

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 17<sup>th</sup> day of September, 2009

PRESENT: John Spooner, Chairman  
Frank Wilton  
Mary (Molly) Flynn  
Patrick Shea

ABSENT: Mike Campanella

ALSO PRESENT: William Kramer, Code Enforcement Officer  
Sue Wolff, Secretary

Also Present: Mark Sell, 29 Woodside Avenue, East Aurora, NY 14052

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**IN THE MATTER OF THE APPLICATION  
OF  
Mark Sell  
29 Woodside Ave.  
Section 285-17D (2) (a) - Side Yards  
& Combined Side Yard**

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Chairman, John Spooner opened the meeting at 6:00 PM on September 17, 2009 and introduced the (4) 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 September 10, 2009 as it appears from the affidavit of publication filed herein and made a part of the record in this proceeding; and

Chairman, John Spooner asked Code Enforcement Officer, William Kramer to read aloud the following:

1. The denial letter from the Code Enforcement Officer dated September 2, 2009 stating that relief is needed from Village Code Section 285-17D(2)(a) regarding Side Yards. Relief needed for side yard is 4.48' & combined side yard relief needed is 2.19'.
2. The letter of appeal from Mark & Ana Sell was read aloud by Code Enforcement Officer, William Kramer and made a 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, John Spooner asked Mr. Sell to explain his hardship as to why these variances should be granted. Mr. Sell mentioned that his letter of appeal explained the reasoning for the request but he explained again that the proposed addition would provide a family room and a new kitchen. With the new addition the kitchen would be extended back and if the Zoning Board of Appeals does not grant the variance, the existing rooms would have to be shifted which would cause a problem with the existing layout and flow. Mr. Sell mentioned that the present single car garage would have additional space behind it for storage. There will be a full basement under the family room and kitchen and footer under the new garage area. Neighbors at 25 Woodside Ave. & 37 Woodside Ave. do not have any objections to the project. Mr. Sell also mentioned that the back yard is relatively large enough that it will not be a problem with space.

There being no further testimony, or questions from the members of the Zoning Board of Appeals the Public Hearing closed at 6:10 PM for deliberations & findings.

The meeting resumed at 6:18 PM with the reading of the following findings:

1. 29 Woodside Avenue is located in an R District.
2. The existing residence was built in 1950.
3. The lot is a legal conforming lot to current code.
4. The existing residence is a legal not-conforming building.
5. The closest part of the addition is no closer to the side property than the closest part of the current house.
6. There are no written or verbal objections to this addition by neighbors.
7. Shifting the new addition to be in compliance would cause the addition not to line up with rooms in the existing home and create a financial hardship.
8. This is not a self created difficulty and does not affect the character of the neighborhood or to nearby properties.
9. The proposed action has been considered under SEQR and has met the requirements.

Continuing in open session, the Board considered the proposed findings, following which it was moved by Patrick Shea and seconded by Frank Wilton that the proposed findings be approved and adopted as the findings of the Board in this matter and that the variances for the side yard & combined side yard be GRANTED.

The motion was put to a vote by the Chairman, John Spooner with 4 affirmative votes and 0 negative votes.

September 17, 2009 – Variance “GRANTED”

Chairman, John Spooner closed this portion of the meeting at 6:20 PM.

Respectfully Submitted,

Sue Wolff, Secretary  
Zoning Board of Appeals

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 17<sup>th</sup> day of September, 2009

PRESENT: John Spooner, Chairman  
Frank Wilton  
Mary (Molly) Flynn  
Patrick Shea

ABSENT: Mike Campanella

ALSO PRESENT: William Kramer, Code Enforcement Officer  
Sue Wolff, Secretary

Also Present: Michael, Julie, Sophia & Charles Benzin, 381 Linden Avenue, East Aurora, NY

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**IN THE MATTER OF THE APPLICATION  
OF  
Michael & Julie Benzin  
381 Linden Ave.  
Section 285-17D (4) – Accessory Buildings**

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Chairman, John Spooner opened the meeting at 6:30 PM on September 17, 2009 and introduced the (4) 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 September 10, 2009 as it appears from the affidavit of publication filed herein and made a part of the record in this proceeding; and

Chairman, John Spooner asked Code Enforcement Officer, William Kramer to read aloud the following:

1. The denial letter from the Code Enforcement Officer dated Sept. 2, 2009 stating that relief is needed from Village Code Section 285-17D(4) regarding accessory buildings. Relief needed for side yard is 2’.
2. The letter of appeal from Michael & Julie Benzin was read aloud by Code Enforcement Officer, William Kramer and made a part of the record.

