



Zoning Board of Appeals

2919 Delaware Avenue, RM 14
Kenmore, NY 14217
(716) 877-8800
www.tonawanda.ny.us

Regular
~ Minutes ~

Marguerite Greco
Town Clerk

Wednesday, April 19, 2017

6:30 PM

Council Chambers - Municipal Building

I. CALL TO ORDER

CHAIRMAN: The April 19th, 2017, 6:30 PM Zoning Board of Appeals Meeting is called to order in the Council Chambers, Municipal Building, 2919 Delaware Avenue, Kenmore, New York.

Attendee Name	Organization	Title	Status	Arrived
John Joseph	Town of Tonawanda	Chairman	Present	
James Louis	Town of Tonawanda	Member	Present	
Florine Luhr	Town of Tonawanda	Member	Present	
Brian C. Mahoney	Town of Tonawanda	Member	Present	
Karen Ginnane	Town of Tonawanda	Member	Present	
James McGee	Town of Tonawanda	Alternate	Present	
Joseph Wolf	Town of Tonawanda	Alternate	Present	

II. APPROVAL OF MINUTES

A. Approve Minutes of Zoning Board Meeting held March 29th, 2017.

CHAIRMAN: The Clerk presented MINUTES of the Zoning Board of Appeals meeting held on March 29th, 2017.

CHAIRMAN: Motion approve these minutes as typed and presented.

RESULT:	APPROVE MINUTES OF MARCH 29TH, 2017 GRANTED [UNANIMOUS]
MOVER:	James Louis, Member
SECONDER:	Brian C. Mahoney, Alternate
AYES:	John Joseph, James Louis, Florine Luhr, Brian C. Mahoney, Karen Ginnane

III. HEARINGS ON APPEALS - (4)

CHAIRMAN: Decisions from tonight's hearings will be rendered after the hearings, if possible, or at the next Zoning Board of Appeals meeting to be held on May 17th, 2017 at 6:30 PM.

#1 **Applicant Name:** Michael Morgan
Owner Name: Michael Morgan
402 Cornwall Avenue
Town of Tonawanda, NY

Area Variance:

Proposed utility building would encroach approximately (35) feet into the required front yard.

Zoning Classification: A - First Residential
Section of Code: Article IV; Section 215-12F:

"..No accessory structure...shall hereafter be located so as to encroach upon the half of the lot depth nearest the street in an "A" First Residential District."

No written communications have been received.

THERE APPEARED: Building Dept. Official: Mr. Michael Oliver
Applicant: Ms. Laura Morgan

RESULT: CLOSE HEARING ZBA APPEAL 2017-8 GRANTED [UNANIMOUS]
MOVER: Karen Ginnane, Member
SECONDER: James Louis, Member
AYES: Joseph, Louis, Luhr, Mahoney, Ginnane

RESULT: REOPEN HEARING ZBA APPEAL 2017-8 GRANTED [UNANIMOUS]
MOVER: Brian C. Mahoney, Member
SECONDER: Karen Ginnane, Member
AYES: Joseph, Louis, Luhr, Mahoney, Ginnane

RESULT: CLOSE HEARING ZBA APPEAL 2017-8 GRANTED [UNANIMOUS]
MOVER: Florine Luhr, Member
SECONDER: Karen Ginnane, Member
AYES: Joseph, Louis, Luhr, Mahoney, Ginnane

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
TOWN OF TONAWANDA)

I, Marguerite Greco, Town Clerk of the Town of Tonawanda, Erie County, New York, do hereby certify that at a meeting of the Zoning Board of Appeals of the aforesaid town, on the **19th day of April, 2017**, at the Municipal Building, Kenmore, New York, the following resolution was adopted, to wit, -

Florine Luhr offered the following resolution and moved its adoption:

WHEREAS, the applicant, **Michael Morgan, owner of** premises located on the **west side of Cornwall Avenue, between Halladay Lane and Eggert Road, commonly known as 402 Cornwall Avenue**, Tonawanda, New York, has applied to the Zoning Board of Appeals for a permit for a **utility building**; which permit was refused by the Supervising Code Enforcement Officer on the grounds that the proposed **utility building** would be in violation of the provisions of Chapter 215, Zoning, §215-12F, of the Code of the Town of Tonawanda for the reason that **the utility building would encroach approximately 35 feet into the required front yard; and**

WHEREAS, this Board finds that the premises in question is zoned **A - First Residential** and that applicant seeks an **area variance**, and

