

**TOWN OF ALLEGANY ZONING BOARD OF APPEALS  
MONDAY, JUNE 4, 2012**

**Present**

Joe Chamberlain, Acting Chairman  
Ron Kyser  
Carol Ozzella  
Don Sue  
Carolyn Hemphill, Secretary

**Absent**

John Jones, Chairman

**Also Present**

Carol Horowitz, Planner

**Public Hearing:** The public hearing was opened at 7:00 pm by Acting Chairman Chamberlain to hear the variance request from Dr. Nick Porcello to allow a parking lot for his dentist office to come within five (5) feet of the front lot line, where the Zoning Ordinance requires a forty (40) foot setback. Carol Horowitz explained to the Board that Dr. Porcello had submitted a set of plans to the Planning Board for approval upon starting his construction project. The Planning Board asked for another set of plans from Dr. Porcello. When Dr. Porcello submitted his second set of plans the County right-of-way was not shown as it was on the first set of plans. This was not detected by anyone and the project was approved by the Planning Board. It was not until after the building was constructed and the parking lot paving was to begin that it was noticed that the parking lot would be in the County right-of-way. This is how the variance request came about. No one else was in attendance for or against the variance. With everyone having been heard that wished to be heard, Carol Ozzella moved that the public hearing be closed at 7:14 p.m., seconded by Don Sue. Ozzella-aye; Sue-aye; Kyser-aye; Chamberlain-aye. Motion carried.

**Regular Meeting:** The regular meeting was opened by Acting Chairman Chamberlain, with the salute to the flag at 7:15 pm. Carol Ozzella made a motion to accept the minutes of the April 2, 2012, as written, seconded by Ron Kyser. Ozzella-aye; Kyser-aye; Chamberlain-aye; Sue-aye. Motion carried.

**New Business:** The Board discussed the Porcello variance request. The following factors were considered:

- *Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties:* The Board unanimously agreed that there would not be any undesirable changes to the neighborhood or pose any detriment to nearby properties because of it only being a parking lot.
- *Whether the benefit sought by the applicants could be achieved by a feasible alternative to the variance:* The Board agreed that any alternative would be extremely costly and cause the office to be less accessible.
- *Whether the requested variance is substantial:* The Board agreed that the request is not substantial as it is only a parking lot on a right-of-way.
- *Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:* The Board members all agreed that the variance would not have an adverse impact on either the physical or environmental conditions in the neighborhood.
- *Whether the alleged difficulty was self-created:* The Board agreed that this was not self-created.

The ZBA, after taking into consideration the above five factors finds that the benefit to the applicant does outweigh the detriment to the neighborhood or community and thereby agrees to grant the variance.

Carol Ozzella made a motion to grant the variance request with the following condition:

- 1.) Any landscaping that will be placed in front of the parking lot should not obstruct visibility at maturity.

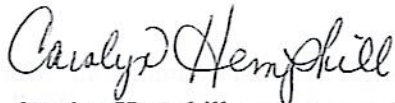
Ron Kyser seconded the motion. Ozzella-aye; Kyser-aye; Sue-aye; Chamberlain-aye. Motion carried.

**Old Business:** The packets were handed out to those members present for completion of their annual training requirements.

**Other Business:** The Board discussed tonight's variance request and thought that the forty (40) foot setback requirement was excessive in this case. Since the Planning Board is in the process of updating the Town's Zoning Ordinance, the Board authorized the secretary to send a letter to the Planning Board asking them to consider a lesser setback requirement especially for parking lots in a commercial or light industrial zone.

Don Sue made a motion to adjourn the meeting at 7:45 p.m., seconded by Carol Ozzella. Sue-aye; Kyser-aye; Chamberlain-aye. Motion carried.

Respectfully submitted,



Carolyn Hemphill  
Secretary