3. Letters of support were received from the following and were made part of the record. Art Lester, 274 Walnut Street, Laura Mahoney, 391 Linden Ave., and Jodi De Riszner, 371 Linden Avenue.

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

Chairman, John Spooner asked Michael & Julie Benzin to explain their hardship as to why this variance should be granted.

Mr. Benzin explained to the Zoning Board of Appeals that his site survey is trapezoid in shape. Mr. Benzin said moving the garage to make it compliant with Village code would create a blind spot to enter and exit the garage. The Benzins have also mentioned to their neighbors what their intentions are for the new garage, and many neighbors have given both their verbal and written support. The proposed garage addition would only affect the neighbor at 391 Linden Ave. and she has given her support for the project.

Member, Frank Wilton asked the Benzins if the garage could be placed parallel to the property line so it would be in compliance with the code. Mr. Benzin explained that if they build the garage parallel on property line, because their lot is trapezoid in shape, it would make it aesthetically incorrect. Mr. & Mrs. Benzin mentioned that it would be hard to maneuver vehicles in and out if built on an angle and would look very odd in the neighborhood. The Benzins showed the Zoning Board of Appeal members, pictures of several streets in the Village where detached garages were placed close together with driveways either shared or in close proximity of each other. They felt that if granted their variance the Benzins would not be out of character with many homes in the Village.

Chairman, John Spooner questioned if any of the trees in the yard would have to be removed. The Benzins said the trees would not be removed.

Member, Patrick Shea questioned what kind of siding would be used. The Benzins said that garage would be sided the same as the house.

Chairman, John Spooner commented that he had noticed that most of the existing garages on the street were not attached.

There being no further testimony, the Public Hearing closed at 6:45 PM for deliberations & findings.

The meeting resumed at 6:50 PM with the reading of the following findings:

1. 381 Linden Ave. is located in an R District.
2. The residence was built in 2006

3. The lot is irregular, but conforms to current code. The lot is wider at the front (85') and narrower at the rear (60').
4. The new Garage would be adjacent to the neighbor's garage, which is also non conforming as to side yard setback. Distance from the neighbor's garage would be 6' in front & 3' in back.
5. The new garage would be essentially parallel to the garage on the East side.
6. Placing the garage approximately 30' from the house provides a safety factor to be able to visually see when driving around the corner of the house to & from the garage.
7. The majority of garages in the neighborhood are detached & this new garage would not change the character of the neighborhood or to nearby properties.
8. There is written & verbal approval for the garage by immediate & distant neighbors.
9. Village Code Section 285-17 D-4 requires 5' between an accessory structure and a side lot line. The proposed garage is showing a 3' side yard set back creating a need for a 2' variance.
10. The proposed action has been considered under SEQR and has met the requirements of a Type II action.

Continuing in open session, the Board considered the proposed findings, following which it was moved by Mary (Molly) Flynn and seconded by Patrick Shea that the proposed findings be approved and adopted as the findings of the Board in this matter and that the variance for the side yard be GRANTED.

The motion was put to a vote by the Chairman, John Spooner with 4 affirmative votes and 0 negative votes.

9/17/09 – Variance “GRANTED”

Chairman, John Spooner closed this portion of the meeting at 6:55 PM.

