

**ZONING BOARD OF APPEALS
REGULAR MEETING – REVISED MINUTES
APRIL 23, 2013 –7:00PM
NEW HARTFORD TOWN HALL- 530 MAIN STREET**

PRESENT: Chairman Mary Lou Rayno, Scott Goff, Paul Griffin; Alternates Lew Chappel and John Wilhelm; Zoning Enforcement Officer Rista Malanca, CZEO.
ABSENT: Bert Brander, John Rouleau.

Chairman Mary Lou Rayno called the meeting to order at 7:00PM. Alternate John Wilhelm was seated for John Rouleau, and Alternate Lew Chappel was seated for Bert Brander. The entire proceedings were recorded digitally and are available in the Town Hall.

1. PUBLIC HEARINGS:

Ms. Rayno read into the record the legal notice for both public hearings.

A. James & Mary Hourdequin, 47 Harriet Highway – Requesting 9-Foot Side Yard Variance, 14-Foot Front Yard Variance, and 24-Foot Rear Yard Variance from Section 3.4C of the Zoning Regulations to Construct 24' x 16' Detached 1-Car Garage.

Ms. Rayno noted the presence in the file of proof of notice to abutting neighbors. James Hourdequin addressed the Commission regarding this matter. Mr. Hourdequin explained that his existing garage becoming structurally unsound, so he wanted to replace it; however, at its present size and with its current door, it was very hard to maneuver their car into the garage. Additionally, there was no storage space available in the garage at its present size. Mr. Hourdequin explained that they were planning to make this property their home year-round, and they were in need of additional storage space. He distributed to the Board pictures of the existing garage.

Ms. Malanca explained that the Hourdequins originally had two lots; one lot had the house, and the other lot had the current garage with no principal dwelling. She said that they had merged the two lots, thereby eliminating the nonconformity of a lot with an accessory structure without a principal structure. Ms. Malanca briefly reviewed the maps and plans with the Board, explaining that the existing garage was already nonconforming with regard to the rear and side yard setbacks; the lot merger eliminated the western side yard nonconformity. She noted that the garage was in the only located possible due to the slope of the lot. Ms. Malanca stated that the turn to get into the garage was very tight. She noted that the Hourdequins were still only seeking to have a 1-car garage; it would just be slightly larger than the current garage.

Ms. Rayno questioned what was the height of the existing garage was versus the proposed new garage. Mr. Hourdequin stated that the existing garage was approximately 18 feet high, and the proposed new garage would be approximately 22 feet high. Ms. Malanca explained that the regulations permitted an accessory structure to be up to 35 feet high. Mr. Griffin asked whether the new garage would have a storage loft, and Mr. Hourdequin responded affirmatively. Mary Hourdequin then addressed the Board to reiterate that the turning radius into the existing garage was very difficult; the proposed new garage, due to the small increase in size and the larger garage door, would allow an easier turning radius into the garage. Ms. Rayno asked whether the expansion of the garage would infringe on either the well or the septic system. Mr. Hourdequin responded negatively, explaining that both were away from the driveway and garage; he stated that they had also purchased another lot, 85 Davis Road, to serve as a reserve area in the event their septic system ever needed to be replaced.

Ms. Malanca stated that the Hourdequins would not be able to build a garage that met setback requirements due to the topography of their lot. She stated that, in her opinion, the Hourdequins did have a qualifying hardship and their proposal was a reasonable use of their land.

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Hearing no further comments from the Board, Ms. Rayno opened the floor to public comment.

Rosemary Rossetti, 50 Harriet Highway, addressed the Commission in favor of the application. Ms. Rossetti stated that the Hourdequins were only making a small increase in the size of the garage, and she expressed the opinion that the new garage would be more visually attractive than the existing garage. Jay Bailey, 82 Davis Road, next addressed the Commission to state he was in favor of the application.

Mrs. Hourdequin then addressed the Board again to explain that, as a part of the proposed work to replace the garage, they also planned to fix the grading in that area such that water from higher up the slope did not accumulate near the garage as it currently did.

