

**City of Olean**  
**ZONING BOARD OF APPEALS**

**Minutes for Zoning Board**  
**Meeting held on March 23, 2017**

**1. Roll Call**

Chairperson Rob DeFazio called the meeting to order at 6:30p.m. Thomas Enright read the roll call. All members were present except Charlotte Hardy and Darryl Bloom.

**Present:**

- Rob DeFazio- Chairperson
- Bob Moser-Vice Chairperson
- Thomas Enright- Secretary
- Otto Tertinek
- Shayne Certo

**Absent:**

- Charlotte Hardy
- Darryl Bloom

**Staff:**

- Kathleen Hewitt- Account Clerk Typist

**Reading and approval March 9, 2017 meeting minutes.**

A motion was made by Otto Tertinek, seconded by Thomas Enright to approve the March 9, 2017 meeting minutes as is. Voice vote, ayes all. Motion carried.

**1. Public Hearing**

**105 Fairview Ave - Area Variance # 002-17**  
**(6:35pm)**

Thomas Enright read the application regarding 105 Fairview Ave. aloud requesting an Area Variance: If granted it will vary from Chapter 28 Article 12 Section 6.1 of the Zoning law.

Rob questioned if Bill and Pamela Baker were present. Bill addressed the board explaining they reside at 105 Fairview Ave. He stated the building is almost completed and will have to plead ignorance to the fact that he needed a building permit to construct an addition to this existing single car garage. He continued they have several vehicles and motorcycles and needed storage for his tools also. He further explained the building has not been completed due to once he received the letter from Code Enforcement he stopped all activity.

Otto Tertinek questioned how close to the property line is the building. Bill responded the new addition is approximately 3 ft. however; the property line is at an angle and the front of the pre existing garage is approximately 2 ft.

Thomas Enright questioned if they are presently using the new structure. Bill responded he is currently using the new structure for storage of an antique motorcycle, kayaks and things of such. Thomas questioned the application stated for storage only and is questioning why there is a stove in the storage area. Bill responded it is for when he is working out there.

Rob DeFazio questioned where the gutters are. Bill responded there are no gutters as of yet. He further explained once they received a letter they stopped working on the building. He further noted the water runs off inches from 107 Fairview Avenue however it does not go on the neighboring property.

Bill explained on the application he has also requested to continue the roof so it looks like one roof. (Bill presented images of the garage for the ZBA to view)

Otto Tertinek questioned any adverse impact on the neighboring property. Bill reiterated he will add gutters to the property upon completion if he is allowed.

Shayne Certo questioned if the smoke from the chimney will go into the neighboring properties house. Bill responded his neighbor asked that he tell her when he will be using it so she may close her windows. He noted that he used it during winter when her windows would have been closed.

Rob questioned when the roof will be completed. Bill responded once the weather changes. He explained he would like the siding, roof, gutters and downspouts to match. He stated the water runoff does not affect the neighboring property.

Thomas commented he finds it irritating to the board or this member of the board that he pleads ignorance to the law especially since being a resident for so many years, that it seems highly unlikely that they did not know they needed a building permit. He further noted the ZBA looks out for the community and the neighbors.

Bill explained the project started small for his motorcycle and then started to just go larger for his tools and etc. He further explained at one time a neighbor questioned if he had a permit once

the wall were up. Bill stated at that point he decided it made no sense to get a permit since the construction was almost done. Thomas responded on the contrary that would have been a good time to get a permit. Bill stated he did stop construction once code enforcement sent a letter.

Bob Moser commented the permitting process is not only for the owner's safety but the neighboring properties as well.

Otto questioned if the rear property is fenced in and if the pool has a fence. Bill responded there is a small fence that could be detached for his small dogs. He further explained his insurance company stated he has a 52 inch pool that has a gated entrance. Otto questioned if he obtained a permit for the pool or the decking. Bill responded he obtained no permits due to he did not know the pool needed to have a permit and the deck was build 15 years ago.

Bob questioned if Bill has had a discussion with code enforcement and if so what was recommend to do. Bill responded he is working with code enforcement and they recommended getting a variance. Bob commented the fireplace could be a safety issue if not installed correctly and it could put the neighbors at risk as well as the owners. He further commented they are not meant to be punitive but sometime they have to be. He further explained this issue happens over and over and people accomplish things without variances and he personally will do everything in his power not to make it pleasant. Bill reiterated he welcome's code enforcement to inspect it.

*Laraine Caruso 107 Fairview Ave.* Laraine commented it is unfortunate that they have to be here since they are such wonderful neighbors and friend. She explained Bill talked to her about their plans to build on the garage. She continued it was to be on a block foundation, the addition would be sided but there was no mention of a stove or an addition on the top but a completion of the garage. Laraine further explained she did not know it would be the size that it had become. She feels it devalues her properties, it is ugly and she is starting really hating it. Laraine stated she spoke with code enforcement officer Tracy Veno four times over the summer and did not reveal who Bill was until she spoke with code enforcement officer Ed Jennings who stated there is no grandfather clause. She noted the structure was illegally put up and if Bill would have applied for a permit this would not be an issue.

