

**MINUTES  
CITY OF CANANDAIGUA  
ZONING BOARD OF APPEALS**

**September 20, 2023**

PRESENT:             Joseph Bader, Chair                                     John Roberts  
                          Carol Henshaw, Vice Chair                                Ryan Wilmer via Zoom  
                          Roger Brazill   Julie Harris

ABSENT:             Susan Haller

ALSO PRESENT:    Richard E. Brown, Zoning Officer

**CALL TO ORDER:**

Chairman Bader called to order the regular meeting of the Zoning Board of Appeals at 7:00 P.M.

**APPROVAL OF MINUTES**

Chairman Bader asked if anyone had any corrections or additions to the Regular Meeting Minutes of August 16, 2023. Mr. Roberts moved to approve the minutes as submitted. Mr. Brazill seconded the motion, which carried by unanimous voice vote (6-0).

**REVIEW OF APPLICATIONS:**

**ITEM 01**        **Application #23-224: 139 North Bloomfield Road, KELLY SMITH, requesting an Area Variance necessary to construct a 216 SF Accessory Storage Structure. In accordance with §850-30.B.4 such structures are limited to 165 SF.**

Kelly and Scott Smith presented the application. They are lacking a garage and would like a larger shed for storage. It is to be located at the end of the driveway.

Chairman Bader opened the Public Hearing. No one came forward. Mr. Brown said no written comments were received. Chairman Bader closed the Public Hearing and directed the board to the five-part test.

This is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Mr. Brazill said the applicant could have chosen to construct a detached garage, which would likely be larger.

Mr. Roberts and Chairman Bader agreed.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Chairman Bader recognized that a detached garage would provide additional storage, but that option is not feasible, due to the cost.

Regarding question #3: *Show that the requested variance is not substantial.*

Mr. Brazill pointed out that similar variances have been granted.

Chairman Bader said the proposed structure is suited for the lot.

Mr. Roberts agreed.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Wilmer said it is fine. He sees no issues.

Chairman Bader and Mr. Roberts agreed.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Ms. Henshaw believes it is self-created.

Chairman Bader agreed, although without a garage there is limited storage.

Chairman Bader asked if there were any additional comments or questions. Hearing none, he called for a motion.

Mr. Brazill asked if the structure would be for personal storage only, and if the home has a basement. Ms. Smith answered yes to both questions.

Mr. Roberts confirmed that the structure is to be prebuilt. Ms. Smith said yes. It will be sided to match the house.

Mr. Roberts moved that the board Approve the application as submitted and presented for the following reasons:

- #1. The granting of the variance will not produce an undesirable change in the character of the neighborhood create a detriment to nearby properties.
- #2. The benefit sought by the applicant cannot be achieved by some other feasible means that would not require a variance.
- #3. The variance is not substantial.
- #4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.

Ms. Henshaw seconded the motion, which *carried* with a roll call vote of (6-0):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Voting	YES
Julie Harris	Voting	YES
Susan Haller	Absent	
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

**ITEM 02      Application 23-234A: 295 Lakeshore Drive, CANANDAIGUA COUNTRY CLUB, requesting an Area Variance necessary to construct a structure 20 feet from the front property line. In accordance with Schedule I of the Zoning Ordinance, the minimum front yard setback is 35 feet.**

Jim Fields, General Manager, presented the application. Mike Gulvin, member of the board of directors, was also present. The property line is 25 feet from the sidewalk. The proposal is for a new structure to be setback 20 feet from the property line and 45 feet from the sidewalk. Their goal is to store all of their equipment inside and provide a heated space for employees.

There is a fairly heavy vegetative screen. The structure would be accessed through the current driveway, so there would be no additional breaks in the screen. They are proposing to add eight additional evergreen trees to the current screening.

This project was reviewed by the Planning Commission. Approval is conditioned on the variance being granted.

Chairman Bader opened the Public Hearing. No one came forward. Mr. Brown said no written comments were received. Chairman Bader closed the Public Hearing and directed the board to the five-part test.

This is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Mr. Roberts believes there will be none.

Chairman Bader said the setback of the property line acts as a buffer. He believes there will be no change in character.

Mr. Wilmer pointed out that the tree line offers limited visibility to the proposed location.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Chairman Bader sees no other option. In order to avoid needing a variance, the structure would have to be pushed into the golf course, which is not desirable.

Regarding question #3: *Show that the requested variance is not substantial.*

Chairman Bader believes the variance is substantial mathematically, but not in appearance.

