

TOWN OF NEWFANE ZONING BOARD OF APPEALS
2737 MAIN STREET NEWFANE, NY 14108
August 20, 2024

MEMBERS PRESENT: Chairman Troy Barnes, Jeremy Irwin, Charles Maynard, Marcy Ferington, Tyler Finley, Bill Koller

MEMBERS ABSENT: Zach Hanczarowski

OTHERS PRESENT: Maxwell Russell, Peter Russell, Larry Lakes, Donna Lakes, Applicants

The meeting was called to order at 7:00 p.m.

Troy introduced the board as well as Jim Sansone, David Schmidt and Robin Bower.

Troy read aloud said variances. All parties of interest and citizens within 300' radius, were contacted via mail regarding said variances.

JEREMY and CHERYL IRWIN, 2683 Main Street Newfane, NY, have applied for an area variance under the Town of Newfane Zoning Ordinance, to construct a dwelling upon premises known as 6531 Hatter Road Newfane, NY behind a garage located upon premises, in violation of Section 9-4-2 of the Newfane Zoning Ordinance, which requires that the area of the front yard of a dwelling be open and unobstructed.

With this variance Jeremy Irwin recused himself from the board.

Jeremy stated his case and then Troy asked the board if they had any questions for Jeremy, Marcy asked how far the house was? Jeremy replied with the total of 200'. Jim Sansone stated that Jeremy would be in general line with the other homes on the road. Jeremy said no behind them. His garage is farther back than the houses are now. Jeremy wanted it to set far enough back to put the septic in the front yard. He has had the planned approved by the county already. Troy asked a question regarding the structure codes. Marcy, Troy, David and Jim all had a discussion in regards to the future of anyone having the same situation. The concern was what was the "main structure" of this property. They all discussed the codes. Jeremy stated that he built the garage with knowing the house would be there next. Jeremy said he never knew he would need a variance for the house 4 years ago when he began with the garage. Marcy stated she drove by the property and it definitely sits to the side of the property. Jeremy stated the dimensions of the property and the project.

Troy asked if there were any other questions from the board or the public?

Troy asked for a motion to poll the board. Charles made a motion and Marcy second it. All were in favor and no one was opposed. Motion carried.

Bill Koller- This does not change the structure of the neighborhood nor does it conflict with the neighbors.

Charles- He is in favor of the variance because it does not alter the appearance of the neighborhood.

Marcy- Grants variance. The set back is adequate and the garage is off to the side.

Tyler- I grant the variance based what was already stated.

Troy – Grants variance based on what the board already stated.

Zach Hanczarowski- absent

Variance Granted.

ASON M. SCHULTZ and JAMIE SCHULTZ, residing at 2989 Lockport-Olcott Road Newfane, NY, have applied for a Use Variance under the Town of Newfane Zoning Ordinance, upon premises known as 3644 Ewings Road Newfane, NY, to change the current use of part of premises from an Agricultural Residential (A/R) use, to a short term parking and camping area for recreational vehicles, which is a prohibited use in an Agricultural Residential (A/R) District, under the Newfane Zoning Ordinance.

Jason wanted have a space during salmon season where people could park their camper for a few days and go salmon fishing. Right now, they are staying at Air B+B's in Lockport or south of there. He would like them to stay in Newfane where it would bring more money to the community instead of other towns.

Troy asked the board for questions.

Marcy asked how many campers would be there. Jason stated 10 at the most. He said he has a 3-acre field, campers would be 500' away from any neighbors.

Marcy wanted to know what Jason meant when he said seasonal. Jason stated 3 to 4 months during the salmon run. That it is it.

Tyler asked when do the salmon run? Jason responded with a scenario based on the Salmons stages of going from the Lake up to the dam. Troy asked for an idea of time. Jason believes it could be in September this year until December.

Chuck asked if this is primitive camping? Jason replied yes, no electric, no water and that this will no be a "traditional campground". There will be no campfires.

Jeremy asked how many acres? Jason replied 3. Troy asked how much property? Jason replied with 40 acres. Not one thing will be permanent. No bathroom, no showers, nothing.

