

OGDEN ZONING BOARD OF APPEALS
May 6, 2010

Members Present

Duane Fregoe, Chairman
Noelle Burley
Tom Hall
Mark Irwin
Corey McAtee
Mark Young
Kristen Zale

Members Absent

Others Present

Jack Crooks, Building Inspector
Michele Hankey, Secretary
Darlene & Dave Holtz
Daniel DeGrave
Chris Kostek
Dave Liberatore
Jeremiah Clifford
Marc Fallone
Gary Sajdak
Russell Godshalk

Bridget Field, Esq., Zoning Board Attorney
Malcolm Perry
Mike LoPresti
Kelly Stoklosa
George DeRue
Mary Lou Clifford
Al Arilatta
Bruno Fallone
Jeff Fleming
Jerry Barton

The Ogden Zoning Board of Appeals was called to order at 7:04PM.

I. PLEDGE OF ALLEGIANCE

II. OLD BUSINESS - None

III. PUBLIC HEARING

Appeal of Mike LoPresti, Ogden Rentals Inc., 2800 Spencerport Road, Spencerport, NY 14559 for a Conditional Use Permit to have a Daycare Center, on property located same, whereas this use is permitted in the RB district subject to the issuance of a conditional use permit by the Zoning Board of Appeals, pursuant to Chapter 210-31.D in a Restricted Business District.
Tax Acct. #087.14-2-2.1

Mr. Mike LoPresti presented this application

Mr. LoPresti: The property we are talking about is located at 2800 Spencerport Road. It is actually phase 2 of an existing subdivision of professional buildings with office space. We are here tonight to obtain approval to operate a daycare facility in the lower level of building B, approximately 5000 square feet.

Mr. Fregoe: This building B was originally part of the planning board application. We are not adding onto what you were granted previously. It is all within the original design structure.

Mr. Crooks: That is correct.

Mr. Fregoe: What is in your building A?

Mr. Lopresti: There is a dental laboratory; there is a pediatric dental office and a lifetime assistance for handicapped children.

Mrs. Burley: Are they entering in from the front of the building or the back of the building?

Mr. Lopresti: Everything would be accessed from the back of the building. The lower level of the building is fully handicapped accessible.

Audience Comments

Mr. Fregoe asked for audience comments.

Mr. Hall: It sounds like a good use to me.

Mr. Fregoe: I do not see any issues with it either. We really do not have any stipulations on a conditional use permit. If it is granted it is part of the property forever.

Mr. Crooks: Yes.

RESOLUTION #1A

Introduced by Mr. Young

Seconded by Mrs. Burley

That the Board classify the application of **Mike LoPresti, for property located at 2800 Spencerport, NY 14559, as a Type II SEQR Action.**

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

RESOLUTION #1B

Introduced by Mr. Fregoe

Seconded by Mr. Hall

That the appeal of Mike LoPresti, Ogden Rentals Inc., 2800 Spencerport Road, Spencerport, NY 14559 for a Conditional Use Permit to have a Daycare Center, on property located at same, be granted approval without any conditions.

Vote of the Board

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

Appeal of Dan DeGrave, 578 Whittier Road, Spencerport, NY 14559 for an area variance to erect a 24' x 39' (936 sq. ft.) accessory building making total sq. ft. of accessory buildings 1352 sq. ft, on property located at same, whereas the maximum land coverage by accessory buildings allowable in the R-1 district is 1% (3,565 sq. ft. for this property) but in no case shall accessory building(s) exceed 600 sq. ft. total floor area, pursuant to Chapter 210-28.F(3)(b) in a R-1 Residential District. Tax Acct. #116.01-2-10

Mr. Dan DeGrave presented this application

Mr. DeGrave: I am looking to put up this barn for storage. I want to store a couple of tractors in there and all their implements, also a camper, snowplow and a truck cap. I feel that this would be the proper size for it. I do not want to go too big or too small. It is on 8 and 1/3 acres and it would be mostly hidden from the road. It will run parallel to the house.

Mr. McAtee: Is the camper that you are going to store in the barn currently on the lot there now?

Mr. DeGrave: Yes it is.

Mr. Fregoe: There are some other buildings you have on this property too.

Mr. DeGrave: Yes I have a mechanical workshop on the lot where I repair my own cars. I also have a small storage area for lumber for remodeling my house.

Mr. Young: Would you be building this yourself?

Mr. DeGrave: I was going to, but I am not going to this time. No, I have 3 different quotes.

Mr. Young: Your lot is certainly big enough to accommodate this size structure.

Mr. Fregoe: What is the proposed construction?

Mr. DeGrave: It will be a steel building.

Mr. Fregoe: Sliding door on the front end and man door on the side?

Mr. DeGrave: Yes.

Mr. Fregoe: Windows scattered here and there?

Mr. DeGrave: No, no windows.

Mr. Hall: Electricity?

Mr. DeGrave: No.

Mr. Hall: Strictly a storage facility.

Mr. DeGrave: Yes.

Mr. Hall: You certainly have the lot for it.

Audience Comments

Mr. Fregoe asked for audience comments.

Mr. Fregoe: He is well off the road and well hidden and you would have to look pretty hard to find this thing once he has it built. I do not have a real problem with it.

Mr. McAtee: There are other similar structures in the neighborhood as well and not out of character.

Mr. Fregoe: Again the variance is not substantial relative to the overall lot size.

