

**Village of Cazenovia
Zoning Board of Appeals
Meeting Minutes
October 29, 2018**

5 Present: Phil Byrnes, Chair; Cindy Bell; and Lynn Hart.

Absent: Sally Ryan; Jane Nicholson-Dourdas.

10 Others Present: James Stokes, Village Attorney; and Eric Lints.

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15 P. Byrnes called the meeting to order at 7:05 p.m. and introduced the Board.

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20 P. Byrnes asked for any changes to the minutes of January 30, 2018. There were none noted.
P. Byrnes made the motion to approve the minutes as drafted. C. Bell seconded. The motion carried with 3 in favor, 0 opposed.

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Adam and Andrea Berg, 23 Hurd St., New Garage, Area Variance and Side Yard Setback

25 P. Byrnes read aloud the public notice. This is to consider the application of Adam and Andrea Berg to permit the construction of a new free standing garage in the rear yard at 23 Hurd Street, tax map parcel no. 94.43-1-33. As proposed, the garage would be within 3’1” of the northerly line of the lot, whereas the Village Zoning Code requires a 4’ side yard setback. The Applicant also seeks a variance from the 25% maximum lot coverage requirement to permit a total lot coverage of 29.08%.

30 Eric Lints was present to explain. There is an existing garage at the back of the house that is not part of the original vintage of the house. The Bergs want to knock down the garage because it is an eyesore. Also, they cannot see any of the back yard. They want to get it out of the way to have visibility of the back yard. They still want a garage. The plan is to build a garage at the head of the driveway. They also want to do two small things at the back of the house. They would like to do a small addition underneath the existing overhang. This will not affect the coverage of the property. They want to extend an existing closet. Originally, they were going to do a slightly larger addition around the stairs that go into the basement, but they didn’t want to cut through their stone foundation in a second location. They decided to go with a Bilco door. The garage is slightly closer to the property line than the Code allows. The site is already noncompliant because of its vintage. They are requesting to have the garage 3 feet 1 inch away from the property line instead of 4 feet. They were originally going to do a concrete block foundation for the garage. But they realized it is adjacent to a very large tree on the neighbor’s property and a concrete foundation would kill the tree. So they changed to a pole barn construction system. They looked at the layout and trying to get two cars out of the garage into the driveway. They didn’t want to pull the garage too far south because that would make backing out of the southern spot very difficult. It was pushed as close to the property line as possible. They don’t want the northern spot in the garage too far offset from coming straight in. They are requesting a slight variance for the setback from the sideline. The neighbor has

50 a 3-foot setback (Huftalen). The other request is site coverage. From the Code, it was pushed into
noncompliance. This application would actually decrease the level of noncompliance. It would be
approximately 18.75 square feet. The little addition for the closet is under the overhang of the
house. The Bilco door is about 60% under the overhang. The only additional square footage is a
65 little bit of the Bilco door that sticks out and the deck. 200 square feet of deck with ¼” spacing is
allowed. Then only 50% over that 200 square feet counts toward coverage. They pulled the garage
forward to cut out some of the asphalt driveway to reduce impervious surface so as not to increase
the level of noncompliance.

60 P. Byrnes inquired whether a section of fence will be added. Mr. Lints answered that there is a small
section of fence that matches Huftalen’s and no other fence will be added on that side. But fence
will be added on another side.

65 P. Byrnes commented that this amounts to an 11-inch variance for the side yard. Mr. Lints does not
believe this needs to go back to the Historic Preservation Committee (HPC) because they only care
about things that can be seen from the street. The only thing that will be seen from the street is a
2-foot extension of a wall that will fill in a corner. The existing bracket will go at the other end to
keep that historic piece.

70 Mr. Stokes stated that this application will not go to the Planning Board because it does not do site
plan review for residential properties.

C. Bell reviewed the area coverage. Mr. Lints replied that it will still be out of compliance, but
noncompliance will be decreased by 18.75% due to the reduction of asphalt and the garage coming
down. This is an improvement to the noncompliance.

75 C. Bell wondered what model car was used to plan the garage. Mr. Lints answered that it was a
standard size car that was in AutoCad. Moving the garage 11 inches wouldn’t make it impossible
for them to get in, but it would make it harder and he wants to avoid that. He wanted to try to line up
the edge of the existing driveway with the building and not have an offset on the asphalt.

80 P. Byrnes inquired about a walkway to the garage from the house. Mr. Lints said they don’t need to
put in a walkway because the driveway already comes to the steps. There is no need to change the
impervious surface.

85 C. Bell asked if there has been any opposition from the neighbors. Mr. Lints said that the applicants
have spoken with the neighbors and he has not heard about any complaints. There is no building
adjacent to where the garage will be on the site, so no shadows will be cast and no windows will be
blocked. It is just open yard.

90 P. Byrnes answered that there are no complaints on record.

C. Bell wondered about the sizes of the old garage and the new garage. Mr. Lints answered that the
old garage is 667 square feet and the new one is 784 square feet. There is a shed roof off the back of
the garage.

95 P. Byrnes commented that this new garage won’t detract from the neighborhood because the
neighborhood already has this configuration of house and garage. Mr. Lints added that if this house

ever had a carriage house, the new garage is being located where the carriage house would have been.

100 P. Byrnes said that this will be a nice addition to the street and will not be out of character. C. Bell mentioned that the kitchen opens to the deck and back yard to watch the children playing and she agreed with P. Byrnes. L. Hart also agreed.

