

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

**October 18, 2023**

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

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 7:01 P.M.

**APPROVAL OF MINUTES**

Chairman Bader asked if anyone had any corrections or additions to the Regular Meeting Minutes of September 20, 2023. Ms. Harris moved to approve the minutes as submitted. Mr. Roberts seconded the motion, which carried by unanimous voice vote (7-0).

**REVIEW OF APPLICATIONS:**

**ITEM 01**         **Application #23-276: 94 Bristol Street, MARCUS FRANZ, requesting an Area Variance necessary to construct a 2,500 SF Accessory Storage Structure. In accordance with §850-30.B.4 such structures are limited to 165 SF.**

Marcus Franz presented the application. The property is a two-family residence. He would like to construct a 2,000 square foot pole barn with a 500 square foot lean to attached to replace a barn that was previously demolished. It will be used as storage for the tenants to help to keep the yard clean. It will also provide additional parking for the property, and will house landscaping equipment.

The structure would sit back 100 feet from the road and at least 15 feet from the adjacent neighbors. The colors proposed are white siding and a black roof, to match the house.

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

Mr. Brown said the following residents submitted written comments, all expressing opposition to the project.

- Tina Muscato, 81 Bristol Street
- Whitney Knickerbocker and Blythe Whitten-Snarr, 100 Bristol Street
- Elizabeth Copella, 89 Ellis Place

Chairman Bader closed the Public Hearing.

Mr. Brazill asked about the material proposed for the structure. Mr. Franz said it will be a typical pole barn construction. He believes it will be aluminum.

Ms. Harris inquired about a foundation. Mr. Franz said the foundation will likely be crushed stone.

Chairman Bader asked if the lawn equipment is to be used only for that property. Mr. Franz said it will be used at all of his rental properties. Chairman Bader said accessory structures are only to be used by the occupants of the primary structure. It is not an appropriate use to store equipment that is to be used at the applicant's other properties. Mr. Wilmer agreed and referred to NYS law, which prohibits such use.

Mr. Brazill questioned the proposed location and lack of a driveway. It is a substantial distance from the existing parking area and it would be difficult to access during the winter. Mr. Franz said there are remnants of an old stone drive that he would consider reinstalling. Mr. Brazill believes a stone driveway is not practical, but to pave it would increase the impervious surface.

Mr. Franz added that he would be willing to reduce the size to 1200 square feet and install a concrete floor and a paved driveway.

Chairman Bader 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 she visited the property and it does not appear big enough for such a large structure. Mr. Franz explained that there are trees and brush, along with remnants of a previous structure that would be cleared to make room.

Chairman Bader said there would be limited visibility from the street, but the adjacent neighbors will definitely see a change. Mr. Wilmer agreed, stating it will be a significant change in the character of the neighborhood.

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.*

Mr. Wilmer said the applicant could construct a garage, instead of an accessory structure, which would need additional requirements, but would not require a variance.

Chairman Bader agreed, but noted that the cost would likely be higher to achieve the same benefit. Although, if it is used strictly for the benefit of the tenants, the structure would not need to be as large.

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

Mr. Brazill, Mr. Wilmer, Ms. Henshaw and Chairman Bader agreed that it is substantial.

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.*

Chairman Bader recognized that the project would add 2,500 square feet of impervious surface. This will have an adverse effect, without a system to control the runoff.

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

Chairman Bader believes the size and proposed use of the structure make it a self-created hardship. If the applicant was seeking a smaller structure, strictly for his tenants use, then he may view it differently.

Ms. Henshaw and Mr. Roberts believe it is self-created.

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

Ms. Harris moved that the board **Deny** the application as submitted and presented for the following reasons:

- #1. The granting of the variance will produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- #3. The variance is substantial.
- #4. The proposed variance will have an adverse impact on the environmental conditions in the neighborhood.

Mr. Wilmer seconded the motion, which *carried* with a roll call vote of (6-1):

Ryan Wilmer	Voting	YES
John Roberts	Voting	NO
Roger Brazill	Voting	YES
Julie Harris	Voting	YES
Susan Haller	Voting	YES
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

**MISCELLANEOUS**

Mr. Brown said City Council has reviewed the recommendation by the Zoning Board of Appeals to increase the maximum size permitted for accessory structures. The discussion indicated general support for increasing the size from 165 square feet to 240 square feet. Council will vote on the proposed amendment in November, which would take effect in December.

Mr. Brown summarized the recently passed amendment to the Short-term Rental ordinance and explained how preexisting approvals would be affected. The moratorium has expired, but the new ordinance does not take effect until November.

**ADJOURNMENT**

Mr. Wilmer moved to adjourn the meeting at 7:32, seconded by Mr. Roberts and carried by unanimous voice vote (7-0).

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Richard E. Brown, Secretary

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Joseph Bader, Chairman