

**TOWN OF LOCKPORT  
ZONING BOARD OF APPEALS  
September 27, 2016**

**FILED**

SEP 30 2016

PRESENT: Timothy Lederhaus, Chairman  
Kevin McCabe  
John Lang, Alternate

Kevin Roth  
Donald Jablonski

TOWN CLERK  
LOCKPORT, NY 14094

ALSO PRESENT: Brian Belson, Building Inspector  
Paul Siejak, Council Liaison

Michael Norris, Town Attorney  
Judi Newbold, Acting Secretary

The September 27, 2016 Zoning Board Meeting was called to order by Chairman Lederhaus at 6:00 pm followed by the Pledge of Allegiance.

Chairman Lederhaus noted that Member Elaine Sobieraski is absent and Member John Lang, Alternate will be voting in this evening's meeting.

**MOTION** was made by Member Jablonski, seconded by Member Roth to approve the August 23, 2016 minutes. 5 Ayes, 0 Nays. Carried unanimously.

**CASE #1**      **6343 Bartz Rd – 152.03-1-36** Lori & Kevin Carrero-Requesting a use variance to operate a classic car dealership from home with no more than three classic cars outside at once during daylight hours and classic cars stored in garage at night.

Chairman Lederhaus asked Lori Carrero to address her proposal to the Board. Lori explained she had a unique request to operate a Classic car buy and sell business from her home. This would consist of no more than three classic cars at any one time. It will be operated mainly from spring to fall, as the cars are not exposed to inclement weather. Also, the classic cars will be housed in the garage area every evening. The sales would be executed through internet advertising only, so there would be no permanent or temporary signs or banners displayed other than one 3 X 2 ft. dealership sign adhered to her fence which is required by NYS law. The color of the sign would allow it to blend in with the fence. There would be no lit signs and no posts with signs on them.

At this time, Chairman Lederhaus opened the public hearing. Brenda Blake of 6481 Rapids Road then spoke. Ms. Blake explained that she would be speaking on behalf of her brother Michael, the record owner of 6798 Old Beattie Road, but who resides on Townline Road, and her father Lawrence Shields, who has life use of the 6798 Old Beattie Road property, which is adjacent to the Carrero's property. She stated opposition to a registered car dealership next to the home on Old Beattie, as the home is in a residential neighborhood and she would like to keep it that way.

Lori Carrero explained leasing or purchasing a commercial property would be cost prohibitive because of the low volume of cars that would be sold. Any profits generated from selling the classic cars would not sustain another property. She also stated that she spoke to Michael Shields and he assured her he did not have a problem with this endeavor.

Ms. Blake feels that the Carrero's only have housing for two cars. At this point, Lori presented pictures on her tablet to the Board and reviewed the placement of classic cars, personal vehicles, fencing and sight lines.

Member Jablonski stated they have received several letters in favor of this Variance.

Chairman Lederhaus questioned Lori on the number of classic cars that are typically held at one time. Lori Carrero stated no more than three, mostly one or two. He explained to Ms. Blake that this proposed Use Variance is for sales transactions only, not repairs or bodywork.

Member McCabe explained the difference between a Use Variance and an Area Variance.

Chairman Lederhaus asked Brenda Blake if she had any ownership in the house and reiterated Mr. Lawrence Shields' position as that of "life tenant" and Michael Shields as the record owner. He also questioned Mr. Lawrence Shields as to whether Ms. Blake was in fact speaking for him at this meeting. Mr. Lawrence Shields stated, "yes" and this was due to his hearing difficulties.

Chairman Lederhaus stated, that if this request is approved, several reasonable conditions including: hours of operation (showing of the cars), signage and a stipulation that the Use Variance will terminate with the sale of the property could be imposed by the Board. However, if the Carrero's shut down the business at any point, they could reopen it again so long as they owned the property.

Brenda Blake stated that if you purchase a property in a residential area, it should not be changed, as in her opinion it decreases the value of the properties. She feels it is unfair and it should remain a residential area.

Member McCabe then asked Lori Carrero if she was familiar with the Use Variance Criteria pertaining to "unnecessary hardship" and summarized it for her.