Respectfully Submitted,

Sue Wolff, Secretary  
Zoning Board of Appeals

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 17<sup>th</sup> day of September, 2009

PRESENT: John Spooner, Chairman  
Frank Wilton  
Mary (Molly) Flynn  
Patrick Shea

ABSENT: Mike Campanella

ALSO PRESENT: William Kramer, Code Enforcement Officer  
Sue Wolff, Secretary

Also Present: Tony Russell with EA Wireless, 48 Elm Street, East Aurora, NY 14052

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**IN THE MATTER OF THE APPLICATION  
OF  
Tony Russell with EA Wireless  
650 Main Street  
Section 209-10 A. - Letter Height on Awning for Advertising**

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Chairman, John Spooner opened the meeting at 7:00 PM on September 17, 2009 and introduced the (4) 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 September 10, 2009 as it appears from the affidavit of publication filed herein and made a part of the record in this proceeding; and

Chairman, John Spooner asked Code Enforcement Officer, William Kramer to read aloud the following:

1. The denial letter from the Code Enforcement Officer dated Sept. 2, 2009 stating that relief is needed from Village Code Section 209-10A – Height of letters not to exceed six inches used on valance or awnings for advertising.
2. The letter of appeal from Tony Russell, General Manager, EA Wireless was read aloud by Code Enforcement Officer, William Kramer and made a part of the record.

3. A letter from Kim Bingman, Manager for EA Management who is owner of property & approves the request for an awning sign with larger letters than code will allow.

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

Chairman, John Spooner asked Mr. Russell to explain the hardship as to why this variance should be granted.

Mr. Tony Russell explained to the ZBA members that Verizon says that 70% signage must be the business name & 30% must be Verizon's logo or Verizon will not allow business to go in space. Tony went on to explain that he is sure it is strictly a marketing standpoint, but without the guarantee of size of signage, Verizon will not allow Mr. Russell to sign a contract to rent/lease building.

Chairman, John Spooner asked Mr. Russell if he would consider a regular sign on the building. Mr. Russell explained that the reason for the awning is not only to hide some of the flaws on the exterior of the building but also to help from snow & ice on sidewalks along with making it more attractive for Main Street. He also said that it will help with the sun shining in so brightly. Mr. Russell said that Verizon would really like to have an internally lit sign but understands that it is against code and so that is why they have changed their thoughts to the awning.

Member, Frank Wilton questioned if there would be lights under the awning? Mr. Russell said - no lights under the awning but 3 gooseneck lights at the top of awning shining down. The awning will be dropped on the building and will not be any lower than 7 1/2' from the sidewalk.

Member, Patrick Shea asked if the awning would match with other signs on Main Street. Mr. Russell said yes, will be at the same level on the building, again Tony mentioned, that it would serve a practical purpose and would shield the sunlight, as well as accumulation of snow in front of door.

There being no further testimony, the Public Hearing closed at 7:15 PM for deliberations & findings.

The meeting resumed at 7:25 PM with the reading of the following findings:

1. 650 Main is in a C District and was built in 1928.
2. There are 5 store fronts in that building and one is Hunt Real Estate is on the east end of the building and has an awning sign similar to the proposed EA Wireless sign.
3. There would be no additional signage above the valance.

4. The awning will be illuminated by 3 external mounted lights. There will be no back lighting of the awning.
5. The awning will comply with current height code of 7'.
6. Verizon requires that their dealer's sign comply with their 70% business sign size and Verizon size must be no smaller than 30%.
7. The awning provides protection from the sun as well as pedestrian safety from inclement weather.
8. This proposed sign is in keeping with the character of the neighborhood retail businesses.
9. The proposed action has been considered under SEQR and has met the requirements of a Type II action.

Continuing in open session, the Board considered the proposed findings, following which it was moved by Frank Wilton and seconded by Patrick Shea that the proposed findings be approved and adopted as the findings of the Board in this matter and that the variance for the awning be Granted.

The motion was put to a vote by the Chairman, John Spooner with 4 affirmative votes and 0 negative votes.

9/17/09 – Variance “GRANTED”

Chairman, John Spooner closed this portion of the meeting at 7:28 PM.

