

VILLAGE OF HOMER ZONING BOARD OF APPEALS

Public Hearings & Meeting Minutes - Thursday, 29 September 2016 - 7 PM
Village Hall - Community Building - 53 So. Main Street (Rear) - Homer, NY

Board Members

Tim Maxson, Chairman
Amber Eckard
Tammy Goddard
Andrew Hoffman
Adam Clifford

(*absent)

Others Present

Joan E. Fitch, Board Secretary
Craig Umbehauer, CEO

Applicants/Public Present

Jim Harris, Applicant; Steve Cinquanti, Applicant; Jacob Burhans, Applicant; Bill & Jennifer Bernheim, Applicants; (V)Homer Trustee Patrick Clune & Jennifer Clune, Timothy J. Schaub, Dawn Stranges, Michael May, Evangeline & Steve Nikolakopoulos, Paul Gower, Michele & James Gallagher.

The Public Hearings were opened at 7 p.m. with the reading aloud by the Board Secretary of the Public Hearing Notice as published in the *Cortland Standard*. Proof of Publication has been placed on file for the record.

APPEAL #463

Steven Cinquanti, Applicant/Steven & Theresa Cinquanti, Reputed Owners - 77 South West Street (NYS Route 281) - TM #76.32-01-02.000 - Convert Business to Professional Office/Residence

Chair Maxson recognized the applicant who explained to those present that he was seeking a use variance to revert the subject property back to its original use of a business and residence. Mr. Cinquanti read aloud the following letter he had provided to the Board members:

While the zoning classification of the property has changed during my ownership, I am requesting permission to revert back to the original use of the building at 77 South West Street to mixed used, residential and business. I have an interested party who wishes to occupy the residence in the rear while operating a Chiropractic/Holistic Healing office out front. The building will be used "as is" with no physical modifications.

The improvement was purpose built in about 1965 for this use, in fact I am the only owner of the building who did not reside there. At the top of the stairs and back you will find a full kitchen with a range, dishwasher and refrigerator. There is a den with a brick fireplace and sliding glass doors that lead to a deck to the south. There is a full bathroom with a tub, shower and two sinks along with two bedrooms, each with large clothes closets. There is a covered side porch and a two car garage. In fact, there are two separate electric systems, two hot air furnaces and two central air conditioning units that serve the residence and the office space separately (currently metered together).

My use since 1999 was to occupy the entire building as an office and it suited us just fine but the Norton family operated Derby Furniture and raised two children here. In 1981 the Warfield's ran Pheasant Hill Antiques while residing here, then in 1987 sold the business and building to Marilyn Kolar and Gordon Foster who did the same.

I appreciate you considering this variance to the new zoning law.

Chair Maxson then asked if there was anyone present who wished to speak on this appeal; there was no one.

**With everyone having been heard who wished to be heard,
Chairman Maxson closed the Public Hearing at 7:07 p.m.**

BOARD DISCUSSION/DECISION

Chairman Maxson stated the current zoning district was a technology park for research and development, and it should be a B-1 District to accommodate Mr. Cinquanti's request. The Board discussed the character of the neighborhood which was a cemetery and a NYS Police barracks.

With no further questions or comments, those Board members present proceeded with the required "balancing test," as follows:

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
Finding: Yes. All agreed.
2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
Finding: Yes. All agreed.
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood.
Finding: Yes, it will not. All agreed.
4. That the alleged hardship has not been self-created?
Finding: No, as the zoning classification was changed during the appellant's ownership. All agreed.

As requested by Chairman Maxson, the Board Secretary read aloud Part II of the Short Environmental Assessment Form. Negative responses were obtained to all questions in Part II.

A motion was then made by Member Amber Eckard that, based on the information provided and analysis of the SEQR concerning this application for a proposed professional office/residence, the Village of Homer Zoning Board of Appeals has determined that the proposed action will not result in any significant adverse environmental impact, resulting in a Negative Declaration. The motion was seconded by Member Tammy Goddard, with the vote recorded as follows:

Ayes:	Chair Maxson	Nays:	None
	Member Eckard		
	Member Clifford		
	Member Hoffman		
	Member Goddard		

Motion carried.