RESOLUTION #2A

Introduced by Mr. Young
Seconded by Mrs. Burley

That the Board classify the application of Dan DeGrave, for property located at 578 Whittier Road, Spencerport, NY 14559, as a Type II SEQR Action.

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale
Nays: None

RESOLUTION #2B

Introduced by Mr. Fregoe
Seconded by Mr. McAtee

That the appeal of Dan DeGrave, 578 Whittier Road, Spencerport, NY 14559 for an area variance to erect a 24' x 39' (936 sq. ft.) accessory building making total sq. ft. of accessory buildings 1352 sq. ft. on property located at same, be granted approval with the following conditions.

- That the accessory structures be constructed and installed to professional standards and is to be well maintained;
- That the accessory structure not be used for commercial activity;
- That the exterior lighting is limited to motion sensor lighting. No dusk-to-dawn or mercury vapor lighting;
- That a building permit be obtained from the Building Department prior to commencing construction.

Vote of the Board

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale
Nays: None

Appeal of Darlene & Dave Holtz, 385 Gillett Road, Spencerport, NY 14559, for a Special Use Permit to operate an In-Home Occupation of Hair Stylist, on property located at same; whereas, this is an in-home occupation that may be allowed with a permit granted by the Zoning Board of Appeals, pursuant to Chapter 210-51, in an R-1 Residential District.

Tax Acct. #102.02-1-39.1

Mr. Darlene Holtz presented this application

Mrs. Holtz: I have worked in Spencerport for 20 years as a hair stylist and lived in the Town all my life. I am just looking to seek employment at home now.

Mrs. Burley: The hours that you plan on...

Mrs. Holtz: My hours would be Monday thru Friday no earlier than 9 am and no later than 7. Occasional Saturdays but that would be it.

Mrs. Burley: Any other employees other than yourself?

Mrs. Holtz: No.

Mr. Young: Will you be selling any products from there?

Mrs. Holtz: No, I will have hair salon products in the house but I will not be selling them.

Mr. Irwin: Will that be the only business in the house?

Mrs. Holtz: Yes.

Mr. Hall: You will not expand to fingers and toes?

Mrs. Holtz: No just hair. I do have a letter that was submitted by my next door neighbor.

Mr. McAtee: How many customers would you expect to have in a given day?

Mrs. Holtz: 10-12, one car coming and one car going.

Mrs. Burley: You would be using the turn around for that?

Mrs. Holtz: Yes.

Mr. Fregoe: Is this an appointment only thing?

Mrs. Holtz: Yes it will.

Mr. Fregoe read a letter from Cindy Deets, 388 Gillett Road, to support this application. (see file)

Audience Comments

Mr. Fregoe asked for audience comments.

Mr. Fregoe: We talked about employees, hours of operation; we need to talk about how long we want to let this thing go. Typically we have done a couple of years. We see how things go and let the applicant come back and then we can extend it to five or ten depending on how things work out with your neighbors and you. Parking, again we want to keep everyone off of the street. You have a decent sized driveway so that should not be a problem. No outside storage of materials.

RESOLUTION #3A

Introduced by Mr. Young

Seconded by Mrs. Burley

That the Board classify the application of Darlene & Dave Holtz, for property located 385 Gillett Road, Spencerport, NY 14559, as a Type II SEQR Action.

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

Mr. Fregoe: There are some items in our code that I want to run through real quick and make sure we are good. Occupation will be conducted entirely within a dwelling or existing structure. You said yes. Occupation is incidental and secondary in nature to the principal use of the dwelling. I assume you will still be living there. Occupation will not change the principal character or use of the dwelling. No more than one person other than family members will be employed. You mentioned just yourself. Not more than 25% of the floor area of the one story will be used for the occupation.

Mrs. Holtz: It is about 175 sq. ft.

Mr. Crooks: It is well within the statute.

Mr. Fregoe: No stock in trade is kept or commodities sold other than incidental supplies necessary for and consumed in the conduct of the occupation. No storage or display of material, goods or supplies will be visible from the outside of any structure located on the premises. Such occupation shall not require internal or external alterations or evoke construction features not customarily in a dwelling. The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference. No traffic in greater volumes than what is normal in the residential neighborhood. That is a heavily traveled street. No signs other than a 1' x 2' sign.

Mrs. Holtz: ok.

Mr. Fregoe: You can put your name and phone number.

Mr. Crooks: Name or name and the occupation.

RESOLUTION #3B

Introduced by Mr. Fregoe

Seconded by Mrs. Burley

That the appeal of Darlene & Dave Holtz, 385 Gillett Road, Spencerport, NY 14559, for a Special Use Permit to operate an In-Home Occupation of Hair Stylist, on property located at same, be granted approval with the following conditions.

- All customer and employee parking shall be limited to the driveway;
- No persons, other than members of the immediate family residing on the premises, may be employed;
- Hours of operation to be Monday – Friday 9am till 7pm and Saturday 9am till noon;
- That the Special Use Permit is granted for a period of **two (2) year** and will **expire on May 6, 2012;**
- Business must stay in compliance with provisions set forth in The Code of the Town of Ogden.