Chuck asked if Jason was going to be on sight while the campers were there. Jason replied that his aunt is next door and she is aware of everything. If there are any problems I live 5 minutes away. Jason also stated there is a Hold Harmless waiver everyone signs. Heart of Niagara were kind enough to put lights and cameras on the back of building towards said property. Jason said if any rules are broken the person will be kicked out.

Jeremy asked what the length of stay was? Jason replied with a weekend or 1 week. That is, it.

Chuck stated no one will be parking a camper for 3 weeks. Jason said no.

Troy asked what is going on for facilities. Jason said that camper have facilities n them. Jeremy said not for a week. Jason explained the schedule of a fisherman. They get up at 4am fish all day, go to dinner, use the facilities at the restaurant and then go back to camper and fall asleep. They don't sit at campfires and party and drink all night.

Bill had a concern if there is stone or pavement there on trail. If someone had an emergency getting back there. Jason said they can get back there. Jeremy was concerned that in November when the ground is wet that the easement would not be passable. Jason has been calling the county about getting some millings brought in. Jeremy asked whose easement it was. Jason said Amy Fricano made it an easement when his dad owned the property, Marcy asked if Jason had permission to use the easement. He said anyone can use the easement. Bill asked if there is any signage at the property regarding the address. Jason said yes.

Chuck asked Jim if this situation was a 2-part variance where Jason would have to come to the zoning board first then the planning board because Jason is creating a campground with 10 campers. Jim said yes. In which case Troy stated that the planning board would take care of the sight issues.

Jeremy stated that if the Zoning board gives this "Campground" title it is going to come with a bunch of rules and regulations. Bill stated a New York State rule 5 or more campers it becomes a Campground.

Jim was explaining hardship to Jason about his land in order to get use variance.

Jason explained what went on with the property up until the present. The property began with his grandfather.

Troy and Jim were trying to explain to Jason about buying or inheriting it. The hardship is not self-created. Jim explained when an individual buys a piece of property knowing the zoning rules. If it inherited it is not self-created. Jim explained the application with the elements he needs to comply with.

Troy asked if he could explain the site plan. Jason said it would be a very minimal amount of time you would see the campers from the road. Some campers would be blocked by part of the Hearts of Niagara business.

Jim asked how much of the mowed 3 acres would he be using with the 10 campers. Jason said 1 acre.

Marcy asked Jason to have more of a plan written down including rules and pricing.

Jim suggested we adjourn and Jason can meet with the Building Inspector with his plans and come back with a presentation.

Jeremy wants to know what is the Zoning board is going to call the variance. If it a campground it opens up a whole different set of rules.

Marcy was talking about other people at farms that have camper staying there.

Chuck read 2-10 rule describing a campground. From Zoning Law Book. Troy and Marcy were in on the discussion.

Marcy was speaking of Boondocking. The Board needs to find out what the actual rules are. They were talking about acres verses use of property. Jason owns 40 but only using 3 acres. Jason was saying how he can't use the whole 40 acres because it is land locked and would have to gain permission from the nearest farmer to access the property from another field or laneway. Marcy strongly suggested to find the requirements for this situation. She also said he should inquire about boondocking. Jeremy wants Jason to have set dates Jason wants to have the site open. Not just "salmon season" be specific. The board again wants a plan. Jim brought up 5-2 of the charts in the zoning book laws explain why Jason needs a variance. Chuck wants to know if the board grants a use variance does, he still need to go to the Planning Board. Jim said he would need a site plan review with the Planning Board. The board and Jim were discussing clarification as to what Jason's idea on his property would be called. Jason spoke up and said he would like to save everyone time and he would put together a plan and come back in 1 month to be heard again.

Troy asked for a motion to adjourn.

Jeremy made the motion and Tyler second the motion.

All were in favor. None opposed.

Zach Hanczarowski was absent.

Motion carried.