Hearing no further comments or questions from the Board or the members of the public:

MOTION Mr. Goff, second Mr. Chappel, to close the public hearing in the matter of **James & Mary Hourdequin, 47 Harriet Highway – Requesting 9-Foot Side Yard Variance, 14-Foot Front Yard Variance, and 24-Foot Rear Yard Variance from Section 3.4C of the Zoning Regulations to Construct 24' x 16' Detached 1-Car Garage**; unanimously approved.

B. Eric Budney, 634 West Hill Road – Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations for Reconstruction of Single-Family Dwelling. APPLICATION WITHDRAWN.

Ms. Malanca informed the Board that the applicant had withdrawn this application, but might re-file it at a later date.

C. Storm Connors, 69 Rickie Drive – Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations to Replace Existing 6' x 9' Deck with 6-1/2' x 12' Enclosed Entry.

Storm Connors addressed the Board regarding this application. Ms. Rayno noted the presence in the file of the proof of notice to abutting neighbors. Ms. Malanca briefly reviewed the maps and plans for this proposal with the Board. She explained that Mr. Connors wished to enclose a deck at the side of his house in order to make a mudroom. Ms. Malanca explained that this was a special exception application because, while Mr. Connors was expanding a nonconforming structure, the mudroom was not going to be any closer to the property line than the deck currently was. The existing deck was 6 feet by 9 feet; the proposed new mudroom would be 6 feet by 12 feet. After a brief discussion with Mr. Connors, the Board verified that the mudroom would be 6' by 12' and not be 6-1/2' by 12' as originally stated. Mr. Connors then wrote in blue pen on his plans that the proposed entryway/mudroom would be 6' x 12'.

Mr. Connors distributed pictures of his property for the Board's review. He explained that while this deck was nonconforming with regard to the side yard setback on the north side of the house, it was located approximately 55 feet from his northern neighbor's house. Mr. Goff verified that the existing deck was going to be removed and replaced with the mudroom addition. Mr. Connors responded affirmatively, explaining that the deck was actually pulling away from the house and was structurally unsound. Mr. Chappel questioned whether the steps up into the mudroom would be internal or external. Mr. Connors stated that he believed two steps would be required; the current steps had begun to sink and pull away from the deck. He said that they would be raised up but would still be located in the same location.

Mr. Griffin questioned what Mr. Connors proposed to build in place of the deck, and Mr. Connors then reviewed with the Board the drawings and elevations he had submitted as a part of his application. He stated that the proposed mudroom would be in character with the rest of the house.

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Ms. Rayno opened the floor to public comment; however, no one present expressed a desire to speak.

Hearing no further comments or questions from the Board:

MOTION Mr. Griffin, second Mr. Wilhelm, to close the public hearing in the matter of **Storm Connors, 69 Rickie Drive – Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations to Replace Existing 6' x 9' Deck with 6-1/2' x 12' Enclosed Entry**; unanimously approved.

2. PENDING APPLICATIONS:

- A. James & Mary Hourdequin, 47 Harriet Highway – Requesting 9-Foot Side Yard Variance, 14-Foot Front Yard Variance, and 24-Foot Rear Yard Variance from Section 3.4C of the Zoning Regulations to Construct 24' x 16' Detached 1-Car Garage.**

Mr. Goff expressed the opinion that the existing garage was extremely small, so a slight increase in size while still remaining a one-car garage was a reasonable request.

MOTION Mr. Goff, second Mr. Griffin, to approve the application in the matter of **James & Mary Hourdequin, 47 Harriet Highway – Requesting 9-Foot Side Yard Variance, 14-Foot Front Yard Variance, and 24-Foot Rear Yard Variance from Section 3.4C of the Zoning Regulations to Construct 24' x 16' Detached 1-Car Garage** as per maps and plans with the condition that the garage is not to exceed 22 feet high. The Board finds that an unusual hardship exists due to the topography and pre-existing nonconforming status of this lot, and that a 24' x 16' one-car garage is a reasonable use on this lot.