This becomes Action #463/14 of 2016.

A motion was then made by Member Andrew Hoffman to grant the Use Variance for a proposed professional office/residence, as requested. The motion was seconded by Member Goddard, with the vote recorded as follows:

Ayes: Chair Maxson
Member Eckard
Member Clifford
Member Hoffman
Member Goddard
Nays: None

Motion carried.

This becomes Action #463/15 of 2016.

APPEAL #464

James E. & Thomas J. Harris, Applicants/Reputed Owners - 44 James Street - TM #66.81-02-15.000 - Convert Business to Professional Office/Residence

Chair Maxson recognized Jim Harris who explained to those present that he was seeking an area variance to allow an existing storage building on this parcel to have a setback from the property line less than allowed if a proposed subdivision of the property occurs, all as shown and described in the paperwork submitted. Required setback is 10 feet, and the appellant is asking for a setback of from three to six feet. The Board thoroughly reviewed the maps.

Chair Maxson then asked if there was anyone present who wished to speak on this appeal; there was no one.

**With everyone having been heard who wished to be heard,
Chairman Maxson closed the Public Hearing at 7:28 p.m.**

BOARD DISCUSSION/DECISION

With no further questions or comments, those Board members present proceeded with the required "balancing test," as follows:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
Finding: No, there will be no undesirable change. All agreed.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
Finding: No. All agreed.
3. Whether the requested area variance is substantial.
Finding: Yes. All agreed.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
Finding: No. All agreed.
5. Whether the alleged difficulty was self-created.
Finding: Yes, it was self-created. All agreed.

After a brief discussion, a motion was made by Member Goddard to grant the Area Variance for the storage building to be set back from the property line a minimum of three (3) feet and a

maximum of six (6) feet, as requested. The motion was seconded by Member Andrew Hoffman, with the vote recorded as follows:

Ayes:	Chair Maxson	Nays:	None
	Member Eckard		
	Member Clifford		
	Member Hoffman		
	Member Goddard		

Motion carried.

This becomes Action #464/16 of 2016.

APPEAL #465

Jacob & Jessica Burhans, Applicants/Reputed Owners - 13 King Street - TM #66.72-02-01.000 - Addition Closer to Property Line than Allowed

Chair Maxson recognized Jacob Burhans who explained to those present that he and his wife were seeking an area variance to allow construction of a 12 ft. by 14 ft. garage addition to the rear of their home, as shown on the annotated survey map accompanying the application. The new garage would be 10 ft. 4 in. from the rear property line; required setback is 10 feet.

Chair Maxson acknowledged receipt of a 7 September 2016 memorandum from Daniel S. Dineen, Director of the Cortland County Planning Department, stating that the staff had determined that the request is technically adequate and has no State- or County-wide impact; therefore, it was being returned for local determination. A copy of this memo has been placed on file for the record.

Chair Maxson then asked if there was anyone present who wished to speak on this appeal; there were, as follows:

Evangeline Nikolakopoulos - 18 Clinton Street - Had no problem with granting of area variance as long as it's "finished at the 12 foot."

Jennifer Clune - 46 North Main Street - Wondered if there were any architectural renderings of what the final product will look like because it's sitting within a Historical District. Mr. May provided his drawings for her to review.

**With everyone having been heard who wished to be heard,
Chairman Maxson closed the Public Hearing at 7:45 p.m.**

BOARD DISCUSSION/DECISION

With no further questions or comments, those Board members present proceeded with the required "balancing test," as follows:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
Finding: No, there will be no undesirable change. All agreed.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
Finding: No. All agreed.
3. Whether the requested area variance is substantial.
Finding: No. All agreed.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
Finding: No. All agreed.
5. Whether the alleged difficulty was self-created.
Finding: Yes, it was self-created. All agreed.

With no further discussion, a motion was made by Member Eckard to grant the Area Variance for the an addition to be closer to the lot line than allowed, as requested. The motion was seconded by Member Goddard, with the vote recorded as follows:

Ayes: Chair Maxson Member Eckard Member Clifford Member Hoffman Member Goddard	Nays: None
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Motion carried.