LORAN M. BOMMER AND OLCOTT HARBOR RESORT, INC., 543 Locust Street Lockport, NY 14094, have applied for a Use Variance under the Newfane Zoning Ordinance, upon premises known as 5764 West Lake Road Olcott (Town of Newfane), NY, to assemble sixteen (16) portable modular prebuilt pods (similar to storage containers), on premises for use as short term rental living units (cottages), which use is not permitted by Section 260-4 of the Town of Newfane Short Term Rental Ordinance. The premises is located in the Highway Commercial District defined in said Ordinance.

Mr. Bommer handed out some photos of his ideas. He then went through his timeline of the purchase of the property in 2020. Existing RV Park, motel and gas station. He explained who would do the inspections on his RV park. The Health Department would be the one to inspect the

facility. He then spoke on the Motel which has been open in 1985 and has always been short term rentals. He also owns the 65-unit RV Park which also opened in 1985. He has the restaurant open as The Northern Pier Bar and Grill which opened in May of 2023 and is flourishing. He also built the gas station/ convenience store which has been closed since 2005. He spent a lot of money on the gas station and just recently he has rented out the gas station to a professional operator. As of Labor Day This year he is bringing in the first International Company to the area. It will be rebranded as a VP racing station. Guest visitors, motor heads and car enthusiasts will be there. He then said 2 ½ years ago he had an opportunity to purchase the shipping containers, that were built by Samsung. They were sent all over the country for conventions and displays. He bought 16 of them. They would be 100' from the motel and 100' from RV park. Mr. Bommer described the way the "pods" were constructed. He mentioned he receives call for larger areas than a motel room. Pods are 18'L x 8'D x 10' H. They are a total of 565 sq. ft. They will have plumbing and electricity. The town has already installed the water 2 years ago.

Troy asked for questions from the board.

Marcy asked about pods there will only be 4 total? Mr. Bommer said yes. She asked that these are only short-term rentals? Do you plan on renting them out for nights, months seasons? Mr. Bommer said he wasn't sure because this is a first for Newfane. Its available year-round because it has sufficient plumbing and electricity. He is opened to someone renting it for 1month to 3 months etc. He is not changing the character of the neighborhood. He is not changing the type of neighborhood.

Jeremy asked if they were year-round Mr. Bommer said absolutely. Jeremy was concerned that the structure was rated for year-round. Mr. Bommer described how they were built and insulated well. Jeremy asked if the motel was open all year, Mr. Bommer replied, yes all of the businesses are open year-round.

Bill wanted to know how far from the creek? Mr. Bommer said 700'.

Troy asked if the motel was booked all the time. Mr. Bommer explained that he is at the mercy of the weather because he could have it all booked and then the weather turns bad and people cancel.

Troy asked for any other questions from the board or the public?

The board was discussing the variances for this situation. They spoke of short-term rental verses, pre-existing situations. Jeremy asked if these were separate parcels. Mr. Bommer stated they were two SBL's on one deed. With the regulation of the number of units per property is the reason why he has to come before the Zoning Board.

Mr. Bommer stated he has the ability to expand the campground and he wants to. He has already spoken the county. Jeremy asked if he expands the RV Park would it expand to the area where the small homes would be. Mr. Bommer said yes. He wants to expand by 106 units. Bill stated to Mr. Bommer that he had a permit with the county as a campground. Mr. Bommer replied that he has a RV permit and a Campground permit. 65 for the RV park and 20 for campgrounds. Troy asked what would it take to just add that to your campground. Mr. Bommer said they don't have wheels. Jeremy was stating that he doesn't know other stipulations of other campgrounds but at Wildwood they have cabins. Mr. Bommer doesn't know. Troy believes they are State ran. Troy asked Mr. Bommer if he could contact the county and change his permits to accommodate these new structures? Jeremy asked if Mr. Bommer would like to contact the county before the board makes their decision.

Max Russell had a statement about how these would fall under the motel if they were an extension of the motel. It is permitted use.