Vote of the Board

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

Appeal of Home Leasing, for a Special Sign Permit, to install a 7' x 4' double sided, lit, monument sign for the Ogden Gardens Senior Apartment Building, locate at 30 Kingsford Way, Spencerport, NY 14559, whereas, a single sign not exceeding 16 sq. ft. in area shall be permitted

upon obtaining a permit from the Zoning Board of Appeals, pursuant to Chapter 157-7(C) in an Residential District. Tax Acct.# 102.02-3-99

Mr. George DeRue presented this application

Mr. DeRue: We are building the Ogden Senior housing project and along with my packet of information I sent this picture. This is basically what we are going to build out there right along Spencerport Road. This is a project we just finished in December of last year. That one has 62 units and we are 8 units away from filling it up. We feel that this is one of the major reasons why we are successful, because of our marketing and creating nice signs like this. This is a standard sign that we are using on this project, like the one in Farmington. There is one in Gananda also. Because it is oversized and double sided I am here to ask for a variance to allow us to build what we want. I talked to Mr. Crooks and he gave me the dimensions off of the road so that is where we have it sitting.

Mr. Fregoe: Now this development is east of Gillett.

Mr. DeRue: Correct.

Mr. Fregoe: How is this different than the other application.

Mr. McAtee: This sign sits between the pond and Rt. 31. It denotes the site but not the location?

Mr. DeRue: It is more of a marketing sign than anything else. We are content with the idea that if we need to take it down in 2 years for what ever reason. We hope that in 2 years we are 100% occupied and do not need it anymore, that would be fine. For trying to market the place, we feel we need a nice big beautiful sign.

Mr. Fregoe: The other sign is off Gillett Road?

Mr. Crooks: No the main entrance is where it is currently paved to the west of this. It is 2 separate projects going on here. There is the one that Unity is doing for the 89 unit affordable senior houses and then there is an additional senior project to the west and south of this. They are in phase 1 of that. Patio homes with a community center. Phase 1 is 31 units but separate from this. This project is owned by Demarco and going to Home Leasing.

Unity did offer a tour to the Gananda project and our supervisor took a trip up there and everyone came back on that bus incredibly impressed. It is a mirror image of what is being done in Gananda.

Audience Comments

Mr. Fregoe asked for audience comments.

Mrs. Burley: How is the lighting? Is it projecting?

Mr. DeRue: Yes the lighting is an up lighting. They are 2 feet long and they are mounted on the ground and shining up at approximately a 45-degree angle to both sides. They are 100-watt fixtures.

Mrs. Burley: They will not be distracting to cars going by on Rt. 31 then?

Mr. DeRue: The ends are straight up so it just shoots straight up.

Mr. Young: Are they 24-hour lights?

Mr. DeRue: They are not on during the day just at night.

Mr. Hall: You are suggesting that once this is totally filled you would consider taking the sign down?

Mr. DeRue: Yes.

Mr. Hall: I do not have any problem with it.

Mr. Irwin: I actually drove by the one in Gananda and they have strict zoning laws and it is not out of character and it looks very nice.

RESOLUTION #4A

Introduced by Mr. Young

Seconded by Mrs. Burley

That the Board classify the application of Home Leasing, for property located at 30 Kingsford Way, Spencerport, NY 14559, as a Type II SEQR Action.

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

Mr. Young: I believe we have gone through the fact that it will not be detrimental to any other properties. It does not seem to create a hazard or nuisance to anyone around it. I do not believe it is going to interfere with the land or the highways.

Mr. Fregoe: It should fit in out there.

RESOLUTION #4B

Introduced by Mr. Fregoe

Seconded by Mr. McAtee

That the appeal of Home Leasing, for a Special Sign Permit, to install a 7' x 4' double sided, lit, monument sign for the Ogden Gardens Senior Apartment Building, locate at 30 Kingsford Way, Spencerport, NY 14559, be granted approval with the following conditions.

- That the signs be constructed and installed to professional standards and are to be well maintained;
- That the sign permit be valid for a period of 2 years;
- That a photograph of the erected signs be submitted to the Building Department after installation;
- That a building permit be obtained from the Building Department prior to commencing construction.

Vote of the Board

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

Appeal of Marc Fallone, Noble Peregrine Dev. LLC for a special sign permit to erect two (2) permanent signs, 4' from the lot line, 13' x 3' 4" (43 sq. ft.) advertising the Ogden Heights & Ogden Gardens Senior Living Community on property located at the corners of Woodseer Drive and Spencerport Road (Rt. 31), whereas, monument/permanent type signs for residential developments, one sign not exceeding 16 square feet in area indicating only the name of the project or development shall be permitted. Such sign shall not be closer than 10 feet to any lot line and shall not project more than six (6) feet in height above grade, pursuant to Chapter 157-7.C in a Senior Citizen District. Tax Acct. #102.02-2-3.1

Mr. Al Arillotta presented this application

My client who is with me tonight is Marc Fallone of Marc Mar Builders who is developing the subdivision, Ogden Heights off of Brockport Spencerport Road. It is Marc's intent to construct 2 entrance signs with the 13' x 3'4" high and they would be surrounded by 2 pillars. The sign itself would be masonry block and it would be veneered with stucco. The piers would be veneered with cultured stone and it would have a stone base to it. It would be unlighted and fully landscaped. We are looking for a setback of 4'. We have all the land in the world up there and it is a wide corner but we are confronted with 2 issues. We have 2 nice 30" in diameter trees, one is a maple and one is a walnut right there one the corner. We were trying to move the signs around so that it would give maximum visibility as you are approaching from both sides because of the speed limit there. We came up with the 4' because it seemed to avoid the trees.

Again they will be unlighted and fully landscaped.

Mr. Fallone: We have a similar sign in our subdivision in Greece, New York. Masonry, it will be well landscaped, as big as the project is we are looking for a sign that is going to reflect the type of project. Because it is a farm, there are not many trees out there so we are trying to save the two large trees that are there in the front. By sliding it a little closer to the right-of-way we think we can save those trees.