WHEREAS, the applicant's application stated that the variance was being sought **because this is a corner lot with no rear yard; it further stated because of existing trees there is no other area to place the utility building and that this placement will not obstruct traffic views;** and

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the Town Law:

-) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,
-) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance
-) whether the requested area variance is substantial,
-) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district
-) whether the alleged difficulty was self-created; and

WHEREAS, this Board has reviewed the evidence, testimony and the above-recited factors which are set forth in §267-b(3)(b) of the Town Law of the State of New York pertaining to area variances; and

WHEREAS, based upon the evidence presented, this Board finds that the variance is not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; and

WHEREAS, this Board finds that the alleged difficulty is not self-created, the benefit to the applicant if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby **GRANT** an area variance from the above-mentioned provisions of the Code of the Town of Tonawanda and directs the Supervising Code Enforcement Officer to issue the appropriate permit for a utility building no larger than 10 feet by 10 feet which must include landscaping on the corner of the lot away from the house on Cornwall Avenue..

RESULT:	ZBA APPEAL 2017-8 GRANTED [UNANIMOUS]
MOVER:	Florine Luhr, Member
SECONDER:	Brian C. Mahoney, Member
AYES:	Joseph, Louis, Luhr, Mahoney, Ginnane

This decision may be reviewed by the Supreme Court within thirty (30) days after filing of the same in the Town Clerk's Office. Although building permits and certificates of occupancy will be issued before the expiration of thirty (30) days, any person acting on this decision or permits or certificates issue as a result thereof, does so at their own risk.

I do further certify that I have compared the foregoing with the original minutes of the meeting of the Zoning Board of Appeals of the said Town held on April 19, 2017 and that the foregoing is a true and correct transcript from said original minutes and the whole thereof, and that the resolutions duly adopted by the said Board are on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the said Town of Tonawanda, Erie County, New York, this 24th day of April, 2017.



Marguerite Greco

Marguerite Greco, Town Clerk
Town of Tonawanda, New York

#2 Applicant Name: Joseph Coughlin
Owner Name: Joseph Coughlin
256 Glendale Drive
Town of Tonawanda, NY

Area Variance:

Proposed lot-line fence would exceed the maximum allowable height by approximately (2) feet.

**Zoning Classification: A - First Residential
Section of Code: Article IV; Section 215-16A**

"No lot-line fence exceeding (4) feet in height shall be erected from...the rear of the main body of the dwelling forward to...the front of the main body of the dwelling."

One written communication, in opposition, from Dennis & Susan Wick, 264 Glendale Drive, has been received.

THERE APPEARED: Building Dept. Official: Mr. Michael Oliver
Applicant: Mr. Joseph Coughlin

RESULT: CLOSE HEARING ZBA APPEAL 2017-9 GRANTED [UNANIMOUS]
MOVER: James Louis, Member
SECONDER: Florine Luhr, Member
AYES: Joseph, Louis, Luhr, Mahoney, Ginnane

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
TOWN OF TONAWANDA)

I, Marguerite Greco, Town Clerk of the Town of Tonawanda, Erie County, New York, do hereby certify that at a meeting of the Zoning Board of Appeals of the aforesaid town, on the **19th day of April, 2017**, at the Municipal Building, Kenmore, New York, the following resolution was adopted, to wit, -

Brian Mahoney, offered the following resolution and moved its adoption:

WHEREAS, the applicant, **Joseph Coughlin, owner of** premises located on the **south side of Glendale Drive, near Nadon Place, commonly known as 256 Glendale Drive**, Tonawanda, New York, has applied to the Zoning Board of Appeals for a permit for **a lot-line fence**; which permit was refused by the Supervising Code Enforcement Officer on the grounds that the proposed **fence** would be in violation of the provisions of Chapter 215, Zoning, **§215-16-A**, of the Code of the Town of Tonawanda for the reason that **the proposed lot-line fence would exceed the maximum allowable height by approximately 2 feet**; and

WHEREAS, this Board finds that the premises in question is zoned **A First Residential** and that applicant seeks an **area variance**, and

WHEREAS, the applicant's application stated that the variance was being sought **to allow the fence to provide privacy and safety for the family and for children's' toys in the yard**; and

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in **§267-b(3)(b)** of the Town Law:

-) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,
-) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance
-) whether the requested area variance is substantial,

-) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district
-) whether the alleged difficulty was self-created; and

WHEREAS, this Board has reviewed the evidence, testimony and the above-recited factors which are set forth in §267-b(3)(b) of the Town Law of the State of New York pertaining to area variances; and

WHEREAS, based upon the evidence presented, this Board finds that the variance is not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; and