Jeremy was talking about a couple different avenues. Troy and Jim were discussing how he is already permitted as a campground. Jeremy stated if he does some research with the county to see if this would be an extension of the campground? Jim stated this is all commercial, so cabins would be permitted under highway commercial. Jeremy told Mr. Bommer to go to the county and ask if he could add these to his campground. If can't and needs to come back to the board to get variance to be a short term. Mr. Bommer wanted the board to consider a short-term rental now but if the board did that Mr. Bommer would have to go in front of the planning board. Jim said that he has to establish a use variance. The units in a highway commercial zone are prohibited as a short-term rental. Mr. Bommer will have to show the elements for a use variance. He has to show dollars and cents, hardship, uniqueness does affect or alter the neighborhood and not self-created. He owns his property he should know the zoning. If these are considered cabins, he wouldn't need the use variance rule because when you have to establish the four elements. If you do not establish those elements, you will not receive the variance. The board was discussing the definition of a motel. Marcy asked about the units that are at the property are they finished? Mr. Bommer explained what they are made of and how he will finish them. Jim made mention that under our ordinance these can be considered a motel. That is under our ordinances, not the state or the county. Troy asked Mr. Bommer to table this for now and check in with the county and state regarding this situation and meet back in 1 month to revisit the situation because you are going to have to go in from of the planning board for the Short-Term Rental anyway. Jim asked if there were any other set of laws that state that these units would not be considered a motel. Mr. Bommer felt that they would fall under the same as a motel. He wouldn't need a variance then. Max Russell asked wouldn't a campground/ cabin avenue be more troublesome. The only references to cabin are residential and wasn't that why the Niagara Campgrounds got rezoned to a RR, it seemed like highway/commercial would have been more appropriate. Are cabins allowed in a highway commercial zone? Troy pointed out that he is already permitted as a camp ground. Those new "cabins" would fall under campground. Max pointed out that he could not open a new campground with these cabins? Troy answered yes, he is a pre-existing campground.

Troy made a motion to table.

Chuck made the motion. Marcy second it. All were in favor.

Zach Hanczarowski was absent.

Motion carried.

Motion was made to withdraw the motion to table. Chuck made the motion. Marcy second it. All were in favor. Zach Hanczarowski was absent.

Motion to adjourn.

All were in favor to adjourn.

Zach Hanczarowski was absent

RICHARD GUNKEL and LAURIE GUNKEL, 3792 Coomer Road Newfane, NY, have\ applied for an Area Variance under the Newfane Zoning Ordinance, upon premises known as 3792 Coomer Road in the Town of Newfane, NY, to place a pre-built shed in the front yard of premises in violation of Section 9-4-2 of the Newfane Zoning Ordinance, which requires the area of the front yard to be open and unobstructed.

Troy read the variance.

Laurie Gunkel explained what her plans would be. Her side front yard is where it would go. It does not block the view of the home. It will not change the integrity of the neighborhood. Her neighbors are ok with the shed going in the side yard area. Jeremy asked where the shed was going in the driveway area? Laurie said in front of the turnaround. Bill asked how far are they from the front of the property. Laurie said from the center of the road they are going 82' back. Troy asked if the shed is centered. Laurie said yes. Troy remarked that she is almost at the setback. Bill had some questions about the setback and possibly 2 variances.

Troy asked for any other questions from the board and the public. Jeremy asked what the shed was being set on? Laurie said a stone bed.

Troy asked for a motion to poll the board. Marcy made the motion. Tyler second the motion. All were in favor.

Zach Hanczarowski was absent.

Jeremy with approve the variance because it is set off to the side of the property and it is not a detriment to the neighborhood. Tyler approved variance because it does not change the neighborhood and there are similar sheds in the neighborhood. Marcy approved the variance with the same reasons as the board members previously said. She doesn't see a problem and it will not change the neighborhood. Chuck will grant the variance because he said it will not affect the neighborhood. Bill will grant the variance because it will not change the neighborhood at all. Troy votes to grant the variance. Variance granted.

