

**Town of Ontario
Zoning Board of Appeals
Minutes
January 6, 2010**

Present: Zoning Board Members – Chairman, Donald Anderson, William Bridson, Jason Coleman, and Charles Neumann; Richard Williams – Deputy Attorney for the Town; Donna Burolla – Secretary; Jason Ruffell – Councilman; Stephen Tobin – Councilman; and William Riddell – Director of Economic Development and Parks and Recreation.

Absent: Robin Schmidt, Zoning Board Member

Chairman Anderson called the meeting to order at 7 p.m. and led the Pledge of Allegiance and opened the public hearings.

Public Hearings

2275 NYS Route 104 – Area Variance (postponed from November)

Mr. James Young, from O.P.M. Enterprises, LLC requested an area variance to allow the placement of two storage trailers located at Forest Grove Mobile Home Park. The property is owned by the applicant and zoned Business Transitional (B.T.).

Since the meeting in November, 2009 Mr. Young reviewed the proposal and took into consideration the zoning board's concerns from that meeting. He submitted another map with an alternative location for the storage trailers that located them to the west and behind lot #01. The new proposed location, 10 ft. from the side property line, would still require an area variance with relief of 15 ft. from the required 25 ft. side setback that is required in a Business Transitional zone. The doors of the storage trailers would open to the north.

Mr. Coleman commented that if the trailers were moved further back a variance would not be required. Mr. Young said he would like to install the trailers only once and if they were placed further to the rear, they would interfere with construction of an access road and the installation of utilities. He has the capability to place nine more mobile homes in the park.

The zoning board was in agreement the alternate location addresses the concern of visual impact from NYS Rt. 104. They asked Mr. Young if he had reviewed the new location with his neighbor to the west, Mr. Mac Stringer. Mr. Young said he had contacted him about the original location and he had no problem. However, he has not spoken to him regarding the alternate location. Mr. Coleman said he would prefer the board receive a statement from Mr. Stringer.

Mr. Neumann agreed the alternate location does provide less visual impact, but also noted there is a lot of land available and if a variance was granted it is forever. Mr. Williams stated that if the units were removed, the variance would be considered abandoned.

Chairman Anderson asked for public comments and there were none.

Mr. Young said he would like to keep eight feet between the storage trailers, as shown on the map, and not maintain 25 ft. He asked if the board could waive that requirement. The zoning board advised that the 25 ft. distance may be due to fire codes and that would have to be addressed with the Building Dept. Mr. Williams advised if it is under town code, another variance could be requested.

RESOLUTION
ZONING BOARD OF APPEALS
TOWN OF ONTARIO
Re: 2275 NYS Route 104
Parcel # 63117-00-636755
Applicant: O.P.M. Enterprises, LLC

The Ontario Zoning Board of Appeals moved to grant to the above Applicant relief of 15 feet from the side yard setback from Code Section Article III, 150-15A and Article IV, 150-27 to allow the installation of two storage trailers, one 8 ft. x 20 ft. and one 8 ft. x 40 ft., at the above location and bearing the above Tax Parcel number. The within Resolution follows Public Hearings held on 11/ 4/09 and 1/6/10, 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 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 no significant undesirable change, detriment or adverse impact on physical or environmental conditions in the neighborhood.

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:

- The applicant has exercised due diligence in placing the storage trailers.

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

- The variance request is not significant.

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

- The variance is self-created, but has been minimized by the applicant's actions.

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 prepared by J. J. Young and dated 12/20/09.
2. All construction is to be completed by January, 2011 (one year).

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 members, as follows:

Donald Anderson voted -	Aye
Jason Coleman voted	Aye
Charles Neumann voted -	Aye
Robin Schmidt voted	Absent
William Bridson voted -	Aye

Resolution adopted by the Zonings Board of Appeals on January 6, 2010 (Vote 4-0).

2135 Ridge Road – Area Variance

Mr. Ivan Napora, of Napora Construction, represented Mr. Thomas Culligan and requested an area variance to construct a 10 ft. x 17 ft. x 33 ft. covered front porch with 3 ft. for stairs extending toward the front, 15 ft. from the front property line needing relief of 45 ft. when a 60 ft. front setback is required.

Mr. Napora said Mr. Culligan could not attend tonight's meeting and he has his permission to represent him. The zoning board asked if he had a letter from Mr. Culligan giving him authorization to represent him. Mr. Napora said he did not have a letter.

The board reviewed the proposal and asked if the steps could be re-located to the side of the porch. Mr. Napora agreed to relocate the stairs extending to the side, towards the driveway.

Mr. Anderson asked why the porch needed to be ten foot wide. Mr. Napora said the owner wanted to place rocking chairs on the porch. Mr. Napora said the porch will not be enclosed and possibly could be reduced in size.

Mr. Neumann said he felt the porch would be extended toward Ridge Road more than other properties in the neighborhood. He said he would feel uncomfortable making changes to the project without the owner being present (relative to location of stairs and size). He asked the contractor, Mr. Napora, when he would be beginning construction. Mr. Napora replied in the spring.

