

**Town of Ontario
Zoning Board of Appeals
Minutes
December 7, 2011**

Present: Zoning Board Members – Chairman, John Smith, Robin Mark, Donald Anderson, William Bridson and Charles Neumann; Councilman Jason Ruffell, Councilman Frank Robusto, Katie Kelsch – Secretary.

Chairman Smith called the meeting to order at 7 p.m., led the Pledge of Allegiance.

Minutes

Chairman Smith moved to approve the minutes dated November 2, 2011 with the following corrections: Page 1, change Mr. Neumann’s name to Mr. Anderson for the motion of the minutes; Page 1 second paragraph, first sentence, change 40sf to 60sf; Page 3 Change the sentence Denied by the Zoning Board of Appeals on 11/2/11 to say Motion failed by the Zoning Board of Appeals on 11/2/11, Mr. Neumann seconded Vote: 4-0 (1 abstain).

John Smith	Aye
Robin Mark	Aye
Donald Anderson	Aye
William Bridson	Abstain
Charles Neumann	Aye

Chairman Smith informed the board and the audience that the applicants for 7736 Shoreline Boulevard had withdrawn their application.

Public Hearings

530 Route 104 – Area Variance (postponed from last month)

The application of Kirk Wright requesting an Area Variance to add additional signage to the existing free standing sign at SLS Sign and Lighting Services. The property is owned by Philip Dipasquale and zoned (B).

Chairman Smith reviewed the application and events that transpired at the previous meeting in regards to this application.

Mr. Wright clarified with the board that the relief he was seeking is 52sf for a total of 102sf of overall signage. He explained to the board that after the last meeting he wanted to truly find out if what he was asking for was out of bounds. He talked to his neighbors and all of the neighbors he had conversations with were in favor of his proposed signs. They felt that the sign looks great and is beneficial to his business. He looked in his own neighborhood from Dean Parkway to Lincoln Road and saw that there are numerous signs in this area within what he is looking for. He is looking to maintain an attractive sign and have it be effective for his business. A new sign is not in his budget. He doesn’t feel you could be more specific than approving a sign for a sign company. He asks the board to please grant him the area variance. He has submitted to the board some more backup documentation.

Mr. Bridson asks if he is trying to promote the fact that they are selling LED signs at this establishment. Mr. Wright answered yes, he has people coming into his business weekly inquiring about LED signs. He also reminded the board that he plans on using the sign for community events and purposes also.

Mr. Bridson stated that the current sign is telling people who and what the business is, and with the LED sign, people will know what is being sold there. He doesn’t feel it’s any different than someone putting its wares out for sale in the yard.

Chairman Smith questioned if the LED sign will have some reference to the business. Mr. Wright answered yes.

Mr. Neumann stated he feels like it is more of a display. Mr. Wright responded that it is more of a sales tool. Mr. Neumann further stated that he is concerned about the animation and scrolling. He is also concerned with the fact that the LED sign will be used as a sales tool and not an identification sign for the business.

Mr. Bridson stated that he did some online research and found that a lot of town codes specifically don’t allow scrolling and have a minimum size of letters so that drivers don’t have to squint.

Chairman Smith stated that Rite Aid will have 2 led signs, roughly the same size as what is being proposed. Based on last months, discussion this board approved those signs. It was also pointed out, that the Rite Aid signs will not be identification signs.

Mrs. Mark stated she believes every application should be treated separately and differently. Mr. Neumann agreed with Mrs. Mark. He also commented that he is disappointed with the package that the applicant recently submitted.

Chairman Smith stated that every application is reviewed on its own merits, but the board has to look at trending circumstances and how consistent and reasonable the application is.

Mrs. Mark feels that the business is already identified and doesn't feel the applicant needs to add additional signage.

There was a brief discussion on the Rite Aid signs and how they were approved and what criteria were looked at.

Mr. Anderson stated that Rite Aid is on a corner with a stop light. It gives people long enough to be able to read the signs. SLS is not on a corner with a stop light and once the traffic goes by the business they may never come back. The board has in the past granted over-signage variances for businesses where people have to stop and have time to read the signs. He doesn't feel this is unreasonable.

Chairman Smith stated that he is even more reinforced than last months meeting to agree with this. He doesn't like the option of putting it on a trailer or on top of a truck which is well within town code. He feels it's a better alternative to grant this variance than have a makeshift sign put up.

Mr. Neumann stated that the Tractor Supply sign is for identification purposes. This proposed LED sign is a display for items to be sold. The Wayne County Planning Board mentioned the moving message in their correspondence. It's not just a sign, it's a product that Mr. Wright is trying to sell. Mr. Neumann thinks the SLS sign is oversized, but its okay.