RICHARD RIGGI and SUSAN RIGGI, 3380 Avriil Road Caledonia, NY 14423, have applied for an Area Variance under the Town of Newfane Zoning Ordinance, on property known as 6595 East Lake Road, in the Town of Newfane, NY, to construct an addition onto the front yard of the dwelling located on premises, which will be 27 feet from the south or front line of title, which is in violation of Section 5-3 of the Newfane Zoning Ordinance, which requires a 60 foot set back.

Troy read the variance.

Susan explained the situation. She and her husband have a cottage in this neighborhood for 30 years. It is a group of cottages which is a non-for-profit group called Outing Park. Her family has been there a long time starting with her great grandmother. When this neighborhood started it was just platforms and tents. Little by little everyone now has structures. When this started, they were all 33 x 66' lots. They are zoned rural residential which requires a 60' setback. This is impossible with a 66' lot. The Gunkel's now have a leaking roof and some rotted flooring that needs to be repaired to keep the cottage standing and useful. They want to change their staircase to make it safer. Fix the bathroom. They would need to come out 7 feet that will put them at 27'. They have no other choice but to get a variance. The other cottages in the neighborhood have the same situations. Mrs. Riggi is the President of the Outing Park Group.

Troy asked for any questions from the board and the public. Troy asked for a motion to poll the board. Bill made motion and Marcy second it. All were in favor no one opposed. Zach Hanczarowski was absent.

Motion carried. Troy voted yes to variance. He said it will not alter the neighborhood. The renovations will make safer conditions in the cottage as well as code requirements. Marcy said the look of the neighborhood will be better and hope that the other cottage owners will follow suit. Chuck will vote to approved the variance. It will not affect the character in a negative way. It will promote safety and livability. He did not see where it would hinder safety of a rescue vehicle if needed. Bill said he would pass the variance it will not affect the aesthetics of the neighborhood, Jeremy said he would grant variance based on what the board had already mentioned. Troy said he would grant the variance based on what was already said. Variance granted.

IAN F. TABERNER, 5671 West Bluff, Olcott, NY 14126, has applied for an area variance on property known as 5671 West Bluff Olcott, NY, under the Town of Newfane Zoning Ordinance, to construct a dwelling and attached garage on said premises, the garage of which will be 5 feet from the north line of West Bluff Road, which will be in violation of Section 5-3-8 of the Newfane Zoning Ordinance, which requires a 50 foot set back from said road.

Troy read the variance.

Mr. Taberner wants to take down the existing house and build a new home. The existing house sits on posts and it does not have a basement. They purchased the property in 1994. The plans include the DEC set back. They also would like to build a garage and have an area next to garage to park 1 car at most.

Troy was reading section 12-3-5 of the code book. Jim was going over the plan with the new proposed plan. Mr. Taberner was pointing out to the board that the existing house is illegal as far as property lines. He wants to be 10' back from property lines so He wants it to safe for first responders in the event of a fire and access to beach. He wants it to be the legal 10' from east side and west side Mr. Tabereners hope is to build a passive solar house. The front is the only area he cannot meet the required setback. The neighbors' homes to the East and West have similar situations of being on the lot line.

Troy asked if the board had any questions. Bill asked about a property line. Jim stated that the existing garage encroaches on the road. The new home will not.

Troy asked the public for questions.

Troy asked for a motion to poll the board. Jeremy made a motion and Tyler second the motion. All were in favor. No opposed. Zach Hanczarowski was absent. Motion carried.

Marcy grants variance because of all the improvements being made to improve the entire property.

Chuck approves the variance based on the fact that the new home will confirm to codes as well as the safety.

Bill votes to approve the variance. The plans were complete and organized and showed the changes which improves the safety and code of the property.


Jeremy votes to approve variance. It will improve the neighborhood. The new plan looks great. Tyler votes the variance.

Troy grants the variance. There is also a letter of support for the project from the neighbors.

Troy asked for a motion to adjourn meeting. Chuck made the motion. Jeremy second it. All in favor. Aye.

Meeting adjourned at 8:45p.m.
Zach Hanczarowski was absent.

Respectfully submitted


Robin Bower
Zoning Board Secretary


Troy Barnes
Zoning Board Chairman