

**MINUTES**  
**MUNICIPAL BUILDING**  
**ZONING BOARD OF APPEALS**

August 25, 2020

6:00 P.M.

PRESENT: Kevin Foltz, Chairman, Andy Rosenberg, Nancy Babis, Meghan Lutz, Lynn Harper, Jason Dool, Chief Building Inspector, Pat McGrath, Deputy Corporation Counsel.

EXCUSED: Tom Hull, Sheila Tracy

The Chairman explained to those present the procedure followed in these Hearings, First the explanation by the Appellant as to what he/she is appealing for, second, any questions those present wish to ask to clarify the appeal, and third, the Board will hear any opinions for or against the granting of this variance. The chairman stressed the point that anyone wishing to speak must first state their name and address.

Roll call was taken by Chairman Kevin Foltz and all the members present stated that they have seen the properties.

The first case to be called was Case No. 2207, Appeal of Manhal Construction, LLC to erect a 12' x 16' roof covering over the existing concrete patio on the south side of the house located at 149 Roosevelt Drive, Lockport, New York situated in a R-1 Zone.

Mr. Mahal Alshahdat from Manhal Construction was present with Tina Le homeowner.

Mr. Alshahdat stated that he would like to build a 12' x 16' cover over the patio for Tina.

Mr. Foltz asked what construction material the cover would be made of.

Mr. Alshahdat said that it would be pressure treated wood with ice and water shield and shingles to match the house. He said that there will be three posts that will be wrapped and there will be vinyl soffit.

Mr. Foltz asked if this is just going to be a roof covering with no sides.

Mr. Alshahdat said yes.

Mrs. Lutz asked if they are going to install gutters for drainage.

Mr. Alshahdat said that he is going to a gutter on the front of the roof covering.

The meeting was opened to the public.

Ms. Debbie Ramos, 49 Carolina Ave, stated that she lives next door. She said that this intersection is a problem because it is a two-way stop. She said that the people on Roosevelt don't have to stop and people speed. She said that she is concerned with backing out of her driveway. She said that it is a safety issue. She stated that this is in the middle of their yard.

Mr. Foltz stated that this is just a roof with no sides.

Ms. Ramos said that it is in the middle of their yard.

Mr. Foltz said that the patio is already there.

Ms. Ramos said that the patio is not 12' x 16'.

Mr. Alshahdat said that the patio is 10' x 15'.

Ms. Babis asked if they plan on building what they applied for or what is currently existing.

Mr. Alshahdat said that they are going to build it 1' over the existing pad and install a soffit.

Jason Dool said that the post holes are already dug and they are just outside the concrete pad.

Ms. Babis stated that the only obstruction would be the columns.

Ms. Ramos said as long as there are no sides.

Mr. Foltz stated that they already said there will be no sides.

Mr. Alshahdat said that he is building this for Tina's mother who is elderly and likes to sit outside.

The meeting was closed to the public.

There being nothing further Lynn Harper made a motion to grant the variance for the lot coverage to be 21.7% as follows:

AND IT APPEARING, the sides of the roof covering shall never be enclosed,

WHEREAS, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean and orderly condition

Seconded by Andy Rosenberg.

Kevin Foltz-yes  
Andy Rosenberg-yes  
Nancy Babis-yes  
Meghan Lutz-yes  
Lynn Harper-yes

AREA VARIANCE GRANTED

Meghan Lutz made a motion to grant the variance for the roof covering to be located 18' from the south property line as follows:

AND IT APPEARING, the sides of the roof covering shall never be enclosed,

WHEREAS, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean and orderly condition

Seconded by Nancy Babis.

Kevin Foltz-yes  
Andy Rosenberg-yes  
Nancy Babis-yes  
Meghan Lutz-yes  
Lynn Harper-yes

AREA VARIANCE GRANTED

The next case to be called was Case No. 2209, Appeal of C.E. Beney, LLC to subdivide the 57' x 135' northerly section of the property located at 1149 Lincoln Avenue, Lockport, New York situated in a B-1 Zone.

Mr. John Ottaviano was present on behalf of C.E. Beney, LLC.

Mr. Ottaviano stated that they are under contract to purchase 1149 Lincoln Avenue from Kenyon Partners, LLC. He said that Kenyon's owns the plaza to the north and the building that used to be Crafts and Creations. He said they would like to subdivide that lot and create a 5' setback on the north property line. He said that the ordinance requires a 30' setback so they are asked of an area variance.

Mr. Ottaviano said that they have negotiated the use of additional parking spaces on the plaza parcel that are not even needed. He stated that the sale contract has an easement in it for ingress and egress for as long as Dr. Beney has his medical office in the building.