Mrs. Mark agrees with Mr. Neumann and stated that there are neon signs displayed in the windows of SLS, and doesn't feel it is appropriate to put a display on the sign pole. She feels that Mr. Wright should display the LED signs in his windows or in his showroom. The existing sign is the variance she would feel comfortable with granting.

Chairman Smith questioned if the LED sign could be smaller. Mr. Wright said no.

Mr. Neumann asked if the overall signage could be shrunk down. Mr. Wright stated that it was not economically feasible. Mr. Neumann suggested he get rid of his current sign and get a new one of just LED. Mr. Wright stated he likes the signs the way they are and that would not be cost effective.

Mr. Bridson stated that he doesn't feel it's a sign, it's a display of what is being sold. SLS is a sign company trying to promote his product. He doesn't think it should scroll though for traffic safety reasons. Chairman Smith stated that the Ontario Town Zoning Code doesn't prohibit scrolling and that the Wayne County Planning Board recommended that this is something that should be looked at.

Mr. Neumann questioned if this application could be postponed for 6 months until the sign code could be changed.

Chairman Smith asked for public comment.

Mr. Charles LeShanna, 2175 First Avenue, wanted clarification on what he was hearing. Are there two issues, an existing sign and an advertisement sign? Chairman Smith answered yes. Mr. LeShanna questioned if the sign is too large because of the overall dimensions or just the copy? Chairman Smith answered it was the overall dimensions the sign that made it too large.

RESOLUTION
ZONING BOARD OF APPEALS
TOWN OF ONTARIO
Re: SLS Sign and Lighting Services

530 Route 104, Ontario, NY 14519

Tax Map # 61117-00-478597
Applicant: Kirk Wright

I move that the Ontario Zoning Board of Appeals grant to the above Applicant relief of 52 total square feet to add additional signage of 12sf to the existing sign and 40 square feet for an LED Display Board all to be located on the existing free standing sign post at SLS Sign and Lighting Services as required from Code Section Article VIII, Section 150-48C(b), at the above location and bearing the above Tax Parcel number. The within Resolution follows a Public Hearing held on 12/7/11 and the review, by the Board of all written and oral submissions, together with due deliberation and consideration. This application is a Type II Action under Section 617.5 and, therefore, is not subject to an environmental review under SEQRA. This application is a local matter.

The within Resolution is based upon the following specific Findings of Fact and subject to the following specific Conditions:

Findings of Fact

As to whether an undesirable change, detriment or adverse impact on physical or environmental conditions will be produced in the neighborhood or district by the granting of the application, the Board finds, as follows:

- There is not an undesirable change, detriment or adverse impact, Route 104 is a commercial corridor and is tough for any business to advertise their business and products.

As to whether the benefit sought by the applicant can be achieved by feasible means, other than the requested variance, the Board finds, as follows:

- There are no other feasible means to display the LED display sign. The only logical way to display it is on the freestanding pole.

As to whether the application represents a substantial variance from Code, the Board finds, as follows:

- The variance request is not substantial

As to whether the difficulty alleged by the applicant is self-created, the Board finds, as follows:

- The difficulty is self-created as the original sign that was put up is larger than what was allowed and is looking to add an LED display sign.

Conditions of Approval

The Board, in granting the within application, hereby imposes the following specific conditions:

1. This variance is granted only for the plans submitted by the Applicant and dated October 12, 2011.

The within Resolution was moved by Zoning Board of Appeals Member Donald Anderson, seconded by Chairman John Smith, and voted upon by the Board members as follows: Vote: 3-2

John Smith voted	Aye
Donald Anderson voted	Aye
Charles Neumann voted	Nay
Robin Schmidt voted	Nay
William Bridson voted	Aye

Motion approved by the Zoning Board of Appeals on 12/7/11.

2153b First Avenue – Area Variance

The application of Mr. Ryan Morse requesting an area variance for relief from the side yard setback for an 8'x8' addition to the east side of the house at the above location. The property is owned by the applicant and zoned Suburban Residential (SR).

Mr. Morse explained to the board that he would like to put an 8'x8' entry way addition to the east side of the house. The addition will have a couple of windows, a door and will be used as a mudroom.

Chairman Smith asked the applicant if there was a front door on the house, meaning the portion of the house facing First Avenue. Mr. Morse answered that there is not currently a front door. The main entrance of the house is on the water side, you have to walk to the rear of the house. An entrance on the west side of the house was not favorable to that neighbor.

Chairman Smith asked for public comment. There was none.

This application was not reviewed by the Wayne County Planning Board.