The motion was unanimously approved.

- B. Eric Budney, 634 West Hill Road – Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations for Reconstruction of Single-Family Dwelling. APPLICATION WITHDRAWN.**

- C. Storm Connors, 69 Rickie Drive – Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations to Replace Existing 6' x 9' Deck with 6-1/2' x 12' Enclosed Entry.**

Mr. Griffin expressed the opinion that the proposed mudroom would improve the appearance of the house, and that it was in fact in harmony with the neighborhood. The Board discussed adding a condition requiring that the addition be no larger than 6' x 12' and that the mudroom not extend beyond the rear of the house.

MOTION Mr. Griffin, second Mr. Chappel, to approve the application in the matter of **Storm Connors, 69 Rickie Drive – Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations to Replace Existing 6' x 9' Deck with 6' x 12' Enclosed Entry** with the condition that the mudroom addition shall not exceed 6 feet by 12 feet and shall not extend beyond the rear of the existing house; unanimously approved.

3. NEW APPLICATIONS:

- A. Nelson Sly, 57 Aquatic Road - Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations to Construct 2 Additions (8-2/3' x 4' & 16-1/2' x 4') to a Nonconforming Structure, which are partially located within the Side Yard Setback & are no closer to the property line than the existing structure.**

Ms. Malanca briefly reviewed the application with the Board, noting that the applicant was proposing one small addition to expand a bedroom and another small addition to expand a bathroom.

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The Board agreed to hold a public hearing for the matter of **Nelson Sly, 57 Aquatic Road - Special Exception per Article 7, Section 7.1B of the New Hartford Zoning Regulations to Construct 2 Additions (8-2/3' x 4' & 16-1/2' x 4') to a Nonconforming Structure, which are partially located within the Side Yard Setback & are no closer to the property line than the existing structure** at the May 28, 2013 regular meeting.

4. **READING OF THE MINUTES:**

A. **March 21, 2013 special meeting.**

MOTION Mr. Griffin, second Mr. Chappel, to approve the minutes of the March 21, 2013 regular meeting as written; unanimously approved.

5. **OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:**

A. **Election of Officers.**

Ms. Rayno explained that this item would have to be tabled to the May 28th meeting since the full Board was not present at this meeting.

B. **Amendments Proposed by Planning and Zoning Commission to Floor Area Ratio Regulations.**

Ms. Malanca explained to the Board amendments that were being proposed by the Planning and Zoning Commission (PZC) to the Floor Area Ratio (FAR) requirements in Sections 3.4D, 3.4E, and 7.1C of the Zoning Regulations. She informed the Board that the PZC determined that the current floor area ratio requirements, particularly in the R-4 Zone, were very low and made it nearly impossible for most nonconforming lots to make even modest additions. However, these additions often were accompanied by improved drainage systems and septic systems that would decrease runoff into West Hill Pond, which would be beneficial to the lake and to the Town.

She explained that the PZC had decided to amend their FAR regulations in order to determine permitted FAR by lot size rather than zone. The amendments would apply to all residential lots in Town, and they would effectively increase the permitted FAR for nonconforming lots in the R-4 Zone. The amendment also established a special exception procedure whereby a property owner could request an increase in their permitted FAR up to double the base amount. Ms. Malanca stated that the PZC had proposed to have these special exception applications heard by the Zoning Board of Appeals. She explained that many of these applications would be coming before the ZBA anyway since they would require a special exception in order to expand a nonconforming structure; it made sense to have both applications heard at the same time by the same Board.

Ms. Malanca informed the Board that the public hearing on this amendment was scheduled for Wednesday, May 8th at 7PM, and she encouraged all members of the ZBA to attend if possible, so that they would better understand the amendments if they were ultimately adopted. Members of the Board requested that a copy of the PZC agenda as well as minutes of the May 8th meeting be forwarded to ZBA members as well.

MOTION Mr. Griffin, second Mr. Goff, to adjourn at 7:52PM; unanimously approved.

Respectfully submitted,
Stacey M. Sefcik
Board Clerk