Mr. Young: How far is the setback from the side of Rt. 31.

Mr. Arillotta: It is about 25 foot.

Mr. Fallone: Off of Woodseer Drive that is 15' and we are 4' past that.

Mr. Young: My only concern would be that the cars trying to pull out will be able to see.

Mr. Fallone: It should not hurt the visibility at all in either direction.

Mr. Young: Shouldn't or won't?

Mr. Fallone: It won't.

Mr. Fregoe: If I am looking at your sign #1 drawing here, it says NYS Rt. 31, I see a lot of lines. How do I differentiate?

Mr. Arillotta: The center of the road is the dash, dot, dash.

Mr. Fregoe: Than the pavement is the other solid line?

Mr. Arillotta: That is correct.

Mr. Fregoe: This is to scale?

Mr. Irwin: Can I see the stone?

Mr. Fallone: Yes.

Mr. Fregoe: These will be on whose property?

Mr. Fallone: There will be a HOA for the senior community. They will maintain it along with the clubhouse.

Mr. Fregoe: Is there anything we need to do to make sure this ends up in the right hands. I know a lot of times when we get into residential developments they put a sign on the first lot and the first homeowner needs to take ownership and repair that sign. It would be in the deeds.

Mr. Irwin: What is the lighting like?

Mr. Fallone: Typically it is a ground light and are made for signage. They shine up at a 45 degree angle toward the lettering.

Mr. Fregoe: They are directionable and controllable.

Audience Comments

Mr. Fregoe asked for audience comments.

Mr. Young: I do not think this will be detrimental to any property. My question about if it will create a hazard or nuisance, and they answered in the negative and it does not interfere with the use of the land.

Mr. McAtee: The utility pole indicated on this map is not exactly where it is shown on this map.

Mr. Fallone: No, RG&E is still trying to figure out where that utility pole is going to go. They are going to pull a couple of poles back to swing the wires over. They are still not confident as to where it is going to go.

Mr. McAtee: I think the signs are appropriate and consistent with the rest of the development.

Mr. Irwin: I am happy with this sample.

RESOLUTION #5A

Introduced by Mr. Young

Seconded by Mrs. Burley

That the Board classify the application of Marc Fallone, for property located the corners of Woodseer Drive and Spencerport Road (Rt. 31), Spencerport, NY 14559, as a Type II SEQR Action.

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale
Nays: None

RESOLUTION #5B

Introduced by Mr. Fregoe

Seconded by Mrs. Burley

That the appeal of Marc Fallone, Noble Peregrine Dev. LLC for a special sign permit to erect two (2) permanent signs, 4' from the lot line, 13' x 3' 4" (43 sq. ft.) advertising the Ogden Heights & Ogden Gardens Senior Living Community on property located at the corners of Woodseer Drive and Spencerport Road (Rt. 31), Spencerport, NY 14559, be granted approval with the following conditions.

- That the signs be constructed and installed to professional standards and are to be well maintained;
- That the sign permit be valid for a period of 2 years;
- That a photograph of the erected signs be submitted to the Building Department after installation;
- That a building permit be obtained from the Building Department prior to commencing construction.

Vote of the Board

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale
Nays: None

Appeal of Malcolm Perry, 484 Whittier Road, Spencerport, NY 14559 for an area variance to erect a 24' x 40' accessory building 24' in height, on property located at same, whereas the maximum land coverage by accessory buildings allowable in the R-1 district is 1% (3995 sq. ft for this property) but in no case shall accessory building(s) exceed 600 sq. ft. total floor area, pursuant to Chapter 210-28.F(3)(b) in a R-1 Residential District.

Tax Acct. #116.02-4-16.2

Mr. Malcolm Perry presented this application

Mr. Perry: When we moved in, in 1989... we have renovated an 1820 house. We wanted it to look like an 1820 house. We want this barn to look like an 1820 barn. What you have there was prior to what I have put together here. It will be stick construction; it is going to be board exterior with batten strips on it to look like an 1820 barn. It will have turkey tails on the roof and will be painted barn red. It will have cross sliding doors on it. Also it will have a galvanized steel roof so that it will look like an 1820 barn I hope.

The reason I need this, if anyone has been there, you will have to fight your way through tarps under which are tractors, implements, mowers and piles of lumber. It is unsightly and the worst thing you can do for a nice piece of equipment is to put it under a tarp. I need it for storage. It will not have any animals although my wife has said she wants a horse. That will never happen. It will have a window on either end up in the gable for cross air ventilation. One on the west side on the bottom and an entry door and window on the east side. It will have a poured floor. I already have cut down 2' of height. When we originally drew this up it was 20' x 40' and I did not like the way it looked, it was tall and skinny. On the advice of the builder we made it 24'

because one of my tractors is 17' with a bucket on it and it would not have been good to walk around it. It is going to be 24' x 40' and we took a foot out of the first floor and made it 9' instead of 10' and took another 1' out of the second floor, it is going to be 7' of headroom instead of 8'. You will not ever see it from the road. Our house is way back; it is about 24' in elevation and the ground drops off about 15'. The barn will be centered directly behind the house. You may see the end of it in the winter from Vroom but that is only after the leaves are off.

Mr. Fregoe: The second story is also for storage?

Mr. Perry: Yes it is, I have a cutter upstairs in the garage and things need to get out of there. It will be built so that it will withstand a lot of weight. I think we are going to have it up to 70 lbs per square foot. It will have 18" truss beams under the first floor.