**RESOLUTION
ZONING BOARD OF APPEALS
TOWN OF ONTARIO
Re: Area Variance**

2153 First Avenue , NY 14519

Tax Map # 61119-15-519489

Applicant: Ryan J. Morse

The Ontario Zoning Board of Appeals granted to the above Applicant relief of 10 feet to the total side setback of 32 square feet as required from Code Section Article IV, Section 150-27, Schedule II, for an 8'8' addition to the east side of the house at the above location and bearing the above Tax Parcel number. The within Resolution follows a Public Hearing held on 12/7/11 and the review, by the Board of all written and oral submissions, together with due deliberation and consideration. This application is a Type II Action under Section 617.5 and, therefore, is not subject to an environmental review under SEQRA. This application is a local mater.

The within Resolution is based upon the following specific Findings of Fact and subject to the following specific Conditions:

Findings of Fact

As to whether an undesirable change, detriment or adverse impact on physical or environmental conditions will be produced in the neighborhood or district by the granting of the application, the Board finds, as follows:

- There is not an undesirable change, detriment or adverse impact.

As to whether the benefit sought by the applicant can be achieved by feasible means, other than the requested variance, the Board finds, as follows:

- There are no other feasible means.

As to whether the application represents a substantial variance from Code, the Board finds, as follows:

- The variance request is not substantial

As to whether the difficulty alleged by the applicant is self-created, the Board finds, as follows:

- The difficulty is self-created

Conditions of Approval

The Board, in granting the within application, hereby imposes the following specific conditions:

1. This variance is granted only for the plans submitted by the Applicant and dated November 7, 2011.

The within Resolution was moved by Zoning Board of Appeals Member Charles Neumann, seconded by Board member Robin Mark, and voted upon by the Board member, as follows: Vote: 5-0

John Smith voted	Aye
Donald Anderson voted	Aye
Charles Neumann voted	Aye
Robin Schmidt voted	Aye
William Bridson voted	Aye

Approved by the Zoning Board of Appeals on 12/7/11.

2175 First Avenue – Area Variance

The application of Charles LeShanna requesting area variances for relief of front and side setbacks, relief of placement being ahead of the front line of the home and relief of maximum 20% lot coverage to build a 32x32 detached garage at the above location. The property is owned by the applicant and zoned Suburban Residential (SR).

Mr. LeShanna distributed letters from his neighbors to the board members. He also addressed the comments on Mr. Uhal's letter. Mr. LeShanna explained to the board that that he has a small existing garage that he would like to add a 32x32sf garage to. The new garage would have 3 bays and it will be used for hobby cars and personal storage. The roof line of the garage will run north to south.

Chairman Smith questioned if it will encompass the old garage. Mr. LeShanna answered that he would like to demolish the existing garage and start over.

Chairman Smith stated that the board has heard many applications for these house like cottages and they have been for the greater improvement. He asked the applicant if it will be for just the residential use. The applicant answered yes. Chairman Smith asked if there will be any business use. The applicant answered no.

Mr. Neumann questioned if there will be a second floor. The applicant stated it will be a loft area. Mr. Neumann questioned if there will be heat, electric and/or water. The applicant answered there will be radiant heating installed, it will have electric, and there will not be any water.

Mrs. Mark asked if he had heard from the Town of Ontario at all in regards to this application as they own the property next door. Mr. LeShanna answered that he has not heard from the Town.

Mr. Bridson questioned if the applicant will stay within the 3.4 foot distance from the lot line of where the current garage sits. The applicant answered yes.

This application was not reviewed by the Wayne County Planning Board.

Chairman Smith asked for public comment. There was none.

**ZONING BOARD OF APPEALS
TOWN OF ONTARIO
Re: Area Variance**

2171 First Avenue, Ontario, NY 14519

**Tax Map # 63119-15-543492
Applicant: Charles LeShanna**

The Ontario Zoning Board of Appeals granted to the above Applicant relief of 550sf for the maximum 20% lot coverage, 13 feet of relief to the total side setback of 32 square feet required, and 33 feet of relief to the front setback as required from Code Section Article IV, Section 150-27, Schedule II, at the above location and bearing the above Tax Parcel number. The within Resolution follows a Public Hearing held on 12/7/11 and the review, by the Board of all written and oral submissions, together with due deliberation and consideration. This application is a Type II Action under Section 617.5 and, therefore, is not subject to an environmental review under SEQRA. This application is a local matter.

The within Resolution is based upon the following specific Findings of Fact and subject to the following specific Conditions:

Findings of Fact

As to whether an undesirable change, detriment or adverse impact on physical or environmental conditions will be produced in the neighborhood or district by the granting of the application, the Board finds, as follows:

- There is not an undesirable change, detriment or adverse impact. It will enhance the property.

As to whether the benefit sought by the applicant can be achieved by feasible means, other than the requested variance, the Board finds, as follows:

- There are no other feasible means, and it cannot be reasonably achieved by any other method due to the size of the lot.

