

Meeting of the Zoning Board of Appeals of the Village of Brockport was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Tuesday, July 30, 2002 at 7:00pm.

PRESENT: Chair Richard Aldrich, Member Irene Manitsas, Member John Bush, Member Jennifer Skoog-Harvey, Building/Zoning Officer Scott C. Zarnstorff, Clerk Leslie Ann Morelli.

EXCUSED: Deputy Village Attorney Frank A. Aloï

ALSO PRESENT: Planning Board Chair Scott Winner, former ZBA member Henry Johantgen, David Strabel, Jonathan Mendez, Lisa & Gerald Cox, Joan Hamlin, Sal & William Maniscalco, Toy Torrance.

CALL TO ORDER: The meeting was called to order by Chair Aldrich.

REVIEW OF MEETING MINUTES: none to review. Board had not met since last application September 2001.

CORRESPONDENCE: None

NEXT MEETING: upon next application

⇒ Chair Aldrich moved, Member Bush seconded, unanimously carried to close the regular meeting and go to public hearings.

Public Hearings:

**VILLAGE OF BROCKPORT
ZONING BOARD OF APPEALS
LEGAL NOTICE**

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Brockport will hold a PUBLIC HEARING on Tuesday, July 30, 2002 beginning at 7:00pm in the Conference Room of the Village Municipal Building at 49 State Street, Brockport, New York.

1. Application of: John Mendez
Address: 48 Merchants Street
Tax Map #: 068.52-2-6
Zoning: Business
Purpose: Area Variance to allow front, rear and one side setback to one foot instead of 40 foot front, 11 foot rear, 11 foot side setbacks.
Provision of Zoning Ordinance Appealed: 58-11E

2. Application of: Gerald Cox
Address: 20 Cherry Drive
Tax Map #: 068.11-5-18
Zoning: Residential
Purpose: Area Variance to allow south side setback of 5 feet 8 inches instead of 10 feet as required.
Provision of Zoning Ordinance Appealed: 58-9F(3)

All interested parties will be given the opportunity to be heard. Application is available for review at the Village Clerk's Office.

Richard Aldrich, Chair
Zoning Board of Appeals
Village of Brockport

Chair Aldrich asked the applicant to describe the application for the public and that any member of the public wishing to comment either for or against the application identify their name and address for the record. Chair Aldrich read the legal notice and explained that New York State has criteria for the consideration of an area variance that provide a balancing test. In summary the criteria are as follows: 1) benefit vs. detriment of the health, safety and welfare of the neighborhood 2) if the benefit can be achieved another way 3) if the variance requested is substantial 4) if the variance will have an adverse effect on the environment 5) if the hardship is self-created. The last one is relevant, but shall not preclude the granting of a variance. In other words, the application can not be denied solely on that.

Applicant Presentation:

David Strabel, Architect introduced himself and John Mendez. He briefly reviewed the site plan that is before the Planning Board and the setback constrictions that have brought them to the ZBA for area variances. The .157 acre parcel is A 9' x 60' triangle is all that is left to build on if they were to stay within the Code's setback requirements. This would not even accommodate a handicapped accessible bathroom. The property owner deserves a return on investment. He wishes to add to the existing non-conforming block building to convert it into a restaurant. It is B – Business Use District.

Zoning. The proposed building is just under 3,000 square feet. There would be indoor seating with a wall of windows along the Canal and outdoor seating on a deck right along the Canal.

Public Comment:

Sal Maniscalco and son William expressed concern of parking along the west wall, if alcohol will be served. Chair Aldrich responded that those would be issues to bring up at the Planning Board public hearing on site plan on August 12th. This public hearing is strictly to considering varying from the code requirements regarding the setback of the building.

Continued Board Discussion:

Chair Aldrich asked about the existing building. D. Strabel said it is a triangular site in which they are building a rectangular building. Member Manitsas asked for clarification on the plans comparing code setbacks and proposed setbacks. D. Strabel outlined the property line in red and reviewed. Chair Aldrich asked if there are any alternatives other than these proposed setbacks. D. Strabel said they can not do much with the small, triangular lot. Anything will require a variance to setbacks. Member Skoog-Harvey asked if it is necessary to go all the way to the property line. D. Strabel explained the floor plan and how they intend to use the shell of the existing masonry. The kitchen is intended for this area. Then the west, north and east would be new additions. Member Aldrich asked if allowing a 6 foot setback rather than a 1 foot setback would help. D. Strabel said no – the kitchen would be far too small. Member Manitsas asked if the building could be extended farther in the other direction. D. Strabel explained that it does not help the kitchen because the wall is already there. They can not have a lot of penetrations in the kitchen wall. It would reduce the effectiveness of the space. Chair Aldrich asked if the kitchen could be located at the other end. D. Strabel said that is the main entry. Member Bush asked if they had considered demolishing the old building. D. Strabel said it was considered but due to cost and other potential issues that come with tearing down a building, they are trying to salvage the old building and encapsulate and stretch it with new additions. Member Bush said he noticed they do not plan to utilize existing services. D. Strabel said that is correct. Upgrades are needed.

Member Bush asked if the proposed boardwalk would be open to the public. D. Strabel said the NYS Canal Authority requires the lessee to take the liability. Therefore, they have proposed that it be gated at either end of the Mendez private property. The Village is working on updating the Canal Master Plan and the section between Main Street and Smith Street is not yet firmed up. They would probably like the walkway open. However, until the Village takes liability for that 5 foot wide strip of land, it will need to be closed off to the public. A pipe rail will segregate the deck but not obstruct the view. Boat tie ups will be provided.

Chair Aldrich asked Planning Board Chair Winner if it is customary for the municipality to take on this liability. Chair Winner said Village Counsel is looking into this and that the Village Board has been informed of the boardwalk plans. Limiting public access on this strip was not of concern. Further, there is no practical way to carry the boardwalk through to the former Northbound Junction property.

Building/Zoning Officer Zarnstorff shared that the property and proposed restaurant with said setbacks is similar to the character of others in the downtown Business district. There are provisions in the ordinance under Business District that allow zero lot lines and side lines.

⇒ Member Bush moved, Member Skoog-Harvey seconded, unanimously carried that the public hearing be closed and the regular meeting be reopened.

⇒ Member Bush moved, Member Skoog-Harvey seconded, unanimously carried that the application for area variances be granted as requested.

Applicant Presentation:

20 Cherry Drive – Gerald Cox introduced himself and his wife Lisa. Chair Aldrich asked the applicant to describe the application for the public and that any member of the public wishing to comment either for or against the application identify their name and address for the record. Chair Aldrich read the legal notice and explained that New York State has criteria for the consideration of an area variance that provide a balancing test. In summary the criteria are as follows: 1) benefit vs. detriment of the health, safety and welfare of the neighborhood 2) if the benefit can be achieved another way 3) if the variance requested is substantial 4) if the variance will have an adverse effect on the environment 5) if the hardship is self-created. The last one is relevant, but shall not preclude the granting of a variance. In other words, the application can not be denied solely on that.

G. Cox shared that their house had a one car garage which they recently converted into handicapped living space for wheelchair accessibility. L. Cox shared that their 9 year old son was run over by a school bus. He had one leg amputated and the other was severely injured. If they did not convert their garage into wheelchair accessible space, they would have had no choice but to leave the Village in search of another home. Now they need a garage and instead of a one-car garage, need to meet codes for a handicapped accessible vehicle and ramp.

Public Comment: None

Continued Board discussion on application:

Chair Aldrich asked if there were any alternatives other than needing a variance on side setback. G. Cox said no. They worked with their builder on every possibility. Member Manitsas asked if they knew how the neighbors felt about it. L. Cox said they spoke to their neighbors and no one had any objections. Chair Aldrich said Clerk Morelli published the legal notice in the paper as well as sending it to property owners within 500 feet.

- ⇒ Member Manitsas moved, Member Bush seconded, unanimously carried that the public hearing be closed and the regular meeting be reopened.
- ⇒ Member Manitsas moved, Member Bush seconded, unanimously carried that this be classified a Type II Action on SEQRA having no significant environmental impact.
- ⇒ Member Manitsas moved, Member Bush seconded, unanimously carried that the application for an area variance of a side setback of 5' 8" instead of 10' be granted as requested.

Thanks to Dr. Johantgen:

Chair Aldrich commended Dr. Henry Johantgen for his many, many years of volunteer service on the Zoning Board of Appeals. The Board wished him well in his "retirement".

Adjournment:

- ➔ Member Bush moved, Member Skoog-Harvey seconded, unanimously carried that the meeting be adjourned at 7:35pm.

Leslie Ann Morelli, Village Clerk