105 P. Byrnes made the motion to close the public hearing. C. Bell seconded. The motion carried with 3 in favor, 0 opposed.

The Board went through the five criteria.

- 110 1. *In making such determination, the Board shall also consider whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.* The Board decided that this will be a nice change to the neighborhood.
- 115 2. *Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.* The Board decided that the variance is for 11 inches. This will give the owners more leeway in the driveway for navigating the car. The garage is not excessively close to the neighbor to the north.
- 120 3. *Whether the requested area variance is substantial.* The Board decided that this variance would not be substantial. It is similar to other properties in the neighborhood. This is only 11 inches and is not substantial.
- 125 4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.* The Board decided that the proposed garage would look better than the existing garage. The metal roof will be removed. The applicants expressed concern for the welfare of the neighbor's tree. Safety factors are improved for children in the back yard. This is an improvement for the neighborhood with no adverse effects.
- 130 5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance. The Board, in granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.* The Board decided that
135 this is self-created. The alternative would be to make no changes. Again, this is a nice change to the neighborhood.

The Board went through a draft resolution prepared by Village Attorney, James Stokes:

140 IN THE MATTER OF APPLICATION FOR

Area Variance at

APPLICANT: Adam and Andrea Berg

GML Case No.: N/A

Tax Map No. 94.43-1-33

145 23 Hurd Street RESOLUTION Approving Area Variance

The Zoning Board of Appeals of the Village of Cazenovia met in Regular Session in the Municipal Building of the Village of Cazenovia, located at 90 Albany Street, Cazenovia, New York, on October 29, 2018, commencing at 7:00 p.m., local time at which time and place the following Resolution was moved, seconded and passed:

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WHEREAS, a public hearing on the above captioned application was duly called and held at the Municipal Building, 90 Albany Street, Cazenovia, New York, on October 29, 2018, at which time and place all persons desiring to be heard were heard; and

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WHEREAS, notice of the public hearing was duly posted and published in the official newspaper of the Village of Cazenovia at least five (5) days prior to the date of commencement of the public hearing; and

WHEREAS, all Zoning Board of Appeals members had due notice of said public hearing and meeting, and, that pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and due and proper notice of the time and place thereof was duly given as required by law; and

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WHEREAS, all members of the ZBA have viewed the site and neighborhood surrounding the subject Premises, and accordingly have personal knowledge thereof; and

WHEREAS, Eric Lints, architect, appeared on behalf of the applicant in support of the application, and no one appeared in opposition to the application, with no other persons appearing; and

WHEREAS, no written comments were received by the ZBA regarding this application; and

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WHEREAS, the subject premises are zoned R-10 Residential District, pursuant to the zoning map which is part of the Zoning Code of the Village of Cazenovia; and

WHEREAS, Section 180-28(G)(2) of the Zoning Code establishes a 4' side yard setback requirement for accessory buildings; and

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WHEREAS, Section 180-28(H) of the Zoning Code establishes a maximum lot coverage limit of 25% in the R-10 District; and

WHEREAS, the applicant seeks for relief from the aforesaid zoning code provisions in order to construct a new detached garage which would be within 3'1" of the northerly line of the subject lot and which would result in a total lot coverage of 29.08%; and

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WHEREAS, the lot coverage for the subject premises is presently a nonconforming 29.15%.

NOW THEREFORE IT IS HEREBY RESOLVED that this is a Type II action as defined by section 617.5(c)(12) of the implementing regulations of the New York State Environmental Quality Review Act ("SEQRA"), as it involves the granting of individual lot line variances. The ZBA is the only involved agency with respect to this variance application, and it is hereby

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FURTHER RESOLVED that upon the application and upon the proofs and proceedings offered at the public hearing, which was or is hereby closed, the ZBA hereby makes the following:

FINDINGS OF FACT

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1. The subject premises are located in an established residential neighborhood.
2. The subject premises are improved by a single family residence and an existing garage which is to be demolished.

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- 3. The proposed new garage is roughly equivalent in size to the existing garage to be removed.

CONCLUSIONS OF LAW:

- 195 1. The benefit to the applicant in this instance outweighs any potential detriment to the health, safety and welfare of the community if the requested area variance is granted.
- 2. Based on the record evidence, there will be no environmental problems with the proposal and it will not unreasonably affect the neighborhood.
- 200 3. The granting of the variance reducing the side yard setback from 4' to 3'1" is not substantial. The proposed new lot coverage of 29.08% is less than the existing nonconforming 29.15%.
- 4. There are no reasonable alternatives by which the applicant can achieve the desired benefit.
- 205 5. This Applicant's difficulty is self-created by its desire to construct a new garage and patio deck; however, the Board finds that the overall improvement to the property will have a positive effect on the neighborhood and the community as a whole.

210 **BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, the Applicant's request for two area variances to construct a new detached garage within 3'1" of the northerly line of the lot, and to develop the lot to an overall total lot coverage of 29.08% is hereby APPROVED.**

215 October 29, 2018

P. Byrnes made the motion to adopt the resolution. L. Hart seconded. The vote was:

P. Byrnes – Aye.

C. Bell – Aye.

220 L. Hart – Aye.

The motion carried with 3 in favor, 0 opposed.

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225 P. Byrnes made the motion to adjourn the meeting. C. Bell seconded. The motion carried with 3 in favor, 0 opposed. The meeting was adjourned at 7:31 p.m.

Respectfully submitted,

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Marlene A. Westcott
Recording Secretary