Mr. Wilmer said the structure will appear to be set back further, because the property line is 25 feet from the sidewalk.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Ms. Harris acknowledged the limited visibility.

Mr. Wilmer asked about drainage. Mr. Fields said they have a drainage plan, including a retention pond and rain garden.

Mr. Brown confirmed with Mr. Fields that the current facility is in the watershed. The plan is to relocate equipment further away to prevent oil and fuel from washing into the lake.

Mr. Wilmer expressed no concerns for the environment.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Ms. Henshaw believes the hardship is self-created.

Chairman Bader questioned whether it is self-created. He asked how long the existing facility has been in its current location. Mr. Fields estimates it has been there for over 100 years.

Chairman Bader asked if there were any additional comments or questions.

Mr. Brazill asked if all entrances will face inward. Mr. Fields said yes.

Mr. Brown mentioned lighting. Mr. Fields said there will be no lighting on the side facing Lakeshore Drive.

Chairman Bader called for a motion.

Mr. Wilmer moved that the board Approve the application as submitted and presented for the following reasons:

- #1. The granting of the variance will not produce an undesirable change in the character of the neighborhood create a detriment to nearby properties.
- #2. The benefit sought by the applicant cannot be achieved by some other feasible means that would not require a variance.
- #3. The variance is not substantial.
- #4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.

Mr. Roberts seconded the motion, which *carried* with a roll call vote of (6-0):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Voting	YES
Julie Harris	Voting	YES
Susan Haller	Absent	
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

**ITEM 03      Application #23-238: 102 Seneca Drive, KIMBERLY WOEHR, requesting an Area Variance necessary to construct a 280 SF Accessory Storage Structure. In accordance with §850-30.B.4 such structures are limited to 165 SF.**

Kimberly Woehr presented the application. She is looking for additional storage. The home has a very small garage and does not have a basement. The shed would be located towards the rear of the lot.

Chairman Bader opened the Public Hearing. No one came forward.

Mr. Brown said one written comment was received. Frances Freeman, of 5037 North Road, expressed concern for the current easement pertaining to a drainage ditch.

Mr. Wilmer does not see any interference with the easement.

Mr. Brown said Jim Sprague, from the Department of Public Works, reviewed the application and submitted a written response. He stated that the 10-foot separation between the proposed shed and the back lot line should be sufficient to allow for maintenance of the easement. He does not see a problem with the request.

Chairman Bader closed the Public Hearing and directed the board to the five-part test.

This is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Ms. Harris said there should be none.

Mr. Brazille recognized that there are additional structures on several nearby properties.

Chairman Bader agreed and noted that the property is shielded by shrubs and neighboring privacy fences.

Mr. Roberts mentioned that he drove around all sides of the property and discovered that the proposed site is not visible.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Chairman Bader sees no other feasible method.

Regarding question #3: *Show that the requested variance is not substantial.*

Ms. Harris believes it is substantial.

Chairman Bader mentioned that two, accessory structures are permitted, at a maximum of 330 combined square feet. The applicant currently has one shed. The proposed second structure will bring the total square footage to 400.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Roberts believes there will be none.

Chairman Bader acknowledged that the Department of Public Works has no concerns.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Chairman Bader believes the desire for more space makes the hardship self-created.

Mr. Wilmer agreed.

Chairman Bader asked if there were any additional comments or questions. Hearing none, he called for a motion.

Mr. Wilmer moved that the board Approve the application as submitted and presented for the following reasons:

- #1. The granting of the variance will not produce an undesirable change in the character of the neighborhood create a detriment to nearby properties.
- #2. The benefit sought by the applicant cannot be achieved by some other feasible means that would not require a variance.
- #3. The variance is not substantial.
- #4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.

Ms. Harris seconded the motion, which *carried* with a roll call vote of (6-0):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Voting	YES
Julie Harris	Voting	YES
Susan Haller	Absent	
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

**MISCELLANEOUS**

**ITEM 01 Continued discussion regarding the ZBA’s request to the City Council to increase the maximum size of Accessory Storage Structures.**

Mr. Brown said council has reviewed the Zoning Board of Appeal’s recommendation to increase the maximum size of accessory structures. They are in support of increasing the permitted size from 165 square feet each, to a maximum of 340 square feet for two permitted structures.

**ADJOURNMENT**

Mr. Roberts moved to adjourn the meeting at 7:39, seconded by Ms. Henshaw and carried by unanimous voice vote (6-0).

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Richard E. Brown, Secretary

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Joseph Bader, Chairman