entitled to notice pursuant to statute were given due and timely notice of the hearing in this matter as it appears from an affidavit of mailing filed herein and made a part of the record in this matter and that the required notice of hearing was published in the official newspaper of the Village of East Aurora on February 7<sup>th</sup> 2019 as it appears from the affidavit of publication filed herein and made a part of the record in this proceeding; and findings.

Chairman John Spooner requested Code Enforcement Officer, William Kramer, to read the denial letter sent to Daryl Martin:

1. The denial letter from the Code Enforcement Officer dated January 15<sup>th</sup>, 2019 stating that relief is needed from Village Code Sections §285-17D (3) Required yard is to be 25% of the lot depth, (89.25) – 22.31’, requested rear yard is to be 5.28’; variance requested of 17.03’.
2. The letter of appeal from Daryl K. Martin was read aloud and made part of the record.

IT APPEARING that this matter was not referred to the Erie County Division of Planning with Erie County giving no recommendation.

Chairman Spooner asked if there were any other communications received on the matter. CEO William Kramer responded ‘Yes, two communications were received, one from the property owner allowing for Daryl Martin to speak on his behalf, and an email from Leigh Zimmerman’. (See Appendix A for additional email).

Chairman Spooner asked Mr. Martin, to present his case to the Zoning Board of Appeals.

Mr. Martin stated the applicant is hoping to construct an attached garage to the existing single family residence on the parcel. With the access to Maple Road being hindered by the significant level of traffic, the owner hopes to have the garage addition attached to the main house. By having the garage attached to the back of the home, it would allow for entry and exiting to occur from North Street, opposed to Maple Road. With the house being situated on a corner lot, what the homeowner had seen as a side yard, was in actuality a back lot. There is a pre-existing garage in the proposed location, but it is in poor shape, and the variance will ultimately allow for it to be demolished and replaced.

Member Molly Flynn agreed the lot is rather peculiar in the nature of its layout, however, the opposite side of the home has 100’ x 90’ for the homeowner to utilize. Member Flynn inquired if the owners had investigated having a different layout. The architect stated they had reviewed having everything relocated to a different area, but it would not work with the layout of the home. Member John Pagliaccio followed with asking the size of the garage – how many cars would be parked in it? Mr. Martin replied it was large enough to fit 1.5 cars. Member Cassidy requested information on whether the garage could be offset from the home, as many of the neighbors have a layout similar to that manner, and by offsetting the garage from the house, it would match the character of the neighborhood. Mr. Martin stated there is an additional disadvantage to this layout, as there is a significant slope in the backyard; the proposed area has the least amount of slope, and provides a more desirable building location.

Karla Zimmerman requested an opportunity to present her concerns before the Zoning Board of Appeals, the Chairman requested she step before the Board to state her thoughts. Ms. Zimmerman shared her concerns about the size of the garage; that it would dwarf many of the nearby structures in the neighborhood in scope and scale. Ms. Zimmerman can understand the concern with redirecting the driveway to not be on Maple Road, however many homeowners

have their driveways located on Maple, they ameliorate the hassle of pulling in and out by constructing a turnaround, which the north side of 197 Maple has plenty of room to construct. The garage would be within five feet of the property line, with this in mind, a large garage would prevent the current homeowner at 358 North Street from utilizing the current sunroom that is heavily used. Ms. Zimmerman also stated that in terms of the request being substantial in nature, this is a 17.03' variance request, which is extremely substantial.

Roberta Zimmerman, 358 North Street requested the opportunity to read a prepared statement before the Board, Chariman Spooner obliged the request. Ms. Zimmerman stated by allowing for this variance to occur, and thus the building of the proposed garage, her property values and privacy would suffer.

CEO Kramer inquired as to the minimum needed to allow for a one-car garage? Mr. Martin replied it would still require for a 15' or 16' variance. Mr. Martin asked if it would be possible to request for the Board to table the hearing, so he would be able to confer with the property owner further? Chairman Spooner stated the Board would consider the request.

As there were no further questions for the applicant, Chairman Spooner closed the hearing at 6:41 PM for deliberations.

Chairman, Spooner called the meeting back into order to state that the Zoning Board of Appeals has consented to the request made by Daryl Martin on behalf of the property owner at 197 Maple Road to table the hearing. The motion was entertained by Member Mitchell, and seconded by Member Pagliaccio.

The Chairman asked for a motion to close this meeting of the Zoning Board of Appeals, motioned by Member Cassidy, seconded by Member Flynn, unanimous "aye", Zoning Board of Appeals meeting for February 14<sup>th</sup>, closed.