Mr. McAtee: Was there a similar structure in that location once upon a time?

Mr. Perry: There is a little wood shed, off to the side on piers.

Mr. Hall: I think he is referring to the fact that there use to be a horse barn back there.

Mr. Perry: Yes, when that was a working farm there was a horse barn and this will take up a lot of the horse barn area. The dairy barn sat off to the side and that is being cleared away so the foundation will have to be pushed out and a new block foundation put in.

Audience Comments

Mr. Fregoe asked for audience comments.

Mr. Fregoe: Power?

Mr. Perry: Maybe sometime but I just want to get it put up and painted before weather.

Mr. Young: Doesn't your wife want you to get rid of a bunch of this stuff?

Mr. Perry: No I bargain because I am the main one to fix up antiques for her. If she wants to keep me happy she needs to give me my barn.

RESOLUTION #6A

Introduced by Mr. Young

Seconded by Mrs. Burley

That the Board classify the application of Malcolm Perry, for property located at 484 Whittier Road, Spencerport, NY 14559, as a Type II SEQR Action.

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

RESOLUTION #6B

Introduced by Mr. Fregoe

Seconded by Mr. Hall

That the appeal of Malcolm Perry, 484 Whittier Road, Spencerport, NY 14559 for an area variance to erect a 24' x 40' accessory building 24' in height, on property located at same, be granted approval with the following conditions.

- That the accessory structures be constructed and installed to professional standards and is to be well maintained;
- That the accessory structure not be used for commercial activity;
- That the exterior lighting is limited to motion sensor lighting. No dusk-to-dawn or mercury vapor lighting;
- That a building permit be obtained from the Building Department prior to commencing construction.

Vote of the Board

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale
Nays: None

Appeal of Kelly Stoklosa & Christopher Kostek, for an area variance to erect approx. 475 linear feet of 6', open construction, wood fence, on property located at 81 Reddick Lane, Rochester, NY 14624, whereas, the maximum height allowable is 4', pursuant to Chapter 210-47.A(8)(a), respectfully in an R-1 Residential District. Tax Acct. #132.01-4-74

Mr. Kelly Stoklosa & Christopher Kostek presented this application

Ms. Stoklosa: We just bought the house a couple of weeks ago and when we were house hunting we were looking for a house we really liked and we wanted some privacy and a big yard for our dog. We have a yellow lab that will be a year old this month. The house we ended up buying does not have a fenced in yard and is not as private as we wanted it to be, so we were looking to do a 6' open construction fence so that we can just let our dog out and have the yard and enjoy the back yard. We want to be able to have him out in the back yard and we want to have a little privacy in the back yard. Right now it is very open.

Mr. Fregoe: You don't like the neighbors that you just met?

Ms. Stoklosa: We do like our neighbors. We just want to be able to have some privacy.

Mr. Kostek: All the neighbors we have met have been very nice and warm and friendly. It is just that we have grown up in an area that have allowed privacy and we would like to have our own back yard sanctuary and have the opportunity to have our yard our own. We have already done a lot of remodeling, painting, we just have a picture of what we think, growing up you think you are going to have a yard like your parents and eventually we want a pool and all that stuff. We have a view of what we want our yard to be and we would like the opportunity to make the yard our own.

Mrs. Burely: Have you considered a 4' high fence with arborvitaes for blockage?

Mr. Kostek: The only thing with that, on the left side of our yard I do not think they will grow that well because we have very large maple trees. We have already removed 4 trees and if you could see the center of our yard, it is all dirt, that is why we are removing some of the trees. Our neighbor to our right, because of the shade, they are not growing as well. I even see that they are, not dying, but I do not think they get the proper light. I do like the natural look of the arborvites

but we also like the way the wood looks that is why we were looking for wood as opposed to chain linked.

Mr. Young: The neighbor to the right is the one with the fence.

Mr. Kostek: Correct. They have the arborvives for some privacy.

Mr. Young: They have a 4' fence?

Mr. Kostek: Yes.

Mr. Young: That is not tall enough for you?

Mrs. Stoklosa: We didn't...

Mr. Young: The reason why I ask, when you look in the back yard all the yards are just open. I understand that you want a little privacy and all of a sudden you have this 6' fence out of nowhere, I did not know if you needed a 6' fence because you have dogs that jump or what?

Ms. Stoklosa: He does not jump very much but we opted for the 6'. We do not have to do it all the way around, we just want to be able to have some privacy up near the house. Even if we could get 6' up by the house and then drop it down. We just want to have the privacy and with the trees it just makes it difficult to grow those other trees.

Audience Comments

Mr. Fregoe asked for audience comments.

Gary Sajdak, 83 Reddick Lane; I would like to welcome them to, the neighborhood. Along with the other neighbors that could not be here tonight. The wide openness of the back yard in the neighborhood, there is not any other fence over 4' in the neighborhood, with properties backed up to each other. There are 3 houses on the outskirts that back up to woods that do have 6' fences. We would rather not have a 6' fence; 4' would be perfectly fine. One of the reasons for that is that they have a great dog, we love dogs and we would be able to go over and pet him every now and then.

Mr. Young: What about their idea to step it up. Do lengths off the house and step it down to 4'.