Respectfully Submitted,

Sue Wolff, Secretary  
Zoning Board of Appeals

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 17<sup>th</sup> day of September, 2009

PRESENT: John Spooner, Chairman  
Frank Wilton  
Mary (Molly) Flynn  
Patrick Shea

ABSENT: Mike Campanella

ALSO PRESENT: William Kramer, Code Enforcement Officer  
Sue Wolff, Secretary

Also Present:

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**IN THE MATTER OF THE APPLICATION  
OF  
Chris Jakubczak (Kone King)  
117-123 Hamburg St.  
Section 209-5D – Internally Lit/Illuminated Sign  
Tabled from 7/28/09 & 8/20/09**

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Chairman, John Spooner opened the meeting at 7:30 PM on September 17, 2009 and explained that it was a continuation of the August 20, 2009 meeting that was tabled. Mr. Spooner went on to explain that at the August meeting all the ZBA members were in attendance and this evening, one of the members Michael Campanella is absent. Mr. Spooner has asked that the previous minutes be attached to the current minutes. John Spooner also mentioned that a letter was drafted to the Village Attorney, Robert Pierce & to date there is nothing in writing, but as the Chairman of the ZBA John has received verbal information from the Village Attorney (written documentation to follow) saying that the ZBA can't grandfather in signs for future tenants.

John Spooner explained that at tonight's meeting the ZBA will decide whether to grant or deny the application as submitted for a request for 3 new tenants (TV City, Infinity Therapeutic Learning Center, and State Farm) to have internally lit/illuminated signs. The present sign on Kone King is allowed as an internally lit sign, since it was hung prior to the Village sign code changes in 2007. Chairman Spooner asked the petitioner Chris Jakubczak if he had any additional information to add tonight. At this time Mr. Jakubczak submitted to all the Zoning Board Members copies of an estimate of \$5,000+ for modifications to be made to accommodate new signage to the building which would create a financial hardship (estimate sheet will be entered into the record). Mr. Jakubczak said that if he has to make

these modifications his business will struggle. The quote would include replacing 4-sign faces and vinyl graphics for each store and name, as well as supply and install 12 goose neck light fixtures (3 per sign/business) and wire as needed for each sign.

There being no further testimony, the Public Hearing closed at 7:45 PM for deliberations & findings.

The meeting resumed at 7:59 PM with the reading of the following findings:

1. 117-123 Hamburg St. is in a CM District.
2. Original building was a commercial building with apartments on second floor, built in 1926 and demolished in 1994. The existing 9300 sq. ft. building was built in 1995.
3. The existing building is 62' off sidewalk & 76' off road surface.
4. The present Kone King sign is internally lit as were 3 other signs for previous businesses in the building.
5. The current tenants, Kone King, TV City, Infinity Therapeutic Learning Center, and State Farm have requested new signs on existing internally lit sign boxes.
6. State Farm will require a new box 6'X2' to replace one that was removed by the last tenant.
7. The building owner presented an estimate attached, indicating a significant financial burden to change the signs to external lit signs at this time.
8. The existing boxes have been on the building since before 1999 before the change in code, so this is not a self created difficulty.
9. The proposed action has been considered under SEQR and has met the requirements of a Type II action.

Continuing in open session, the Board considered the proposed findings, following which it was moved by Frank Wilton and seconded by Mary (Molly) Flynn that the proposed findings be approved and adopted as the findings of the Board in this matter and that the variance for the internally lit signs be GRANTED.

The motion was put to a vote by the Chairman, John Spooner with 3 affirmative votes and 1 negative vote.

John Spooner YEA                      Frank Wilton YEA                      Mary (Molly) Flynn YEA  
Patrick Shea NAY

Patrick Shea explained his reason for voting No was because he feels it would be a good opportunity to bring building into code.

9/17/09 – Variance “GRANTED”

Frank Wilton made a motion to close the meeting at 8:05 PM, seconded by Patrick Shea with a unanimous vote to follow.

Respectfully Submitted,

Sue Wolff, Secretary  
Zoning Board of Appeals