Mr. Foltz asked if the easement granted is for the Davison Road entrance.

Mr. Ottaviano said that it is revocable. He said they are open to something more permanent.

Mr. Foltz said that the Board is looking for as easement that is permanent.

Ms. Harper asked if Mr. Ottaviano is agreeable to the permanent easement for the Davison Road entrance and 10' setback from the north property line.

Mr. Ottaviano said they are ok with that, that is where they started their negotiations.

The meeting was opened to the public.

The meeting was closed to the public.

There being nothing further Meghan Lutz made a motion to grant the request to subdivide the 57' x 135' northerly section of the property as follows:

AND IT APPEARING, the rear yard setback be a minimum of 10 feet,

WHEREAS, a permanent ingress and egress easement be grated to include the entire width of the existing driveway,

WHEREAS, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean and orderly condition

Seconded by Andy Rosenberg.

Kevin Foltz-yes  
Andy Rosenberg-yes  
Nancy Babis-yes  
Meghan Lutz-yes  
Lynn Harper-yes

#### AREA VARIANCE GRANTED

The next case to be called was Case No. 2210, Appeal of James Johnson to convert the existing office space into two dwelling units located at 225 East Avenue, Lockport, New York situated in a B-4 Zone.

Mr. Johnson stated that he would like to install 2 one-bedroom apartments where the doctor's office was previously.

Ms. Harper asked if there is going to be a total of 4 units.

Mr. Johnson said yes.

Ms. Babis asked if the new units are going to be one-bedroom.

Mr. Johnson said yes.

Mr. Foltz asked if there is going to be any exterior changes to the building.

Mr. Johnson said no, he will be removing the handicap ramp in the rear is all.

The meeting was opened to the public.

The meeting was closed to the public.

There being nothing further Andy Rosenberg made a motion to grant the variance to convert the existing office space into two dwelling units as follows:

AND IT APPEARING, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean and orderly condition

Seconded by Sheila Tracy.

Kevin Foltz-yes  
Andy Rosenberg-yes  
Nancy Babis-yes  
Meghan Lutz-yes  
Lynn Harper-yes

#### AREA VARIANCE GRANTED

The next case to be called was Case No. 2211, Appeal of Farideh Chubineh to remove the existing 9'3" x 12'3" one store section of the building and erect a 9'3" x 19'2" two-story addition on the north side of the building located at 13 Park Avenue, Lockport, New York situated in a B-5 Zone.

Farideh Chubineh was present with her son, the owner of the building Cyrus Chubineh and contractor Les Burdick.

Mr. Chubineh stated that the building was built at the end of 2018. He said that there is a shed attached to the back of the building that they would like to remove and erect an extension. He said that they need more office space because they have a big business and need the space for desks. He said that they would use the addition for storage space, a bathroom and an entrance. He said that his mother was mistaken when she applied for a two-story addition, it will only be one-story. He gave the Board an updated set of drawings.

Mr. Chubineh stated that page A-2 on the drawings shows where the addition will be located.

Mr. Foltz asked if they are looking to extend the building along the same line as the existing.

Mr. Chubineh said yes.

Mr. Foltz stated that the addition will be one-story.

Mr. Chubineh said yes.

Jason Dool wanted to clarify that they changed the plans to one-story.

Mr. Chubineh said yes.

Mr. Foltz stated that they need to put gutters on the addition to keep the water on their own property.

Mr. Foltz asked if the siding is going to match the existing.

Mr. Burdick said that it will be a different pattern but will match.

The meeting was opened to the public.

The meeting was closed to the public.

There being nothing further Meghan Lutz made a motion to grant to request for a variance to remove the existing 9'3" x 12'3" one story section of the building and erect a 9'3" x 19'2" one-story addition as follows:

AND IT APPEARING, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean and orderly condition

Seconded by Nancy Babis.

Kevin Foltz-yes  
Andy Rosenberg-yes  
Nancy Babis-yes  
Meghan Lutz-yes  
Lynn Harper-yes

AREA VARIANCE GRANTED

The next case to be called was Case No. 2213, Appeal of Philip and Erika Allport to erect a 6' vinyl fence on the south and east property lines located at 645 Locust Street, Lockport, New York situated in an R-1 Zone.

Ms. Allport stated that they bought the house three months ago. She said that there is a fence on one side and they would like to close the yard in. She said they have two babies and two dogs that they would like to keep safe. She said that they are right in the middle of the City and want a safe spot for their children to play.