WHEREAS, this Board finds that while the alleged difficulty is self-created, the benefit to the applicant if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby **GRANT** an area variance from the above-mentioned provisions of the Code of the Town of Tonawanda and directs the Supervising Code Enforcement Officer to issue the appropriate permit **for a five 5 foot high lot-line fence.**

RESULT:	ZBA APPEAL 2017-9 GRANTED [UNANIMOUS]
MOVER:	Brian C. Mahoney, Member
SECONDER:	Karen Ginnane, Member
AYES:	Joseph, Louis, Luhr, Mahoney, Ginnane

This decision may be reviewed by the Supreme Court within thirty (30) days after filing of the same in the Town Clerk's Office. Although building permits and certificates of occupancy will be issued before the expiration of thirty (30) days, any person acting on this decision or permits or certificates issue as a result thereof, does so at their own risk.

I do further certify that I have compared the foregoing with the original minutes of the meeting of the Zoning Board of Appeals of the said Town held on April 19, 2017 and that the foregoing is a true and correct transcript from said original minutes and the whole thereof, and that the resolutions duly adopted by the said Board are on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the said Town of Tonawanda, Erie County, New York, this 24th day of April, 2017.



Marguerite Greco

Marguerite Greco, Town Clerk
Town of Tonawanda, New York

#3 **Applicant Name:** Michael Garigen
Owner Name: Michael Garigen
 395 Fairfield Avenue
 Town of Tonawanda, NY

Area Variance:

Proposed detached garage would exceed the maximum allowable height by approximately (3) feet.

Zoning Classification: A - First Residential

Section of Code: Article IV; Section 215-12 E:

"No private garage...shall exceed (15) feet in height."

No written communications have been received.

THERE APPEARED: Building Dept. Official: Mr. Michael Oliver
 Applicant: Mr. Michael Garigen

RESULT:	CLOSE HEARING ZBA APPEAL 2017-10 GRANTED [UNANIMOUS]
MOVER:	Brian C. Mahoney, Member
SECONDER:	James Louis, Member
AYES:	Joseph, Louis, Luhr, Mahoney, Ginnane

STATE OF NEW YORK)
 COUNTY OF ERIE) ss:
 TOWN OF TONAWANDA)

I, Marguerite Greco, Town Clerk of the Town of Tonawanda, Erie County, New York, do hereby certify that at a meeting of the Zoning Board of Appeals of the aforesaid town, on the **19th day of April, 2017**, at the Municipal Building, Kenmore, New York, the following resolution was adopted, to wit, -

James Louis, offered the following resolution and moved its adoption:

WHEREAS, the applicant, **Michael Garigen**, owner of premises located on the **east side of Fairfield Avenue, between Decatur Avenue and Berkley Street, commonly known as 395 Fairfield Avenue**, Tonawanda, New York, has applied to the Zoning Board of Appeals for a permit for a **detached garage**; which permit was refused by the Supervising Code Enforcement Officer on the grounds that the proposed **garage** would be in violation of the provisions of Chapter 215, Zoning, §215-12E, of the Code of the Town of Tonawanda for the reason that **the proposed detached garage would exceed the maximum allowable height by approximately 3 feet**; and

WHEREAS, this Board finds that the premises in question is zoned **A First Residential** and that applicant seeks an **area variance**, and

WHEREAS, the applicant's application stated that the variance was being sought **to provide enough storage area for a large family**; and

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
-) **whether the requested area variance is substantial,**

-) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district
-) whether the alleged difficulty was self-created; and

WHEREAS, this Board has reviewed the evidence, testimony and the above-recited factors which are set forth in §267-b(3)(b) of the Town Law of the State of New York pertaining to area variances; and

WHEREAS, based upon the evidence presented, this Board finds that the variance is not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; and

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby **GRANT** an area variance from the above-mentioned provisions of the Code of the Town of Tonawanda and directs the Supervising Code Enforcement Officer to issue the appropriate permit.

RESULT:	ZBA APPEAL 2017-10 GRANTED [UNANIMOUS]
MOVER:	James Louis, Member
SECONDER:	Karen Ginnane, Member
AYES:	Joseph, Louis, Luhr, Mahoney, Ginnane

This decision may be reviewed by the Supreme Court within thirty (30) days after filing of the same in the Town Clerk's Office. Although building permits and certificates of occupancy will be issued before the expiration of thirty (30) days, any person acting on this decision or permits or certificates issue as a result thereof, does so at their own risk.