Laraine advised she hired Mike Canada to resurvey her property (she passed images around and the survey). Laraine indicated she spoke with Ed Jennings and he stated that last fall Bill was to put up gutters and he has not yet. She stated she wants the garage torn down.

Rob questioned Bill when he started the project. He responded it will be two years this July. Rob questioned if there is electric in the addition. Bill responded he has no electric however; he is running an extension cord to it. Laraine feels it is hypercritical that he is requesting a variance about two years later and she reiterated she wants it down.

Rob questioned if he built the original garage and when did he start it. Bill reiterated it will be two years this July and the garage was pre-existing. Rob questioned when he started building this addition how big was it originally going to be, and how did it get it to this point since he started two years ago. Bill responded it started with a small size and as he built he decided to make it bigger to accommodate more items. Rob questioned if he had spoken to his neighbor

about installing a stove in the addition. Bill responded he spoke to his neighbor about installing a small wood stove and after it was installed Laraine stated she wished it had been put on the other side. Bill noted the stove was already installed and not much he could do about it at that point.

Bill noted when he was building the structure Laraine stated it made her feel safe, and it is unfinished since he had received a letter from Code Enforcement and stopped working on it.

Rob questioned when he received the letter from code enforcement. Bill responded he believes last July. Rob questioned why a delay coming to the Zoning Board. Bill responded they received two letters. He further explained the first letter was from Last July and it stated to contact the code enforcement office immediately. Bill noted he called the office several times and left several messages and spoke to a lady one time and received no call back. Bill then received a second letter and same thing until he finally spoke with Edward Jennings. He noted this process has taken a long time and he understands that Ed is a very busy man but this is why it has taken a lot of time. Thomas commented it has been nine months. Bill reiterated he understands Ed is a very busy man but he cannot remedy an issue until he knows what the issue is. Thomas questioned when he received the second letter. Bill responded he believes January. Rob questioned if they can verify the dates of the letters.

Laraine stated the smoke issue is directly from the smoke stack.

Shayne questioned if a matching 7ft tall fence would hide the side of the garage, and move the smoke stack and also add landscaping at the Bakers cost to camouflage would help. Otto noted possibly windows in the garage. Laraine responded it would have to be a 15ft fence possibly. She further explained she would really have to think about it due to she has put up with too much for two years. She noted she does not want to see it at all. Bill advised his intension was to make it look nice if he is allowed to finish it.

A motion was made by Bob Moser, seconded by Shayne Certo to close the public hearing at 7:30pm. Voice vote, ayes all. Motion carried.

A MOTION was made by Bob Moser, seconded by Thomas Enright to table the Area Variance due to as followed: possible citation (s), code violations, EPA specs on stove, concerns of neighbors, height, code safety inspection, roof line to neighboring property, original variance and correspondence.

**205 N. Twelfth St - Area Variance # 003-17  
(7:35pm)**

Thomas Enright read the application regarding 205 N. Twelfth St. aloud requesting an Area Variance: If granted it will vary from Chapter 28 Article 12 Section 6.1 of the Zoning law.

Rob questioned who was present to represent this application. Troy Clark was absent and no representation was present.

*Ken Anderson 1306 Washington St. & 1312 Washington St.* Ken stated both his properties abut Troy Clarks property. He explained what he sees outside his properties will devalue his properties and does not feel that a garage will help either. Ken is requesting a 10 ft. private fence between his properties and Troy's so he does not have to look at his business. (Ken produced pictures for the Zoning Board to review)

Otto produced pictures for the board to review. The pictures showed unregistered vehicles, trailer and garbage located around this property and an open shed. Ken commented if he could have a privacy fence that would help.

Rob noted his drawing on the application was confusing. He questioned if there is a noise issue. Ken responded not as of late.

Shayne questioned where all the snow would go and noted it seems like a tight space to have this garage.

(Bob Moser excused himself from the meeting at 7:50pm.)

Shayne commented the property is already having garbage, junk and debris issues and feels taxpaying neighbors should not have to look at this.

A motion was made by Rob DeFazio, seconded by Thomas Enright to close the public hearing at 7:53pm. Voice vote, ayes all. Motion carried.

A MOTION was made by Rob DeFazio, seconded by Otto Tertinek to deny the Area Variance due to as followed: Confusion over type of structure, Mr. Clark not present at the meeting, property not intended for commercial vehicles. Voice vote, ayes all. Motion carried.

### **Adjournment**

Motion to adjourn was made by Shayne Certo, seconded by Otto Tertinek. Voice vote, ayes all, Motion carried.

### **Next Meeting Date**

The next Zoning Board meeting has been scheduled for Thursday, April 13, 2017 at 6:30 p.m. located in room 119. Meeting adjourned at 8:02 pm.