Lori further explained her concern, as she had spoken previously to Michael and Lawrence Shields and they had assured her this was not a problem. She did not purchase this property with the plan to begin this operation here, but cannot find an alternate affordable property.

Chairman Lederhaus asked if there was any additional person who would like to speak from the public in regards to the Use Variance for 6343 Bartz Road, and asked the board if they wished the public hearing to be closed.

**MOTION** was made by Member Jablonski, seconded by Chairman Lederhaus to move to Executive Session to consult with the Attorney in regards to legal advice regarding the process. The Board entered Executive Session at 6:20 pm. 5 Ayes, 0 Nays. Carried unanimously.

**MOTION** was made by Member Jablonski, seconded by Member McCabe to exit Executive Session at 6:26 pm and proceeded with the following. 5 Ayes, 0 Nays. Carried unanimously.

Attorney Norris clarified the purpose of Executive session and also explained that the Board may keep the public hearing open to allow the record owner of the property to come in to speak and allow the applicant to provide additional documentation or information. He will read the criteria into the record so that all parties (those present or additional) will have the opportunity to know the criteria and will be able to come back to the meeting to address the criteria on the record.

To allow a use not otherwise allowed in zoning an applicant must demonstrate to the Board – unnecessary hardship. Such demonstration includes all of the following, for each and every permitted use:

1. cannot realize a reasonable return – substantial as shown by competent financial evidence
2. alleged hardship is unique and does not apply to substantial portion of district or neighborhood
3. requested variance will not alter essential character of the neighborhood
4. alleged hardship has not been self-created

If approved shall grant minimum variance necessary, and may impose reasonable conditions.

He also reminded the Board they are allowed to impose reasonable conditions to lessen the impact that the variance would cause. He then explained to the parties involved the Board may keep the public hearing open if they wish to allow for additional evidence, testimony or public comment. Then following the closure of the public hearing they have sixty-two days to render a decision.

**MOTION** was made by Member Jablonski, seconded by Member Lang that the Public Hearing be kept open until the next meeting, October 25, 2016 at 6:00 pm. at which time additional evidence, testimony and public comments may be presented. 5 Ayes, 0 Nays. Carried unanimously.

All were informed that no additional notices will be issued and the date and time was reiterated. Attorney Norris explained the criteria again at this point and Councilman Siejak distributed Use Variance Criteria handouts to Brenda Blake and Lori Carrero. Ms. Blake was also informed that the minutes would be available on the Town Clerk's bulletin board as soon as they are finished.

**CASE #2      6441 Rapids Road – 152.01-1-8 – Dean Robideau – Requesting an area variance to expand an attached garage with a bedroom/bathroom addition on the second floor, which is closer to the road than the required 50 feet front setback.**

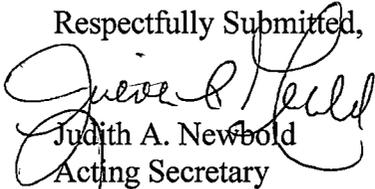
Dean Robideau explained he would like to place a bedroom upstairs so that he can move his mother in law into the downstairs bedroom that would work well for her. He would also like to add an additional five feet to the garage front, as it is now only twenty feet deep. He intends to accent the front of the property to make it look good, with vinyl siding that complements the existing colors.

Chairman Lederhaus opened the public hearing, no one spoke on the matter, and the public hearing was then closed. Mr. Robideau stated he also spoke to the neighbors on both sides of the property and they were in agreement.

**MOTION** was made by Member Jablonski, seconded by Member McCabe to grant Dean Robideau an Area Variance to expand an attached garage with a bedroom/bathroom addition on the second floor, which is closer to the road than the required 50 feet front setback, located at 6441 Rapids Road; based on the Board's consideration that the benefit cannot be achieved by other means feasible to the applicant, it will not be an undesirable change in neighborhood character or to nearby properties, the request is not substantial, the request will not have adverse physical or environmental effects, and although self-created the other factors outweigh this one. 5 Ayes, 0 Nays. Carried unanimously.

**MOTION** to adjourn was made by Member Lang, seconded by Member Roth. 5 Ayes, 0 Nays. Carried unanimously.

Respectfully Submitted,

  
Judith A. Newbold  
Acting Secretary