

## ZONING BOARD OF APPEALS MINUTES

May 25, 2011 @ 7:00 p.m.

Present: Michelle McIntyre, Chairwoman      Joel Seachrist, Attorney  
          Douglas Hooper                                Denise Klizek  
          Richard Nygren

A public hearing before the Zoning Board of Appeals of the Town of Busti was held on Wednesday, May 25, 2011 at 7:00 p.m. at the Town of Busti Administration Building, 121 Chautauqua Avenue, Lakewood, New York, to consider the following applications: (Legal Notice was placed on file.)

Application of Robert and Kelly Whitman, 2194 Fifth Avenue, Lakewood, New York, for an area variance to build a deck around an existing above-ground, round pool located on said property. Property is owned by them and is known as Section 384.12, Block 2, Lots 65 and 66 of the official tax map of the Town of Busti. Property is in the Conservation Residential District.

Mr. Whitman approached the Board and discussed the proposed deck plans. The Board reviewed the balancing test for a variance and determined that the benefit to the applicant outweighed any detriment to the neighborhood. Douglas Hooper made the following motion, which was seconded by Richard Nygren: "I make a motion to grant the application of Robert and Kelly Whitman, 2194 Fifth Avenue, Lakewood, New York, for an area variance to build a deck around an existing above-ground, round pool located on said property. Property is owned by them and is known as Section 384.12, Block 2, Lots 65 and 66 of the official tax map of the Town of Busti. Property is in the Conservation Residential District. They are only asking for a rear setback relief of eight feet (8'). There will be forty-two feet (42') from the edge of the deck to the rear boundary line." All aye.

Application of Busti Church of God, 996 Forest Avenue Extension, Jamestown, New York, for an administrative variance (area variance under the sign provision of the zoning code, 91-804 [2]) to affix a 75<sup>th</sup> anniversary (announcement) banner to the Family Life Center building and leave the banner in place for the year of 2012.

Pastor Ferguson explained the intended banner, and indicated that the building is approximately 325' from Forest Avenue. It was determined that the application will have to be referred to the Chautauqua County Planning Department, and that the Board cannot make a final determination without the decision of the County Planning Department. The application was tabled in anticipation of the County's findings. Denise Klizek made the following motion: "I make a motion that we table the application of the Busti Church of God for a variance to affix the banner to the Family Life Center at 996 Forest Avenue Extension, Jamestown, New York."

Application of Randy Peterson, 29 Gwendolyn Avenue, Jamestown, New York, for a special use variance to build a one-and-one-half story, pole-style garage on property located at 140 Goose Creek Road (Loomis Park), Ashville, New York. Property is owned by Randy Peterson and Susan Peterson and is known as Section 367.15, Block 2, Lot 84 of the official tax map of the Town of Busti. Property is in the Multi-Residential District.

Mr. Peterson indicated that the intended use of the proposed building would be for personal storage. It was determined that some sort of residential structure would need to be in place in order to commence with the application to build a storage building. Accordingly, Mr. Peterson withdrew his application until such time as a residential building is in place. It was noted that three neighbors expressed opposition to the building of said storage building via personal letters. In addition, a neighbor, Dennis Kramer, spoke in opposition.

Application of Randy L. Hall and Anna M. Hall, 4781 Baker Street Extension, Ashville, New York, for an area variance to build a pole garage addition to an existing garage on said property. Property is owned by them and is known as Section 384.19, Block 1, Lot 23 of the official tax map of the Town of Busti. Property is in the Conservation Residential District.

Mr. and Mrs. Hall were in attendance and asserted that the purpose of the addition will be for personal storage. The existence of a water line under the proposed addition was raised and deemed irrelevant, as Mr. Hall indicated that horizontal drilling could be done to accomplish any maintenance on the line. The area variance requested should be for 47' from the property line bordering land owned by the County of Chautauqua. The Board reviewed the balancing test for a variance and determined that the benefit to the applicant outweighed any detriment to the neighborhood. Denise Klizek made the following motion, which was seconded by Richard Nygren: "I make a motion to grant the application of Randy and Anna Hall, 4781 Baker Street Extension, Ashville, New York, for an area variance to build a pole garage addition to the existing garage on said property. Property is owned by them and is known as Section 384.19, Block 1, Lot 23 of the official tax map of the Town of Busti. The property is in the Conservation Residential district. The addition will stay within the same guidelines of the existing garage, which will measure 16' x 22'. The Baker Street side will be three feet (3') from his property line and it will be a one-story, personal storage facility." All aye.