This becomes Action #465/17 of 2016.

APPEAL #466

William & Jennifer Bernheim, Applicants/Reputed Owners - 20 Clinton Street - TM #66.66-02-28.000 - Addition Closer to Lot Line than Allowed

Chair Maxson recognized the applicants who explained to those present that, because their family is growing, they were seeking an area variance to construction a 12 ft. by 18 ft. addition to the front/south side of their existing home, as shown on the annotated copy of the survey map accompanying the application. The "salt box type" of construction will match the existing home, as shown on a rendering displayed by Michael May, their contractor. The proposed addition will fall 11 ft. 4 in. from the property line, wherein 15 feet is required.

Member Hoffman asked why not place the addition on the rear of the house, and Mr. May responded that the "roof structure would just not allow anything to be built onto that."

Chair Maxson acknowledged receipt of a 7 September 2016 memorandum from Daniel S. Dineen, Director of the Cortland County Planning Department, stating that the staff had determined that the request is technically adequate and has no State- or County-wide impact; therefore, it was being returned for local determination. A copy of this memo has been placed on file for the record.

Chair Maxson then asked if there was anyone present who wished to speak on this appeal; there was no one.

**With everyone having been heard who wished to be heard,
Chairman Maxson closed the Public Hearing at 7:52 p.m.**

BOARD DISCUSSION/DECISION

With no further questions or comments, those Board members present proceeded with the required "balancing test," as follows:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
Finding: No, there will be no undesirable change. All agreed.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Finding: No. All agreed.

3. Whether the requested area variance is substantial.

Finding: Yes. All agreed.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding: No. All agreed.

5. Whether the alleged difficulty was self-created.

Finding: Yes, it was self-created. All agreed.

After a brief discussion, a motion was made by Member Eckard to grant the Area Variance for the addition to be closer to the lot line than allowed, as requested. The motion was seconded by Member Hoffman, with the vote recorded as follows:

Ayes: Chair Maxson	Nays: None
Member Eckard	
Member Clifford	
Member Hoffman	
Member Goddard	

Motion carried.

This becomes Action #466/18 of 2016.

APPROVAL OF MINUTES

25 August 2015

A motion was made by Member Goddard to approve the ZBA Minutes of 25 August 2015, as submitted. The motion was seconded by Member Hoffman, with the vote recorded as follows:

Ayes: Member Goddard	Nays: None
Member Eckard	
Member Hoffman	
	Abstain: Chair Maxson
	Member Clifford

Motion carried.

This becomes Action #19 of 2016.

10 September 2015

A motion was made by Member Goddard to approve the ZBA Minutes of 10 September 2015, as submitted. The motion was seconded by Member Hoffman, with the vote recorded as follows:

Ayes: Chair Maxson	Nays: None
Member Eckard	
Member Hoffman	
	Abstain: Member Goddard
	Member Clifford

Motion carried.

This becomes Action #20 of 2016.

24 November 2015

A motion was made by Member Goddard to approve the ZBA Minutes of 24 November 2015, as submitted. The motion was seconded by Member Hoffman, with the vote recorded as follows:

Ayes: Chair Maxson
Member Clifford
Member Hoffman

Nays: None
Abstain: Member Eckard
Member Goddard

Motion carried.

This becomes Action #21 of 2016.

30 June 2016

A motion was made by Member Clifford to approve the ZBA Minutes of 30 June 2016, as submitted. The motion was seconded by Member Eckard, with the vote recorded as follows:

Ayes: Chair Maxson
Member Eckard
Member Clifford

Nays: None
Abstain: Member Hoffman
Member Goddard

Motion carried.

This becomes Action #22 of 2016.

ADJOURNMENT

At 8:15 PM, on a motion by Member Goddard, seconded by Member Clifford, and with all Board members present voting in favor, the meeting was adjourned.



Joan E. Fitch, Board Secretary

E-mailed to Village Office (KRP, KU, Mayor),
Bd. Members, Co. Planning & CU on 11/2/16.