As to whether the application represents a substantial variance from Code, the Board finds, as follows:

- The variance request is substantial but goes with the character of the neighborhood.

As to whether the difficulty alleged by the applicant is self-created, the Board finds, as follows:

- The difficulty is self-created.

Conditions of Approval

The Board, in granting the within application, hereby imposes the following specific conditions:

1. This variance is granted only for the plans submitted by the Applicant and dated November 10, 2011.
2. The proposed structure will completely surround and/or eliminate the existing garage.

The within Resolution was moved by Zoning Board of Appeals Chairman John Smith, seconded by Board member Charles Neumann, and voted upon by the Board member, as follows: Vote: 5-0

John Smith voted	Aye
Donald Anderson voted	Aye
Charles Neumann voted	Aye
Robin Schmidt voted	Aye
William Bridson voted	Aye

Approved by the Zoning Board of Appeals on 12/7/11.

157 Elm Drive – Area Variance

The application of Anthony Caschetta and Helen Halewski requesting an area variance for relief of the side setback to construct a 12x8 shed at the above location. The property is owned by the applicants and zoned R-2.

Mr. Caschetta explained to the board that he would like to put the proposed shed on the property line. There is no other logical place for it to go as he doesn't want in his front yard or in his back yard as it block the view of the lake.

Chairman Smith stated that given the uniqueness of the property he feels that the request is reasonable.

There was a brief discussion about the right of way that is located to the west of the property. Mr. Caschetta stated that the R.O.W. remains and he considers it his responsibility to take care of it. He also commented that the shed would only be visible to one neighbor.

This application was not reviewed by the Wayne County Planning Board.

Chairman Smith asked for public comment. There was none.

Mr. Bridson questioned the 10 foot rule for emergency vehicles and asked how much clearance there was between the house and the proposed shed. Mr. Caschetta stated that there is about 10-15 feet between the proposed shed and house. They do not have a basement so storage is limited. The shed will be used for outdoor things like garden tools, the lawnmower and personal storage.

**ZONING BOARD OF APPEALS
TOWN OF ONTARIO
Re: Area Variance**

157 Elm Drive, Ontario, NY 14519

**Tax Map # 61119-00-023473
Applicant: Anthony Caschetta and Helen Halewski**

The Ontario Zoning Board of Appeals granted to the above Applicant relief of 5 feet to the required side setback to place a 12'x8' shed closer to the property line than what is required from Code Section Article IV, Section 150-27, Schedule II, at the above location and bearing the above Tax Parcel number. The within Resolution follows a Public Hearing held on 12/7/11 and the review, by the Board of all written and oral submissions, together with due deliberation and consideration. This application is a Type II Action under Section 617.5 and, therefore, is not subject to an environmental review under SEQRA. This application is a local mater.

The within Resolution is based upon the following specific Findings of Fact and subject to the following specific Conditions:

Findings of Fact

As to whether an undesirable change, detriment or adverse impact on physical or environmental conditions will be produced in the neighborhood or district by the granting of the application, the Board finds, as follows:

- There is not an undesirable change.

As to whether the benefit sought by the applicant can be achieved by feasible means, other than the requested variance, the Board finds, as follows:

- There are no other feasible means, and it cannot be reasonably achieved by any other method due to the shape of the lot.

As to whether the application represents a substantial variance from Code, the Board finds, as follows:

- The variance request is not substantial.

As to whether the difficulty alleged by the applicant is self-created, the Board finds, as follows:

- The difficulty is self-created.

Conditions of Approval

The Board, in granting the within application, hereby imposes the following specific conditions:

1. This variance is granted only for the plans submitted by the Applicant and dated November 10, 2011.

The within Resolution was moved by Zoning Board of Appeals member William Bridson, seconded by Board member Donald Anderson, and voted upon by the Board member, as follows: Vote: 5-0

John Smith voted	Aye
Donald Anderson voted	Aye
Charles Neumann voted	Aye
Robin Schmidt voted	Aye
William Bridson voted	Aye

Approved by the Zoning Board of Appeals on 12/7/11.

Chairman Smith closed the public hearing portion of the meeting.

Chairman Smith made a statement on behalf of Mr. Donald Anderson. Mr. Anderson is up for possible re-appointment, and he would like to thank Mr. Anderson for his many years of service and dedication to the Ontario Zoning Board of Appeals and to the Town of Ontario.

Chairman Smith moved to adjourn the meeting. Mrs. Mark seconded the motion.

Meeting Adjourned at 8:45pm.

Katie Kelsch
Secretary, Zoning Board of Appeals

The above minutes will become official when approved by the Zoning Board of Appeals