Chairman Anderson read correspondence from the Wayne County Planning Board dated Dec. 11, 2009 with the recommendation the application be handled as a local matter as long as the improvements do not encroach on the county's right-of-way and the criteria is met to grant the area variance.

Mr. Williams reviewed the map submitted and noted there is 29.4 ft. from the southwest corner of the property to the Ridge Road ROW. With the porch extending ten ft. and the stairs an additional three ft., this results in a 16.4 ft. setback. Mr. Williams felt the map was confusing relative to where the pavement of Ridge Road ends and the distance to the ROW. He requested the contractor to measure the distance from the corner of the home to the edge of the pavement and also to ascertain if the home is closer to the road than the surrounding properties.

The zoning board and the applicant mutually agreed to postpone the application to the February 3, 2010 zoning board of appeals' meeting.

5855 Hopewell Drive – Area Variance

Mr. Jeffrey Griffo requested an area variance of 35 ft. to construct a 38 ft. x 48 ft. x 12 ft. barn five feet from the rear property line when 40 feet is required. The property is owned by the applicant and zoned Residential – 2 (R-2).

Mr. Griffo pointed out his property on the smart board and said there is a chain link fence that is located along his rear property line. He noted there are seven leach lines in his rear yard and if the barn were placed 40 ft. from his rear property line it would be located on top of the lines.

Mr. Neumann asked if the driveway to access the barn would cause re-routing of existing drainage. Mr. Griffo said Mr. Frank Affronti is the contractor for that portion of the project and he would address that at the time of construction.

Mr. Griffo noted the barn will be used to store older cars and the structure will not have electricity or water installed. He distributed a picture of the structure defining a 30 ft. barn with an attached 8 ft. leanto.

Mr. Griffo advised the board he has contacted his neighbors and submitted confirmation of delivery to the following addresses: 5856 Hopewell Dr.; 5859 Hopewell Dr.; and 5847 Hopewell Dr. He noted that he talked to his neighbor that abuts his property in the rear and he was in agreement with the proposal, but he did not sign a letter. None of the neighbors had any concerns.

Chairman Anderson opened the application for public comments and there were none.

RESOLUTION
ZONING BOARD OF APPEALS
TOWN OF ONTARIO
Applicant: Jeffrey Griffo
Re: 5855 Hopewell Drive
Tax. I.D. 61117-19-596142

The Ontario Zoning Board of Appeals moved to grant to the above Applicant relief of 35 feet from the rear property line from Code Section Article III, 150-15A to allow the installation of an accessory structure, 38 ft. x 48 ft. x 12.8 ft. high at the above location and bearing the above Tax Parcel number. The within Resolution follows a Public Hearing held on 1/6/10, 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 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:

- Even though the structure is large, there are other similar structures located in the neighborhood. The neighbors have all agreed with the variance request and therefore there will be no undesirable change, detriment or adverse impact on the physical or environmental conditions in the neighborhood.

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 is no other economical means feasible due to the location of the septic system.

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

- The variance request is a substantial variance but due to other site conditions it is not out of place.

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

- The variance 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 dated 12/5/09 with the sketch of the building submitted at the meeting.
2. All construction is to be completed by January, 2011 (one year).

The within Resolution was moved by Zoning Board of Appeals member Charles Neumann, seconded by Board member Jason Coleman , and voted upon by the Board members, as follows:

Donald Anderson voted -	Aye
Jason Coleman voted	Aye
Charles Neumann voted -	Aye
Robin Schmidt voted	Absent
William Bridson voted -	Aye

Adopted by the zoning board of appeals on January 6, 2010 (Vote: 4-0).

537 Ontario Drive – Area Variance

Mr. Miles VanBuren requested an area variance to construct a new home with a western side setback of 12 ft. and an eastern side setback of 14 ft. and an attached garage 10 ft. from the west property line, when 20 ft. is required. The property is owned by the applicant and zoned Residential – 2 (R-2).

Mr. VanBuren said he would like to demolish an existing, 900 sq. ft. cottage, remove the existing shed, and construct a 2100 sq. ft. cape cod style home. The lot is a 70 ft. width and the location of the home maximizes the water view. The home will be 44 ft. wide with an L-shaped configuration and have a 3 bay garage. He submitted a floor plan of the home, but said the depth of the home may change, but not the width. The time line for construction is between the spring of 2010 and the summer of 2011.

Mr. Neumann complimented Mr. VanBuren on the thoroughness of his application.

Mr. VanBuren said he has contacted the neighbor to the west (531 Ontario Dr.) and they do not have a problem with the variance. The neighbor to the east, who lives in Webster, was also sent a letter, but no response was received.

Mr. Bridson asked if the home location is within the NYS Dept. of Environmental Conservation guidelines for coastal management. Mr. VanBuren said the requirement is 50 ft. from the bluff and the home is 51 ft.

