

**August 15, 2002**  
**Zoning Board of Appeals Minutes**  
**Southwest Community Center**

**Chairman:** Randy Pratt  
**Board Members:** Greg Auleta, Robert Baker,  
Brad Livesey, Greg Mills

**Call to Order**

The meeting of the Town of Oswego Zoning Board of Appeals was held on Thursday, August 15, 2002. Randy Pratt, Chairman, called the meeting to order at approximately 7:10 PM

**Attendance**

Those in attendance were:

Randy Pratt, ZBA Chairman  
Kevin Caraccioli, Legal Advisor  
Greg Auleta, ZBA Member  
Brad Livesey, ZBA Member  
Greg Mills, ZBA Member  
Shelley Rahn ZBA Secretary  
Marcella Gibson, ZEO

Robert Baker, ZBA Member-Absent  
Don Down, CEO-Absent

**Acceptance of Minutes**

Board members review and discussed the minutes from July 18, 2002 minutes and made revisions to the following sections:

Second Order of Business: Greg Mills requested that section be changed to read, "Members request more participation from Planning Board and members of the Public

Fourth Order of Business ZBA members requested that section be changed to read, "Mr. Pratt updated members on the status of appointing alternates to the board.

Brad Livesey made a motion to accept the minutes with the above referenced changes and corrections. Greg Mills seconded the motion. All ayes. Motion passed.

**First Order of Business**

**Public Comment Session**

Paul Connolly appeared before the board to voice his complaints with regard to the Bush Automotive Property.

Mr. Connolly lives across the street from the business. He pointed out that many laws are being broken. Automobiles are being parked on the white fog line of State Route 104. Automobiles are being repaired over the white fog line. There is junk all over the property. Mr. Connolly stated he had pictures that confirmed this was so. He was appearing before the ZBA to find out what he had to do to get some satisfaction to rectify this situation.

Mr. Connolly pointed out that the Smiths neighbor him. He stated the Smiths are unable to pull out of their driveway without driving halfway out onto the road before she can start out onto Route 104. He feels this has not only become a Zoning Issue but also a safety issue.

Mr. Connolly is looking for satisfaction with regard to this issue. He has been speaking to Marcella Gibson within the last few days. He stated this has been a problem that goes back to at least 1998. The Oswego County Sheriff's Department has been notified. The New York State Troopers have been notified.

Mr. Connolly wanted to know where he goes to get this matter taken care of. Randy Pratt stated that the Town of Oswego employs a Zoning Enforcement officer. He stated Mr. Connolly must fill out a complaint form before the Zoning Enforcement Officer could act. Mr. Connolly stated four such forms have been completed and are on file.

Mr. Pratt referred Mr. Connolly to Marcella Gibson, the Zoning Enforcement Officer to follow up on all of his complaints. Mr. Pratt also requested ZEO research conditions of the permit issued to Mr. Bush for the property to verify whether or not he is in violation, if so ZBA will request he appear at a future meeting.

Mr. Connolly wondered if the Town Constable Ferguson could issue parking tickets for the cars that are parked in a no parking zone. Mr. Pratt referred Mr. Connolly to the Town Council for resolution of that issue as he was of the town law on this type of issue. Kevin Caraccioli, legal advisor, pointed out any complaint that is filed for an alleged violation of the land use ordinance for the Town needs to be filed with the enforcement officer is charged with investigating whether the violation exists. Then the complaint investigation is reported, in writing, to the town council. The town council then makes the determination of what to do with it, do nothing or file for further enforcement through the local town court or bring an action in Oswego County Supreme Court to enforce the ordinance.

Randy Pratt informed Mr. Connolly his complaint will be noted in the ZBA monthly minutes, which are distributed to Town Council members, however the ZBA couldn't help. He must follow up on complaints with ZEO, Marcella Gibson, Town Supervisor, Victoria Mullen and the Town Council. Kevin Caraccioli advised that the enforcement of the junk law rests with the Town Council. Mr. Connolly also wanted to know who was responsible for taking care of the lawn at the brown house near the Jarvis residence. Board members discussed the issue and advised the current ordinance does not address this type of issue, however it will be an issue addressed during the next Ordinance Committee meeting for inclusion in the updated ordinance

## **Second Order of Business**

### **Review Process - John and Joann Wall/Application 2002-41**

John and Joann Wall approached the board to present their proposed project to the board. They own a business by the name of Oswego County Respiratory Equipment and Supplies, Inc. in which they rent oxygen concentrators and nebulizers to Nursing Home and Home Care patients. They will be delivering these items to the patients' home. They wish to run their business from their home, which is located in an R-4 district. They wish to erect a lighted sign 28 feet from the centerline of the road in front of their property. They also wish to build a storage unit for the oxygen contractors and oxygen pistons on the property. They are appearing for a sign permit and a special permit for business use in an R-4 district.