Respectfully submitted,

Nancy A. Burkhardt  
Deputy Village Clerk

[Appendix A.]

**From:** Leigh Zimmerman <[leighzimme@gmail.com](mailto:leighzimme@gmail.com)>

**Date:** February 12, 2019 at 12:31:17 PM EST

**To:** [bdmitchell@roadrunner.com](mailto:bdmitchell@roadrunner.com), Molly Flynn <[maryaileenflynn@yahoo.com](mailto:maryaileenflynn@yahoo.com)>, [JVPagliaccio@verizon.net](mailto:JVPagliaccio@verizon.net), [jpoole55@gmail.com](mailto:jpoole55@gmail.com), [joebcassidy@yahoo.com](mailto:joebcassidy@yahoo.com), [thethirdman@roadrunner.com](mailto:thethirdman@roadrunner.com), Karla Zimmerman <[kjzim11@gmail.com](mailto:kjzim11@gmail.com)>, Leigh Zimmerman <[leighzimme@gmail.com](mailto:leighzimme@gmail.com)>

**Subject:** ZBA 2/14/2019 hearing- 197 Maple- objections

February 11, 2019

Dear East Aurora Village Zoning Board of Appeals Member,

I write in response to the application for variance to code to permit construction at 197 Maple Street. My sister and I own, and were raised in, the neighboring 358 North Street property where my mother holds a life estate and has resided for 49 years.

The 197 Maple Street property is a beautiful home and I am heartened that the new owners are a family with an interest in improving the property. The section of North Street in which I was raised has always been a neighborhood of folks that care for one another and welcome new residents.

With this tone in mind, I respectfully express concerns about possible adverse effects of said variance. My concerns lie in the areas of health and safety, fire control, snow removal, noise levels, vehicular traffic, aesthetics of the premises, and the general character of the immediate neighborhood.

My understanding of the requested variance is that there is a desire to place a garage structure approximately five feet from the property line between the 197 Maple residence and 358 North Street. That property line is a few inches from the edge of the driveway at 358 North and about 15 feet from the dwelling at 358 North. I believe this plan could impair snow removal from our driveway, particularly with the use of a plow.

More importantly, the reduction of space between the two dwellings raises concerns about fire safety, particularly since a *garage* structure will be 17 feet closer to our dwelling than the Village code intends. As an aside, our home did experience a fire that was discovered when the previous occupant of the applicant's property felt unusual heat while seated approximately 40 feet away in her sunroom in February. The applicant proposes construction of a garage that would be much closer to my mother's home than the existing dwelling was when this fire occurred. And, obviously, garage structures tend to house flammable materials, such as gasoline. I believe with the structures so much closer to one another, there is a greater chance that a fire at one property would adversely affect the other and limit the ability to control a fire.

The proposal also will bring vehicular noise and emissions closer to the 358 dwelling. Garage doors, ignition of vehicles, etc. generate noise. In addition, my understanding of the plan is that there would no longer be landscaping between the two properties to buffer noise.

One of the remarkable aspects of the Village is its longstanding commitment to and affirmation of aesthetics as essential to the quality of residents' life. The maintenance of traditional architectural styles of buildings, large lots, deep setbacks, and an abundance of green space define the general character of East Aurora. The North Street neighborhood certainly is consistent with this character. I believe the placement of a garage structure five feet from a neighboring driveway and 15 feet from the neighboring dwelling will adversely and permanently affect the general character of the neighborhood. I also anticipate it would adversely affect my mother's enjoyment of her portion of the neighborhood with decreased view of the neighborhood, decreased landscaping buffer, and increased noise, emissions, and safety concerns.

Finally, with the increased difficulties with health, safety, noise, snow removal and aesthetic character comes a likely reduction in property value for our home at 358 North.

I believe the code was intended to help property owners avoid the types of difficulties I have enumerated, and I thank the Zoning Board of Appeals for considering my concerns, as well as those of my sister and mother, when contemplating approval of the variance.

In no way do I wish to discourage happy enjoyment of our new neighbors' home. I applaud and understand their wish to improve their property and make their home comfortable and functional for their family. I do understand that historic properties often bring limitations to contemporary use, and changes are often necessary for modern ways of living. I merely wish to ensure that my mother's welfare and her enjoyment of the neighborhood be preserved, along with the interests of my entire family in maintaining our home such that it can be safe and comfortable for the foreseeable future.

Sincerely,

Leigh Zimmerman

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Leigh Zimmerman, M.S., C.A.S., N.C.S.P.  
Nationally Certified School Psychologist  
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