I do further certify that I have compared the foregoing with the original minutes of the meeting of the Zoning Board of Appeals of the said Town held on April 19, 2017 and that the foregoing is a true and correct transcript from said original minutes and the whole thereof, and that the resolutions duly adopted by the said Board are on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the said Town of Tonawanda, Erie County, New York, this 24th day of April, 2017.



Marguerite Greco

Marguerite Greco, Town Clerk
Town of Tonawanda, New York

#4 Applicant Name: Patrick Walters
Owner Name: Patrick Walters
171 Paramount Pkwy
Town of Tonawanda, NY

Area Variance:

Proposed open porch would encroach approximately (3) feet into the required side yard setback.

Zoning Classification: A - First Residential

Section of Code: Article IV; Section 215-17B(2):

"...The maximum side yard of (6) feet shall be on the side of which the majority of constructed buildings have the maximum side yard..."

No written communications have been received.

THERE APPEARED: Building Dept. Official: Mr. Michael Oliver
 Applicant: Mr. Patrick Walters

RESULT:	CLOSE HEARING ZBA APPEAL 2017-11 GRANTED [UNANIMOUS]
MOVER:	James Louis, Member
SECONDER:	Brian C. Mahoney, Member
AYES:	Joseph, Louis, Luhr, Mahoney, Ginnane

STATE OF NEW YORK)
 COUNTY OF ERIE) ss:
 TOWN OF TONAWANDA)

I, Marguerite Greco, Town Clerk of the Town of Tonawanda, Erie County, New York, do hereby certify that at a meeting of the Zoning Board of Appeals of the aforesaid town, on the **19th day of April, 2017**, at the Municipal Building, Kenmore, New York, the following resolution was adopted, to wit, -

James Louis, offered the following resolution and moved its adoption:

WHEREAS, the applicant, **Patrick Walters, owner of** premises located on the **south side of Paramount Parkway, between Delwood Court and North Colvin Boulevard, commonly known as 171 Paramount Parkway Avenue**, Tonawanda, New York, has applied to the Zoning Board of Appeals for a permit for **an open porch**; which permit was refused by the Supervising Code Enforcement Officer on the grounds that the proposed **open porch** would be in violation of the provisions of Chapter 215, Zoning, §215-17B(2), of the Code of the Town of Tonawanda for the reason that **the proposed open porch would encroach approximately 3 feet into the required side yard setback**; and

WHEREAS, this Board finds that the premises in question is zoned **A First Residential** and that applicant seeks an **area variance**, and

WHEREAS, the applicant's application stated that the variance was being sought **to add a porch to the home which would enhance the appearance of the home by running the entire front length of the home**; it further stated that **the porch will enhance the value of the home and the neighborhood**; and

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**

-) whether the requested area variance is substantial,
-) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district
-) whether the alleged difficulty was self-created; and

WHEREAS, this Board has reviewed the evidence, testimony and the above-recited factors which are set forth in §267-b(3)(b) of the Town Law of the State of New York pertaining to area variances; and

WHEREAS, based upon the evidence presented, this Board finds that the variance is not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; and

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby **GRANT** an area variance from the above-mentioned provisions of the Code of the Town of Tonawanda and directs the Supervising Code Enforcement Officer to issue the appropriate permit.

RESULT:	ZBA APPEAL 2017-11 GRANTED [UNANIMOUS]
MOVER:	James Louis, Member
SECONDER:	Brian C. Mahoney, Member
AYES:	Joseph, Louis, Luhr, Mahoney, Ginnane

This decision may be reviewed by the Supreme Court within thirty (30) days after filing of the same in the Town Clerk's Office. Although building permits and certificates of occupancy will be issued before the expiration of thirty (30) days, any person acting on this decision or permits or certificates issue as a result thereof, does so at their own risk.

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IN WITNESS WHEREOF, I have hereunto set my hand and seal of the said Town of Tonawanda, Erie County, New York, this 24th day of April, 2017.



Marguerite Greco

Marguerite Greco, Town Clerk
Town of Tonawanda, New York

IV. ADJOURN TO THE NEXT ZONING BOARD OF APPEALS MEETING

CHAIRMAN: Motion to adjourn to the next Zoning board of Appeals meeting scheduled, Wednesday, May17th, 2017, at 6:30 PM.

RESULT:	ADJOURN TO NEXT ZBA MEETING MAY 17TH, 2017 GRANTED [UNANIMOUS]
MOVER:	Brian C. Mahoney, Member
SECONDER:	Karen Ginnane, Member
AYES:	Joseph, Louis, Luhr, Mahoney, Ginnane

Meeting Adjourned at 7:30 PM.