Mr. Sajdak: I do not have a problem with that. The one thing I did do was go out there today, the ground level at the back of our house and the ground level at the back of their house are raised. We have decks that are raised approximately 4' off the ground. I bought a picture. I put a line where the top of a 6' fence would be and put my daughter who is 5'3" on our deck and I do understand for privacy. When we come out to our back yard and they are on the deck we say hi. We are a friendly neighborhood and are use to that. Even if they did put a 6' fence up I do not see that blocking. Maybe something like our neighbor, if they do put a larger deck up, putting a fence up on the deck.

Mr. Fregoe: There is a deck on the back of your house now right.

Mr. Young: How far would you propose taking the 6' fence out.

Mr. Kostek: We really have not discussed that, maybe half way or a little less. We do not want to shut ourselves off from our neighbors its just every now and then you have a rough day and you just want to relax and enjoy your back yard and maybe halfway. Obviously, the back yard, you do not feel like you are on top of your neighbor. I understand we do not need it to go all the way back

Mr. Young: They come in 8' sections; even 7 sections would give you 56'. That would be quite a ways off the house, if you could step down to the 4'. Do both sides of the house.

Ms. Stoklosa: That would be fine.

Mr. Young: Clearly everything goes up hill there. Just to clarify, your application says approximately 475 linear feet; you have a 200-foot deep lot.

Ms. Stoklosa: It was all-approximate. I just went off the survey.

Mr. Young: I am good with that change.

Mr. Fregoe: I am just trying to figure out how this scales on this drawing.

Mr. Young: I assume it would go just past the tree.

Mr. Fregoe: I think this is about 1/5 the length of the back yard and would take you about 1/2 the length of the neighbors chain linked fence. I could live with 56'

Mr. Hall: Can they live with 56'?

Mr. Fregoe: It would allow you to do what you want with the remainder 4' fence. I agree with your neighbor that would be a large fort apache lot.

Mr. Sajdak: It just has been so wide open for so long. If they want to do the 56' that is fine.

Mr. Fregoe: I think we are good with the 56' fence and we are going to go off the house with the 6' open construction.

Mr. Hall: I would say so, yes.

Mr. Fregoe: Past the 56' would have to be 4', what the code allows.

Mr. Hall: You could even go to an open chain linked if you wanted to.

Mr. Fregoe: We appreciate you working with us.

RESOLUTION #7A

Introduced by Mr. Young

Seconded by Mrs. Burley

That the Board classify the application of Kelly Stoklosa & Christopher Kostek, for property located at 81 Reddick Lane, Rochester, NY 14624, as a Type II SEQR Action.

Ayes: Fregoe, Burley, Hall, Irwin, McAttee, Young, Zale

Nays: None

RESOLUTION #7B

Introduced by Mr. Fregoe

Seconded by Mr. Young

That the appeal Kelly Stoklosa & Christopher Kostek, for an area variance to erect approx. 475 linear feet of 6', open construction, wood fence, on property located at 81 Reddick Lane, Rochester, NY 14624, be granted approval with the following conditions.

- That said fence shall be approved with two perpendicular wings of 6' in height, open construction to an east west linear run along the property boundary, not to exceed 56' in length. The remaining portion to be 4' high Code compliant;
- That the fence be constructed and installed to professional standards and is to be well maintained;
- That a building permit be obtained from the Building Department prior to commencing construction.

Vote of the Board

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

Appeal of Jeffrey Fleming, 11 Gillett Road, Spencerport, NY 14559, for an area variance for an accessory structure 40' x 30' (1,200 sq. ft.), on property located at same; whereas the maximum land coverage for accessory structures allowable is up to 1% of the lot area (603 sq. ft. for this property) but in no case shall accessory building(s) exceed 600 sq. ft. total floor area, pursuant to Chapter 210-28.F(3)(b), in an R-1 Residential District. Tax Acct. #087.02-1-59

Mr. Jeffrey Fleming presented this application

Mr. Fleming: I am looking to put up a 30' x 40' accessory building, 10' high, 15' at the peak.

Mr. Fregoe: You were here before.

Mr. Fleming: I was here in '07.

Mr. Fregoe: So this is a do over.

Mr. Fleming: I had a daughter going into college and so I held off.

Mr. Fregoe: What do we need the building for?

Mr. Fleming: I had a 30' x 30' that I was approved for. I went and looked at one that the guy that is building it put up. As soon as I walked in I realized it will be a little tight for me. I have the snowmobiles and I just recently purchased a big lawn tractor with all the attachments. I need a place where I can store a car for the winter.

Mr. Fregoe: When this thing goes up I assume the box goes away.

Mr. Fleming: I plan on doing this before the winter. We just could not get this on the schedule. I really had nowhere to put my stuff.

Mr. Fregoe: Utilities, electric and power.

Mr. Fleming: Yes there is going to be electric power and water and I am not sure about gas.

Audience Comments

Mr. Fregoe asked for audience comments.

Jeremiah Clifford, 198 Ogden Parma, I saw the legal in the suburban news and we are like the cops of Ogden Parma TL. I was questioning if this was going to have a business running out of it. As long as it is not for a business and it is done properly this is really not a problem. We are really concerned about a business.

Mr. Young: It is really not out of character with the neighborhood.

Mr. Fregoe: He is tucked in there really good.

Mr. Crooks: As you move forward, Jeff is proposing a 5' setback off the north property line. A building that tall it is pretty tough to get a ladder against it to swing a hammer or paint brush. That is a minimum standard, it may be worthwhile to ask him to move it a little farther in from the property line.

Mr. Fleming: I can move it 7 or 8'. I do not know if you saw but there is actually a court next to it. I did five I may be able to get 10'.