Mr. Foltz said that the fence is for safety and for privacy.

Ms. Allport said yes.

Mr. Foltz asked what material the fence will be.

Ms. Allport said that it will be vinyl.

Ms. Babis asked what color the fence will be.

Ms. Allport said white.

Mr. Foltz stated that because of the driveway and cars backing out the Board has asked people to cut the fence at a 45-degree angle instead of a 90-degree angle toward the driveway for line of sight reasons. He said that way you can see people coming down the sidewalk.

Mr. Foltz asked if they are opposed to doing that.

Ms. Allport said they are open to options. She showed the Board photos of the current layout and how the new fence will not hinder their line of sight.

Ms. Harper asked if the large bushes are theirs.

Ms. Allport said they are lilac bushes but are the neighbors. She said that they trim them though.

The meeting was opened to the public.

The meeting was closed to the public.

Ms. Harper asked if they are ok with the fence being installed at a 45-degree angle.

Ms. Allport asked where they would have to begin angling the fence.

Jason Dool said it would be the last 8', basically the last panel.



There being nothing further Nancy Babis made a motion to grant the variance to erect a 6' vinyl fence on the south and east property lines as follows:

AND IT APPEARING, the westerly portion of the fence be installed at a 45-degree angle,

WHEREAS, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean and orderly condition

Secoded by Andy Rosenberg.

Kevin Foltz-yes  
Andy Rosenberg-yes  
Nancy Babis-yes  
Meghan Lutz-yes  
Lynn Harper-yes

#### AREA VARIANCE GRANTED

The next case to be called was Case No. 2212, Appeal of The Dale Association, Inc. to erect a 7' x 6.25' ground mounted LED sign located at 33 Ontario Street, Lockport, New York situated in a B-2 Zone.

Mr. Christopher McCaffery from Ulrich Sign Company was present with Maureen Wendt from The Dale Association.

Mr. McCaffrey stated that there used to be a ground sign on the property but it was in disrepair and they removed it. He said that they would like to install a new illuminated ground sign with an LED panel to let everyone know what events are going on at the Dale Association. He said that the sign will be something similar to what they installed at the Kenan Center. He said that the sign will not blink, flash or scroll.

Mr. Foltz asked if the top of the sign will be independently lit.

Mr. McCaffrey said that it will be constantly illuminated.

Ms. Babis asked if the LED sign dims.

Mr. McCaffrey said yes, the LED dims as it gets darker outside so it is easier to read.

Ms. Lutz asked how frequent the messages displayed will change.

Ms. Wendt stated that they will display messages announcing activities that are happening in the building. She said that they will change daily but will not flash or scroll. She said that they are closed on the weekends but they will more than likely display a message.

The meeting was opened to the public.

Mr. Douglas Zimmerman, 51 Canal Street asked if the message changes on the LED screen.

Mr. McCaffrey said that it does, however it will not blink, flash or scroll.

Mr. Zimmerman asked if the sign is bright.

Mr. McCaffrey said that the sign dims at night so it will look like any other illuminated sign. He said that it is not like a neon sign.

Ms. Wendt said it will be like the Kenan Center.

Mr. McCaffrey said that he doesn't think the City has received any complaints about any of the other LED signs that they have installed.

Mr. Dool stated that there are LED signs on East Avenue and on Transit in residential neighborhoods and there have never been any complaints.

The meeting was closed to the public.

Mr. Foltz asked what time the sign will be on until.

Jason Dool said that previously the Board has requested the signs be turned off at 10 p.m.

Mr. McCaffrey said that is reasonable, turn it off at 10 p.m. and back on in the morning.

Mr. Foltz stated that he has noticed that the newer LED signs are not as bright as the old ones used to be.

There being nothing further Andy Rosenberg made a motion to grant the request for a variance to install a 7' x 6.25' ground mounted LED sign as follows:

AND IT APPEARING, the LED sign shall be lit from sunrise until 10 p.m. only,

WHEREAS, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean and orderly condition

Seconded by Lynn Harper.

Kevin Foltz-yes  
Andy Rosenberg-yes  
Nancy Babis-yes  
Meghan Lutz-yes  
Lynn Harper-yes

USE VARIANCE GRANTED

Nancy Babis made a motion to approve the minutes of the July 28, 2020 meeting.  
Seconded by Meghan Lutz. yes-5 Noes-0

Meghan Lutz made a motion to adjourn; Motion seconded by Andy Rosenberg Ayes-5  
Noes-0

**MEETING ADJOURNED**

**The next regularly scheduled meeting will be Tuesday, September 22, 2020 at 6:00  
p.m.**