Chairman Anderson opened the application for public comments and there were none.

Mr. Williams clarified for the board that they are granting an area variance for the side setbacks with one required at 20 ft., with a total of 40 ft.

**RESOLUTION
ZONING BOARD OF APPEALS
TOWN OF ONTARIO
Re: 537 Ontario Drive
Tax Parcel #61119-10-494527
Applicant: Miles VanBuren**

The Ontario Zoning Board of Appeals moved to grant to the above Applicant relief of the 20 ft. minimum side setback requirement to allow the applicant's structure to be placed with a side setback of 10 ft. on the west side and 14 ft. on the east side from Code Section Article IV, 150-27, Schedule II, Area & Bulk Regulations, to demolish an existing cottage and construct a new single family residence, at the above location and bearing the above Tax Parcel number. The within Resolution follows a Public hearing held on 1/6/10 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 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 will be no undesirable change, detriment or adverse impact on the physical or environmental conditions in the neighborhood.

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:

- The benefit may be obtainable by other means, but the variance request has been addressed in submissions to the board and subsequent discussions.

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

- The variance is substantial, but is allowable due to the pre-existing, non-conforming lot and other similar lots in the neighborhood.

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

- The difficulty is self-created, but has been addressed in submissions and discussion.

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 prepared by McMahan LaRue Associates, dated April 22, 2009.
2. All construction is to be completed by February, 2012.

The within Resolution was moved by Zoning Board of Appeals member Jason Coleman, seconded by Board member Charles Neumann, and voted upon by the Board members, as follows:

Donald Anderson voted -	Aye
Jason Coleman voted	Aye
Charles Neumann voted -	Aye
Robin Schmidt voted	Absent
William Bridson voted -	Aye

Adopted by the Zoning Board of Appeals on January 6, 2010.

645 Ontario Drive – Area Variance

Mr. and Mrs. John Donovan requested an area variance to construct a 4 ft. x 30.6 ft. addition on the south side of their home with relief of 11 ft. on the west side yard setback and 9.4 ft. relief on the east side yard setback when 20 ft. is required. The property is owned by the applicants and zoned Residential -2 (R-2).

Mrs. Donovan explained the proposal stating the addition will extend 4 ft. to the south, towards Ontario Dr., and extend across the front of the home. The current side setbacks will be maintained. The existing shed will remain on a temporary basis.

Mrs. Donovan submitted confirmation they have talked with the surrounding neighbors about the variance. None of the neighbors had any concerns. She also submitted a sketch of what the outside will look like.

Mr. Neumann asked about the previous variance granted for the property. Mrs. Donovan said they could not sell their home in North Carolina and they no longer plan to demolish the existing home and re-build.

Mr. Williams asked if they would agree to waive the prior variance. Mr. and Mrs. Donovan were in agreement.

Mr. Neumann questioned the survey map submitted with the application and noted there was a dotted line and a solid line for the western property line. Mr. Donovan explained there was boundary discrepancy at the time they purchased the property, but a boundary line agreement with the neighbors to the west has been signed and the discrepancy has been resolved. The solid property line is the accurate measurement.

**RESOLUTION
ZONING BOARD OF APPEALS
TOWN OF ONTARIO
Re: 645 Ontario Drive
Tax Parcel #61119-11-633554
Applicant: Mr. and Mrs. John Donovan**

The Ontario Zoning Board of Appeals moved to grant to the above Applicant relief of 11 ft. on the west side setback and 10.5 ft. on the east side setback from Code Section Article IV, 150-27, Schedule II, Area & Bulk Regulations, to allow the installation of a 4 ft. x 30.6 ft. addition to the property, at the above location and bearing the above Tax Parcel number. The within Resolution follows a Public hearing held on 1/6/10 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 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 will be no undesirable change, detriment or adverse impact on the physical or environmental conditions in the neighborhood due to the narrowness of the lots on the north side of Ontario Drive and the many previous area variances that have been granted for side yard setbacks.

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:

- The benefit can not be achieved by other feasible means since the lot is pre-existing, non-conforming.

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

- The addition being requested is no wider than the present home and therefore it does not become a substantial variance.

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
2. All construction is to be completed by January, 2011.

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 members, as follows:

Donald Anderson voted -	Aye
Jason Coleman voted	Aye
Charles Neumann voted -	Aye
Robin Schmidt voted	Absent
William Bridson voted -	Aye


Adopted by the Zoning Board of Appeals on January 6, 2010 (Vote: 4-0).

Minutes

Mr. Neumann moved to approve the minutes dated December 9, 2009 as presented. Mr. Coleman seconded.

Donald Anderson voted -	Aye
Jason Coleman voted	Aye
Charles Neumann voted -	Aye
Robin Schmidt voted	Absent
William Bridson voted -	Aye

Meeting adjourned at 8:15 p.m.



Donna Burolla, Secretary
Zoning Board of Appeals