Mr. Crooks: I think it would be for your own benefit for future maintenance.

Mr. Fregoe: If we can get this 8' off the property line that would be fine.

RESOLUTION #8A

Introduced by Mr. Young

Seconded by Mrs. Burley

That the Board classify the application of Jeffrey Fleming, for property located 11 Gillett Road, Spencerport, NY 14559, as a Type II SEQR Action.

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

RESOLUTION #8B

Introduced by Mr. Fregoe

Seconded by Mr. Young

That the appeal of Jeffrey Fleming, 11 Gillett Road, Spencerport, NY 14559, for an area variance for an accessory structure 40' x 30' (1,200 sq. ft.), on property located at same, be granted approval with the following conditions.

- That the accessory structure be constructed and installed to professional standards and is to be well maintained;

- That the accessory structure not be used for commercial activity;
- That the exterior lighting is limited to motion sensor lighting. No dusk-to-dawn or mercury vapor lighting;
- That the structure be a minimum of 8' from the side setback;
- That the existing structure be removed from the property within 30 of completion of the new structure;
- That a building permit be obtained from the Building Department prior to commencing construction.

Vote of the Board

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

Appeal of Paul Wagner, 2545 Union Street, Spencerport, NY 14559, for a variance to allow two (2) car transport trailers 45' in length, on property located at same, whereas, no commercial vehicle having an overall length in excess of 30 feet shall be stored outside on any property, pursuant to Chapter 210-80.B in a R-1 Residential District.

Tax Acct. #101.04-4-18

Mr. Paul Wagner presented this application

Mr. Wagner: I want to put two car transport trailers there.

Mr. Fregoe: Now, the 45' length, is that just the trailer itself? Yes it is just the trailer.

Mr. Wagner: Yes.

Mr. Fregoe: Where would you be parking these?

Mr. Wagner: Right on the side of the garage.

Mr. Fregoe: To the south or the north.

Mr. Wagner: One on each side.

Mr. Fregoe: By the looks, right now you have a building that is 6' off the property line.

Mr. Hall: I do not think this map represents what is there.

Mr. McAtee: That proposed building is the big garage that is installed.

Mr. Hall: I think the proposed garage that you see in broken lines, never existed and I think the new building is forward. Mr. Barton, can you explain this to me.

Mr. Barton: The new building I put up in '81 or '82 was 45' x 54'.

Mr. Hall: That is the new building. Where is the building that is behind the new building, correct?

Mr. Barton: There is a little shed back there.

Mr. Hall: Is this building farther forward or is that where this sits.

Mr. Crooks: The broken lines on the survey indicate that this lot extends back 60' from that corner.

Mr. Hall: This was deceiving.

Mr. Young: You would always park the trailers in the back?

Mr. Wagner: Yes on the side of the garage because they are too big to fit inside the garage.

Mr. McAtee: Where are these trailers now? I have been driving by this place for quite some time and I have not seen them.

Mr. Wagner: I have not bought them yet.

Mr. Fregoe: These trailers, when they are on your property, they will be empty?

Mr. Wagner: Sometimes.

Mr. McAtee: You said that they are not big enough to fit in that 3 bay garage?

Mr. Wagner: They will fit, unhooked. We do not want to do that every night.

Mr. Young: I am just curious why you need the trailers? For a business? What do you do?

Mr. Wagner: Car transport.

Mr. Young: It makes sense to have them.

Mrs. Burley: If I may, I lived previously at 15 Chambers Street and Mr. Barton who is our neighbor when he had the milk trucks and they were good neighbors. I currently moved to Widger Road and am 2 houses away from where the car transports are being stored now and I can tell you that they are quiet; we have had no problems with them. They are very courteous when they come home at night and when they leave in the morning they do not let them idle forever.

Mr. Fregoe: Where is the office for this operation?

Mr. Wagner: It is in the house.

Mr. Young: When you pull in from the driveway will you pull in regularly or will you need to back in?

Mr. Wagner: Just pull in.

Mr. Young: There will be no issue with the circumference?

Mr. Wagner: No.

Mr. Hall: I do not have any problem with it.

Audience Comments

Mr. Fregoe asked for audience comments.

Mr. Fregoe: This variance is a one-time thing? Does it stay with the property or with the owner?

Mr. Young: You are granting this with the property.

Mrs. Field: It goes with the property.

Mr. Young: The next person that owns it just happens to have 2 45' car transport trailers, well they lucked out.

RESOLUTION #9A

Introduced by Mr. Young

Seconded by Mrs. Burley

That the Board classify the application of Paul Wagner, for property located 2545 Union Street, Spencerport, NY 14559, as a Type II SEQR Action.

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

Mr. Young: They will always be registered and that is what I want to see.

Mr. Crooks: May I also mention that there is an ordinance in our community that states that you can not be selling cars from a residential property, especially if you are a licensed car dealer. We do not want to see used car after used car out there.

Mr. Young: And they do have to be parked behind the home.

Mr. Hall: That is the only place they would fit.

Mr. Young: He could put them right in the driveway right up to the street and that could be a problem. I am thinking down the road with the next homeowner.

RESOLUTION #9B

Introduced by Mr. Fregoe

Seconded by Mrs. Burley

That the appeal of Paul Wagner, 2545 Union Street, Spencerport, NY 14559, for a variance to allow two (2) car transport trailers 45' in length, on property located at same be granted approval with the following conditions.

- That there be no sale of vehicles on the property;
- That the trailers be registered, roadworthy and plated at all times;
- That the vehicles be parked behind the house.

