

VILLAGE OF HOMER ZONING BOARD OF APPEALS
Public Hearing & Meeting Minutes - Thursday, 27 February 2020 – 6:30 PM
Town Hall Senior Center – 31 North Main Street – Homer, Cortland County, NY

Board Members

(*absent)

*Tim Maxson, Chairman
Amber Eckard
Adam Clifford, Acting Chairman
*Noelle Rayman-Metcalf
Kim Hubbard

Others Present

Joan E. Fitch, Board Secretary
Dante Armideo, Village Attorney
Kevin McMahon, Village CEO

Applicants/Public Present

Michael Burk for Kimberly Burk, Applicant.

The Public Hearing was opened at 6:30 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 #482

Suzanne Austin, Applicant/Reputed Owner – 4 King Street - TM #76.65-01-28.000 – Area Variance for Additional Parking Space

(Reference is made to the 30 January 2020 Minutes of this Board, at which time this appeal was postponed to give time to conduct additional research.)

Acting Chairman Adam Clifford advised everyone that the appellant was not present. He then asked if there was anyone who wished to comment on this appeal; there was no one.

**With everyone having been heard who wished to be heard,
Acting Chair Clifford closed the Public Hearing at 6:33 p.m.**

BOARD DISCUSSION/DECISION

Acting Chairman Clifford reported that, in talking with Village Attorney Dante Armideo, it was determined that the subject driveway was not “grandfathered in.” Deputy Clerk Kristen Case added that the name on the deed to the property had changed over the years. It was not a driveway before 1991. Attorney Armideo commented that this appeal was not for an area variance nor a use variance, but a simple variance, as called out in the Code, Section 228-56, Part B. At the January meeting, he had also advised the Board that this appeal was considered a Type II Action under SEQRA so no completion of the Short Environmental Assessment Form was required.

The Board then proceeded with the required questions (balancing test) as read aloud by Acting Chairman Clifford, with the responses being given by the ZBA members, as follows:

- (1). Because of exceptional narrowness, shallowness or shape of the specific parcel which was created before these regulations were adopted or because of extraordinary physical conditions or location of the specific parcel, the strict application of the provisions of this chapter actually prohibit or unreasonably restrict the use of the land or building for which such variance is sought, that the granting of the variance is necessary for the reasonable use of such property and that the variance granted by the Board is the minimum variance that will provide for the reasonable use of the property.

Finding: No, it does not meet this requirement. All agreed.

- (2). The granting of the variance will alleviate a clearly demonstrated hardship which is peculiar to such land or building and does not apply generally to land or buildings in the vicinity or neighborhood and has not resulted from any act of the applicant subsequent to adoption of this chapter.

Finding: No, this appeal does not meet this. All agreed.

- (3). In any case, the granting of the variance will be in harmony with the intent and purpose of this chapter, will not constitute, in effect, and amendment of any district regulations or boundaries and will not be injurious to the neighborhood.

Finding: No, it would not be in harmony with the neighborhood. All agreed.

With no further discussion, a **motion was made by Member Kim Hubbard to DENY the variance request for an additional parking space as it did not meet the Balancing/Variance Test and was not “grandfathered in.” The motion was seconded by Member Amber Eckard, with the vote recorded as follows:**

**Ayes: Acting Chairman Clifford
Member Eckard
Member Hubbard**

Nays: None

**Absent: Chairman Maxson
Member Rayman-Metcalf**

Motion carried.

This becomes Action #482/5 of 2020.

APPEAL #484

Kimberly A. Burk, Applicant/Reputed Owner – 19 Prospect Street - TM #66.65-01-46.000 – Area Variance for Side Yard Setback Less Than Allowed

Acting Chairman Adam Clifford recognized Michael Burk, representing the applicant who was seeking an area variance to construct a garage addition to the existing house with a setback of only six feet from the side yard property line, wherein 15 feet is required. Mr. Burk reported that the next door neighbor on the side where the proposed garage will be constructed (Watrous) has no objection to what is proposed. When asked about a “driveway setback,” CEO McMahon responded that there was no driveway setback for the Village.

Acting Chairman Clifford asked if there was anyone present from the public who wished to comment on this appeal; there was no one.

**With everyone having been heard who wished to be heard,
Acting Chair Clifford closed the Public Hearing at 6:50 p.m.**

BOARD DISCUSSION/DECISION

Member Kim Hubbard commented that the variance request seemed to be reasonable and, further, it was an improvement to the property. Village Attorney Dante Armideo advised the Board that this appeal was considered a Type II Action under SEQRA so no completion of the Short Environmental Assessment Form was required.

The Board then proceeded with the required questions (balancing test), with the responses being given by the ZBA members, as follows:

1. Will the proposed action produce an undesirable change in the character of the neighborhood, or a detriment to nearby properties be created?

Finding: No. All agreed.

2. Can the applicant achieve his goals via a reasonable alternative which does not involve the necessity of an area variance?

Finding: Yes. All agreed

3. Is the variance substantial?

Finding: Yes. All agreed.

4. Will the variance have an adverse impact on physical or environmental conditions in the neighborhood or district?

Finding: No. All agreed.

5. Has there been any self-created difficulty?

Finding: Yes. All agreed.

With no further discussion, a **motion was made by Member Eckard to grant the Area Variance for a side yard setback less than allowed, as requested. The motion was seconded by Member Hubbard, with the vote recorded as follows:**

Ayes:	Acting Chairman Clifford	Nays:	None
	Member Eckard		
	Member Hubbard	Absent:	Chairman Maxson
			Member Rayman-Metcalf

Motion carried.

This becomes Action #484/6 of 2020.

APPROVAL OF MINUTES – 30 JANUARY 2020

It was noted that these Minutes contained an error in that under the Austin appeal, first paragraph, the subject property is NOT a two-family dwelling; it's a single-family. A **motion was then made by Member Eckard to approve the Minutes of the 30 January 2020 meeting of the Zoning Board of Appeals, as corrected. The motion was seconded by Member Hubbard, with the vote recorded as follows:**

Ayes:	Acting Chairman Clifford	Nays:	None
	Member Eckard		
	Member Hubbard	Absent:	Chairman Maxson
		Abstain:	Member Rayman-Metcalf

Motion carried.

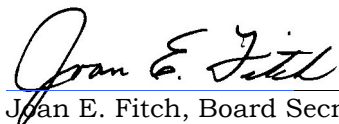
This becomes Action #7 of 2020.

OTHER MATTER

Board Member Eckard advised everyone present that this would be her last meeting.

ADJOURNMENT

At 7 PM, on a motion by Member Hubbard, seconded by Member Eckard, and with all Board members present voting in favor, the meeting was adjourned.



Joan E. Fitch, Board Secretary

E-mailed 3/2/20 to Mayor, KC, Vill. Atty.,
PC, Co. Planning, CEO & ZBA Members.