

Town of Oneonta  
**Zoning Board of Appeals**  
Meeting Minutes  
November 22, 2021

Approved  
12/27/21

**Present:** D. Prouty, Ken Pym M. Stolzer, Chairman Cannistra, Rob Panasci (Attorney), L. Sause (Clerk)

**Absent:** D. Allison,

**Others:** William Starna, Ellen Blaisdell, Peter Exton, Michelle Zuk (Family Resource Network), John Platt, Vicky Klukkert (The Daily Star), Stacy Platt, Peter Exton, Kathy Jalowiec-Stanton, Will Clemons, Ken Mann, Rich Mann, Margaret Clemons, Brenda Seery, J. Mann, Douglas Platt

**A. Roll Call**

- Chairman Cannistra called the meeting to order at 7:05pm and called for the roll.
- Next meeting is scheduled for December 27, 2021

**B. Minutes – October 25, 2021**

**MOTION:** A motion was made by M. Stolzer and seconded by D. Prouty to approve the minutes as amended.  
**DISCUSSION:** None **VOTING:** 3 in favor. **ABSTAIN:** K. Pym **Motion Carries.**

**C. New Applications:**

- **Family Resource Network, Use Variance**

**Tax Parcel No:** 299.06-2-80.00

44 Oneida Street, Oneonta, NY

**Zoning:** B-1

The applicant desires a use variance approval to sell the parcel as a single-family residence. The structure was formally a single-family residence and has been unoccupied for more than 6 months. Family Resource Network wants to be able to offer the parcel for sale as a single-family residence.

Michelle Zuk, represented the application. She stated that the property has been unoccupied for 6 months. They were originally going to expand the offices at 46 Oneida to 44 Oneida but due to Covid, some of the employees are now working at home and there is no need to expand. They would like to sell the property at 44 Oneida St. but there has been no interest in it as a commercial property. There have been many inquiries from buyers who would like to use it to live in it, but in it's present zoning, in order to live in it, they would need to prove that the primary use is as a business.

Ms. Zuk provided a letter from a realtor, Kathy Jalowiec-Stanton from Bordinger Realty noting that the property will be easier to sell as a residential and that the residential market has more buyers at this time than the small business market.

**MOTION:** A motion was made by D. Prouty and seconded by K. Pym to set a public hearing for the use variance on December 27, 2021 at 7:15pm or as soon as possible thereafter.

**DISCUSSION:** None **VOTING:** Unanimous. **Motion Carries**

**D. Public Hearings:**

- **Richard Mann, Area Variance**

**Tax Parcel No:** 287.09-1-19.00

3965 St. Hwy 23

**Zoning:** RA-40 (Residential-Agricultural District)

The applicant is requesting a side yard area variance to place a garage structure on his property.

Code Review- Building location and setbacks:

<u>Setback</u>	<u>Required</u>	<u>Proposed</u>
Front yard	50 ft	complies
Side yard	10 ft	<5ft
Rear yard	10 ft	complies
Frontage	200 ft	No change
Building Height	35 ft	<35 ft

The mailings were incomplete, so the applicant called John Frisch, who did not receive a notification. Through his facetime Mr. Frisch stated on the record that he waived his right to notice so the public hearing could continue. The hearing started at 7:30pm and Chairman Cannistra read aloud the notice from "The Daily Star". Richard Mann spoke for the application. He would like to build a carport on his property. He does not believe that there would be an undesirable change in the neighborhood as it is not changing anything, he will just have a new roof line. There is no other place to put the carport due to the property being so narrow and he does not believe that it is substantial as it is just a small structure and he also does not believe that there will be any environmental changes or drainage issues. There are also other properties around him with garages. No one else addressed the matter and the public hearing closed at 7:48pm.

The board discussed that they found no negative environmental impacts, that the carport would not be substantial and that there were many other similar structures in the area.

**MOTION:** A motion was made by D. Prouty and seconded by M. Stolzer to approve the area variance.

**DISCUSSION:** None **VOTING:** Unanimous. **Motion Carries**

- **Interpretation of Municipal Officials Decision**

**Tax Parcel No:** 275.00-1-54.02

617 East St., Oneonta, NY

**Zoning:** R-80

The applicants desire an appeal to the decision and interpretation made by the Code Enforcement Officer relative to the use of dirt bikes on the Thompson parcel between East Street and Wilber Lake Road. The appeal for interpretation is outlined in the Notice of appeal to the Zoning Board of Appeals dated August 13, 2021.

The board continued their discussion of the interpretation at 7:50pm and Chairman Cannistra read aloud the application. Even though K. Pym was not at the previous meeting, it was noted by R. Panasci, the board's attorney, that he does not have to abstain from the decision. He is allowed to participate if he reviews the materials presented. Chairman Cannistra stated that his biggest concern for overturning the code officer's decision is that it would be a problem for anyone who runs a mower or a tractor on their own property. He feels that the Code Officer made the correct decision.

M. Stolzer replied that the code specifies that the code allows home owners to make some noise in repair and maintenance of a property and believes that there is a difference in the sound from driving a snowmobile or 4-wheeler recreationally from the sound when in a race. He questions if riding a dirt bike is consistent with the code and is it a line that should be crossed?

Chairman Cannistra reiterated that they need to take in account the current use and it stated in the code officer's decision that only the family can use it. If they bring in someone else, then there is an issue.

M. Stolzer stated in the code that low impact uses such as riding stables, etc. Is this a motocross use? Is it private use or community use?

R. Panasci noted that the noise levels should be less than 5 decibels over the ambient noise level and the fine for noise levels is \$25 for the first offense, \$100 for second and third is \$250. If it was just about noise, then the folks should go to the town board and change the sound codes. He also discussed that there is a difference between public and private use. What is personal use of motorized vehicles? If one person uses a dirt bike or if 5 brothers also use it, is it a motocross and is it a violation? These are the questions that the board needs to consider when interpreting the code.

Chairman Cannistra said that we could be creating a situation that we can go anywhere. He doesn't want to take away the rights.

M. Stolzer debated if the code officer was correct in his decision. If not, the town should work on changes in the code. Put in it that there are no dirt bikes, and put in where they can be ridden.

K. Pym said that lines were crossed by the Thompson family. He doesn't want to take a hobby away from a kid and hopes that the neighbors can get together. It is a small community and everyone must respect each other. There is the issue of personal freedom and also people around that don't appreciate it. Everyone should be able to enjoy their property. He wanted to know if its possible for everyone to have input and could they work it out on their own?

The board decided to postpone the decision for the next month to allow everyone to review the materials and the code.

**MOTION:** A motion was made by Chairman Cannistra and seconded by D. Prouty to postpone rendering a decision until next month's meeting on December 27, 2021.

**DISCUSSION:** None **VOTING:** Unanimous **Motion Carries.**

There being no further business before the Board, the meeting was adjourned at 8:38pm.  
Laura Sause,  
Clerk of the Zoning Board of Appeals