Vote of the Board

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

Appeal of The Aurora House of Western Monroe County, 2495 Union Street, Spencerport, NY 14559, for a special sign permit to erect a sign 3' x 5'tall with the street number hanging below measuring 20" x 8" at property located at same, whereas one (1) sign not exceeding two (2) square feet in area shall be permitted, pursuant to Chapter 157-7.A in a R-1 Residential District.
Tax Acct. #101.04-2-8.2

Mr. Godshalk presented this application

Mr. Young: Where is the sign going to be placed?

Mr. Godshalk: It is going to be at least 20' back from the front setback.

Mrs. Burley: Is it lit at all?

Mr. Godshalk: Yes it will be, I do not know if we have decided on the solar or the electric.

Mr. Young: The lights will be on the sign.

Mr. Godshalk: Yes.

Mr. Young: I am fine with it. It is a great project, good sign, ready to go.

Mr. Fregoe: Even though it is in an r-1 residential district it is a state highway and is heavily traveled.

Mr. Young: Plus when you come up on it at night you are going to need some lights on it.

Audience Comments

Mr. Fregoe asked for audience comments.

RESOLUTION #10A

Introduced by Mr. Young

Seconded by Mrs. Zale

That the Board classify the application of Aurora House of Western Monroe County, for property located at 2495 Union Street, Spencerport, NY 14559, as a Type II SEQR Action.

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

Mr. Fregoe: My only concern is with the lighting that it not be a 1500-watt halogen. Something controlled.

RESOLUTION #10B

Introduced by Mr. Fregoe

Seconded by Mrs. Zale

That the appeal of The Aurora House of Western Monroe County, 2495 Union Street, Spencerport, NY 14559, for a special sign permit to erect a sign 3' x 5'tall with the street number

hanging below measuring 20" x 8" at property located at, be granted approval with the following conditions.

- That the signs be constructed and installed to professional standards and are to be well maintained;
- That the sign permit be valid for a period of 2 years;
- That a photograph of the erected signs be submitted to the Building Department after installation;
- That a building permit be obtained from the Building Department prior to commencing construction.

Vote of the Board

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

Appeal of Joseph Tronolone, 845 Whittier Road, Spencerport, NY 14559, for an area variance to erect a 38' x 48' accessory building 24' in height, on property located at same, whereas the maximum land coverage by accessory buildings allowable in the R-1 district is 1% (4,464 sq. ft for this property) but in no case shall accessory building(s) exceed 600 sq. ft. total floor area, pursuant to Chapter 210-28.F(3)(b) in a R-1 Residential District.

Tax Acct. #115.01-1-5.5

Mr. Joseph Tronolone presented this application

Mr. Tronolone: I need the barn. I have my tractor, my boat, several implements that go with my tractor, my 1950 chevy truck and it all needs to go inside a building. Everything is sitting outside right now except for my 1950.

Mr. Young: Are you going to have a racetrack inside of here?

Mr. Tronolone: I do not think it is big enough for that.

Mr. Young: How big is your lot?

Mr. Tronolone: It is 10 acres.

Mr. Fregoe: The sketch that I have showed stalls. Are we thinking about horses some day? That is one that I got off the Internet. That is going to be the basic frame of the building. No, no horses.

Audience Comments

Mr. Fregoe asked for audience comments.

Mr. Fregoe: I do not have a problem, power, water?

Mr. Tronolone: Yes, I will eventually bring electric to it.

Mr. Fregoe: Mostly for storage? No commercial businesses?

Mr. Tronolone: Correct and no.

Mr. Young: I am ok with it.

Mr. McAtee: With the location that it will be sitting you can hardly see it from the road. It will be behind the pines.

Mr. Tronolone: No you will not be able to see it from the road.

Mrs. Burley: I was going up and down Whittier Road and there were a ton of barns.

Mr. McAtee: There are 3 of them right in a row.

Mr. Hall: I say we go for it.

RESOLUTION #11A

Introduced by Mr. Young

Seconded by Mr. McAtee

That the Board classify the application of Joseph Tronolone, for property located at 845 Whittier Road, Spencerport, NY 14559, as a Type II SEQR Action.

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

RESOLUTION #11B

Introduced by Mr. Fregoe

Seconded by Mr. Young

That the appeal of Joseph Tronolone, 845 Whittier Road, Spencerport, NY 14559, for an area variance to erect a 38' x 48' accessory building 24' in height, on property located at same, be granted approval with the following conditions.

- That the accessory structures be constructed and installed to professional standards and is to be well maintained;
- That the accessory structure not be used for commercial activity;
- That the exterior lighting is limited to motion sensor lighting. No dusk-to-dawn or mercury vapor lighting;
- That a building permit be obtained from the Building Department prior to commencing construction;

Vote of the Board

Ayes: Fregoe, Burley, Hall, Irwin, McAtee, Young, Zale

Nays: None

IV. MINUTES

RESOLUTION #12

Introduced by Mr. Fregoe

Seconded by Mr. Hall

That the minutes of the **April 1, 2010** meeting of the Ogden Zoning Board of Appeals be approved with previous corrections.

Vote of the Board

Ayes: Fregoe, Burley, Hall, McAtee, Irwin, Young, Zale

Nays: None

Motion made by Mr. Fregoe to adjourn the May 6, 2010 meeting of the Ogden Zoning Board of Appeals at 8:40.

Respectfully submitted,

Jack Crooks, Secretary