

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

Present: Zoning Board Members – Chairman, John Smith, Donald Anderson, Robin Mark and Charles Neumann; and Katie Kelsch – Secretary.

Absent: William Bridson

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

Minutes

Mr. Anderson moved to approve the minutes dated July 27, 2011 with the following changes and/or corrections:

Page 1, Paragraph 4, second sentence, eliminate “a”, change “as to whether or not” to say “that”.

Page 3, first sentence, change “believe” to “believes”.

Page 3, fifth sentence, change sentence to read, “Chairman Smith, along with the applicants, explained the proposed site #1 in further detail to Mrs. Mark”.

Mrs. Mark seconded Vote: 3-0 (1 absent, 1 abstain)

John Smith	Aye
Donald Anderson	Aye
Robin Schmidt	Aye
William Bridson	Absent
Charles Neumann	Abstain

Chairman Smith moved to approve the minutes dated August 3, 2011 with the following changes and/or corrections:

Page 3, Conditions of Approval, #3, change condition to read “There are no changes to the 125’ road frontage.

Mr. Anderson seconded Vote: 3-0 (1 absent, 1 abstain)

John Smith	Aye
Donald Anderson	Aye
Robin Schmidt	Abstain
William Bridson	Absent
Charles Neumann	Aye

Public Hearings

765 Ridge Road – Area Variance

Mrs. Rita Catalano requesting an area variance for relief to the front setback for the placement of an above ground swimming pool. The property is owned by the applicant and zoned Suburban Residential (SR).

Mrs. Catalano explained to the board that the pool was installed by Clover Home and Leisure over the summer and did not meet the front setback. The pool was installed without a permit having been issued and she received a violation notice. She is requesting 6 ½ feet of relief to the front setback. She would like to fence the area around the pool in the future.

Chairman. Smith pointed out to the applicant that she will have to get a building permit for both the pool and the fence.

Mr. Anderson pointed out that the pool does sit behind the front line of the home and the property is pre-existing non-conforming.

Mr. Neumann, for the record, questioned if the pool installer questioned whether or not a permit was issued or asked even asked if one was needed. He stated that this is the second or third variance of this type that he has seen since his time on the board and

suggested that the Code Enforcement Officer write a letter to the local paper to remind people that permits are needed for swimming pools. Mrs. Kelsch informed the board members that a notice to the community is done yearly and is also on the town website.

Mrs. Mark asked where the RG&E lines were on the property and if the pool could be set further back on the property. Mrs. Catalano stated that setting the pool farther back on the property wasn't possible as the lines go back on her property in a "V" shape and would not allow the proper safety distance from the lines and the pool.

Chairman Smith stated that a mitigating factor for him is the fact that the pool sits behind the front line of the home.

Mr. Anderson questioned if the Code Enforcement Officer could send a letter to Clover to inform them permits are needed for swimming pools in the Town of Ontario. Chairman Smith agreed to talk to the Code Enforcement Officer about this matter.

Chairman Smith asked for any public comment. There was none.

Chairman Smith asked the board members if there were any other questions and there were none.

**RESOLUTION
ZONING BOARD OF APPEALS
TOWN OF ONTARIO
Re: 6466 Knickerbocker Road Tax Map # 63117-00-303882
Applicant: Rita Catalano**

The Ontario Zoning Board of Appeals granted to the above Applicant relief of 6½ feet to the front setback for an above ground swimming pool when 60 feet is needed 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 09/07/11 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.

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 August 19, 2011.
2. The applicant applies for all the proper building permits

3. The variance is granted as the pool currently exists, with any pool components not to be closer to the front setback than the edge closest to the road.

The within Resolution was moved by Zoning Board of Appeals member Donald Anderson, seconded by Board member Charles Neumann, and voted upon by the Board member, as follows: Vote: 4-0 (1 absent)

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

Adopted by the Zoning Board of Appeals on 09/07/11.

6296 Lakeside Road – Area Variance

Mr. Waldarek of MRA Architecture, P.C., representing Lakeside Roofing and Siding requesting an area variance to the front setback for a 3,000sf first floor addition and a 3,000sf future second floor addition to the existing building. The property is owned by Portable Schools and zoned Industrial (I).

Mr. Waldarek explained to the board that the 3000sf footprint would be on the west side of the existing structure. The addition will have some office and conference space in it, but will mostly be used as a showroom for the business. Letters were delivered to the neighbors and he did not receive any comments back. Mr. Waldarek explained that the project will be in two phases. The first phase will be the first floor of the addition and the second phase will be a future second floor to the addition. The first phase will match the existing building and the second phase will most likely take the building to a different look. Mr. Waldarek presented the board with a rendering of the building.

Chairman Smith asked what kind of change to the existing building will there be besides for the addition. Mr. Waldarek stated there will be a change to the vestibule.

Chairman Smith questioned if there will be any change to the business model. Mr. Waldarek stated that there will not be any change to the business, it's just an expansion of the building at this point.