Application of Mark Stringer, 1747 Forest Avenue Extension, Jamestown, New York, for an area variance to construct a pavilion on said property. Property is owned by him and is known as Section 404.01, Block 1, Lots 12 and 13 of the official tax map of the Town of Busti. Property is in the Conservation Residential district.

Mr. Stringer produced a letter signed by his neighbor, agreeing to sell to him the parcel upon which Mr. Stringer's pool is already located. Since his neighbor is the current owner of the parcel, the variances granted would be contingent upon the duly recorded transfer of said parcel to Mr. Stringer. The pool would then be replaced by the proposed pavilion once the deed has been filed with the Chautauqua County Clerk's Office and the building permit issued. Variances are requested for substandard lot size of less than two acres, lot width and lot depth. The Board reviewed the balancing test for a variance and determined that the benefit to the applicant outweighed any detriment to the neighborhood. The following motion was made by Richard Nygren and seconded by Denise Klizek: "I make a motion to grant the application for an area variance of Mark Stringer, 1747 Forest Avenue Extension, Jamestown, New York, for an area variance to construct a pavilion on said property. Property is owned by him and is known as Section 404.01, Block 1, Lots 12 and 13 of the official tax map of the Town of Busti. Property is in the Conservation Residential district. We are granting three variances: one for lot size, one for lot width, and one for a side yard variance, which dictates that the pavilion will be no closer than 28' to the new property line. The variances will not come into effect until the applicant has filed with the Busti Town Clerk a copy of the Deed proving that he has purchased approximately .27 acres from David Butts." All aye.

Revisiting the application of Joel B. Davis, 108 Academy Street, Salamanca, New York, for an area variance to build a log cabin on property located on Creek Road, Jamestown, New York. The property is currently known as Section 454.00, Block 1, Lot 28 of the official tax map of the Town of Busti. Property is in the Conservation Agricultural district. Mr. and Mrs. Davis were in last month to apply to build a second residence on one parcel. They were advised to go to their attorney to divide their lot.

Mr. Davis produced a letter from his attorney, Hope L. Fredrickson, together with the proposed Deed to subdivide the parcel currently known as 16 Creek Road. Since dividing the lot will result in two substandard lots, variances were granted for each resulting parcel. The Board reviewed the balancing test for each parcel separately and determined that the benefit to the applicant outweighed any detriment to the neighborhood. The following motion was made by Denise Klizek and seconded by Douglas Hooper: "I make a motion to grant the application for an area variance of Joel B. Davis, 108 Academy Street, Salamanca, New York, with regard to the existing home on the northern side of Section 454.00, Block 1, Lot 28 of the official tax map of the Town of Busti. The variance would be to permit him to have a 182' lot frontage, a 35' side yard between the existing home and the new property line, and for total lot size, to allow him to have 1.67 acres." All aye.

Page Four  
Zoning Board of Appeals May 25, 2011

In addition, the following motion was made by Denise Klizek and seconded by Richard Nygren: "I make a motion to grant the application of Joel B. Davis with regard to a new parcel on the south side of Section 454.00, Block 1, Lot 28. Three variances would be required, one of 32' on the lot frontage to permit them to have a 218' frontage; one for the side yard on the north side of the property of 22' variance, allowing him to have an 18' side yard, and on the south side of the property abutting the Pennsylvania state line, a 20' easement permitting him to have an 20' side yard setback. The variances are contingent upon the proposed Deed being duly recorded with the Chautauqua County Clerk's Office and proof of the same filed with the Town of Busti Clerk's Office and the building permit issued." All aye.

Upon motion made by Denise Klizek and seconded by Douglas Hooper, the meeting was adjourned at 8:10 p.m.

Respectfully Given,  
Dena Hirliman, Deputy Town Clerk