Mr. Neumann questioned whether or not a Notice of Decision had been done for this application. His reason for asking is to know whether or not they are just granting the variance for the setback or if there is more to it and also questioned if the Planning Board was going to do a review of the site plan. Mr. Waldarek stated that he appeared informally before the Planning Board and was told that they did not feel that this was something that needed to be seen formally. Mrs. Kelsch confirmed this and stated she had corresponded with the Planning Board Chairman in regards to this. Mr. Neumann stated that he is concerned with the amount of parking on the premises in relation to the square footage of the business, as stated in the town code, and questioned if the Code Enforcement Officer had looked into this matter and if he determined that there wasn't a need for more parking. Chairman Smith stated that they don't have the notice of decision available to them at the moment and felt that they could look at the facts presented and make a determination.

Mr. Neumann stated that his concern is, if somebody has looked into the existing parking requirements and the current parking requirements. He explained to the applicant some of the things that the Planning Board might want to look at, like lighting, parking and signs. Mr. Waldarek stated he is just addressing the variance tonight and if the Planning Board would like to see this plan, he is more than happy to appear before them.

There was a brief discussion on whether or not to postpone the application due to formalities. Mr. Waldarek stated he would not have a problem with this. Chairman Smith asked the board members to list out for the applicant any concerns they may have.

Mr. Neumann stated that he would like the determination of the Code Enforcement Officer and he would also like the parking requirements to be addressed for phase one and phase two.

Chairman Smith asked the Secretary to check and see if the Code Enforcement Officer left a Notice of Decision somewhere. Mr. Riddell addressed the Board with the Code Enforcement Officers decision after making a phone call to him. It was determined by

the Code Enforcement Officer that the applicant is only before the Zoning Board of Appeals for an area variance of 10.5 feet to the front setback. He also confirmed that the Planning Board Chairman does not feel that this applicant needs to come before the Planning Board. If there is some deviation he will make a determination on whether it needs to go to the Planning Board. He will clarify with the Planning Board Chairman that this is still in fact the case.

Mr. Neumann questioned if there would be any changes made to the Special Permit. Are they planning to hire anyone else? Mr. Waldarek stated that at this point in time they have no intentions of hiring new employees, but, he doesn't know what the future may hold. Chairman Smith stated that until the Code Enforcement Officer gives the Zoning Board the charge to review something, it's not something that they need to take action on. Chairman Smith stated he has confidence in Mr. Riddell as to what he reiterated tonight from his conversation with the Code Enforcement Officer. He believes they have every reason to proceed.

Mr. Neumann questioned the second floor and whether or not it's a part of this application. Chairman Smith stated that as part of the application package the applicant is making a request for a future second floor. Mr. Neumann's concern is that he believes that the second floor would change the answers to the questions asked on a special permit and he would hope that when the second floor is ready to be executed that the parking and the site plan might be looked at again and at that point he would hope they would need to go back to the Planning Board for review. If the Code Enforcement Officer thinks that the parking spaces are fine now, what's going to happen when they add the additional 3,000 square feet in the future, with probably more employees? Mrs. Mark stated that she believes that the Special Permit would remain how it is now until the applicant comes back to the Zoning Board of Appeals to ask for changes. They should be looking at it as they are expanding their building and they need relief of the front setback, they don't know what the future holds for them, they could downsize or increase their business.

Chairman Smith stated that they are charged tonight with looking at the relief of the front setback and that is all they are to act on.

Chairman Smith stated that for the record there is nobody in the room to make a public comment and confirmed with the Secretary that correspondence has not been received from the Wayne County Planning Board.

**RESOLUTION
ZONING BOARD OF APPEALS
TOWN OF ONTARIO
Re: 6296 Lakeside Road Tax Map #6117-00-935688
Applicant: Portable Schools Inc.**

The Ontario Zoning Board of Appeals granted to the above Applicant relief of 10½ feet to the front setback for a 3,000 square foot first floor addition and a 3,000 square foot future second floor addition when 50 feet is needed 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 09/07/11 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.

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:

- Given the nature of the layout of the current lot and the nature of the existing building there does not appear to be a reasonable method other than this application.

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

- The variance request is not substantial, current use of the existing lot is at 26.7% and this will only increase the use to 29.2%

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

- The difficulty is self-created in such desire to increase business capacity.

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 and materials submitted by the Applicant, including the plan and survey prepared by Costich Engineering, dated 08/19/2011 drawing number 4841.
2. The owner authorization form is on file.

The within Resolution was moved by Zoning Board of Appeals Chairman John Smith, seconded by Board member Donald Anderson, and voted upon by the Board member, as follows: Vote: 4-0 (1 absent)

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

Adopted by the Zoning Board of Appeals on 09/07/11.

Mr. Anderson moved to adjourn the meeting. Mr. Neumann seconded the motion.

Meeting Adjourned at 7:50pm.

Katie Kelsch

Secretary, Zoning Board of Appeals

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