The Wall's appeared before the Town of Oswego Planning board at their last meeting and presented their application to them. The Planning Board requested they discuss their proposal with the Town of Oswego Fire Chief. Mr. Wall presented a letter from Scott Pritchard, OTVFD Chief, which was put into record that verified such a discussion, took place.

Joann Wall stated that their proposal would not cause an increase in traffic in the area as customers would not be coming to their house rather they would be going to the customer's residence with the equipment.

Randy Pratt requested the applicants describe in detail the diagrams they presented to the board. Mr. Wall stated all structures on the diagram exist with the exception of the 6 foot by 6-foot pad. They wish to use this pad to erect the storage unit. Contained in the unit would be small pre-filled oxygen cylinders, and there wouldn't be onsite filling of the containers from a larger container. Brad Livesey asked if the unit would be secure. The applicants stated it would be. Mr. Livesey asked how the delivery trucks would access the unit. Mrs. Wall stated they would park their trucks on the driveway and wheel/carry the supplies to the building. Mr. Livesey asked what type of lighting would be in the area of the storage unit to deter any tampering with the building. Mr. Wall stated mercury vapor lights would be used to light the area; the building would be open vented and secured with a padlock.

Greg Auleta asked the applicants for dimensions of the sign. Mr. Wall stated the sign would be 36 inches by 48 inches.

Brad Livesey asked the applicants to clarify that they would exclusively be delivering the products to their customers. The applicants stated yes. Mr. Livesey asked the applicants to justify their need for a sign. Mr. Wall stated for advertising purposes. Mr. Livesey asked whether a traffic study had been done on Rathburn Road. Mr. Wall stated no. Mr. Livesey asked whether the sign would be lit. Mr. Wall stated yes, and pointed out this information was included in the permit. Mr. Livesey asked what hours the sign would be lit. Mr. Wall stated the sign would be lit from dusk to dawn with 75 watt per bulb lighting. Mr. Livesey stated the board might have a problem with lighting the sign from 12:00PM to 5:00 AM on a rural road that would have very little traffic. Randy Pratt requested the applicants include the dimensions of the entire sign, redefine the dimension to include the support system as well as the sign, maximum height, width, wattage for lighting and a more defined blueprint. Mr. Wall stated the lighting would be close to illuminate only the sign and would not glare into oncoming traffic. Greg Auleta stated the applicants might want to consider scaling back the dimensions of the sign or the support structure. Randy Pratt stated the applicant might wish to provide some alternate sign plans for review at the Public Hearing. Mr. Pratt also requested a more detailed Plot Plan that includes the distance of the sign from the driveway.

Randy Pratt requested a more detailed map that includes how many feet the sign would be located from the centerline of the road, the distance of the storage building from the property line and the front, side and back dimensions. Mr. Pratt also requested an up to date copy of the survey map. Mrs. Wall stated Don Down CEO, had an up to date survey map.

Greg Auleta requested the applicants provide details about the components of the building, what the building would look like and the dimensions of the building.

Randy Pratt asked the board members if they felt the application was complete enough to schedule a Public Hearing for the next meeting. All board members agreed.

Randy Pratt asked the board members to define what area would be used to notify neighbors of the Public Hearing. The board members agreed that a 1500-foot radius should be used. Mr. Pratt asked the applicant which method of notification they would use, signature sheet or certified mailing. Mr. Wall stated they would provide a signature sheet for the Public Hearing.

At approximately 8:30 PM Greg Mills made a motion to schedule a Public Hearing at 7:05 PM on September 19, 2002 to vote on Application 2002-41 with the following stipulations/modifications:

1. Provide a more detailed blueprint of the sign to include maximum height, width and wattage for lighting.
2. Provide measurements from fixed points (Plot Plan) on map (front, back and side dimensions) to storage building.

3. Put sign on Plot Plan and the measurements of its location from the center of the driveway.
4. Survey Map.
5. Information on building design/construction.
6. Notification of Public Hearing to neighbors within a 1500-foot radius of property.

Brad Livesey seconded the motion. All ayes. Motion passed.

### **Third Order of Business**

#### **Review Process - Daniel Demm/Application 2002-61**

Daniel Demm approached the board to present his proposed project to the board. Mr. Demm is seeking an area variance to erect a 66 foot modular home with a garage on Rathburn Road in an R-4 District. Mr. Demm is seeking an area variance on both sides of the proposed home. Mr. Demm stated his father Charles Demm Sr borders the property.

Brad Livesey asked the applicant to confirm the lot size is 100 feet wide and 587 feet deep. Mr. Demm stated this was so.

Greg Auleta asked if there were any structures on the other side of the property line. Mr. Demm stated there was a house that is owned by Jan Gibson. Mr. Auleta asked how far that house was located from the property line. Mr. Demm stated it was 30 to 40 feet from the property line. Mr. Auleta pointed out the house was not referenced on the survey map the applicant provided. Mr. Auleta asked the applicant if he had notified the Gibson's of his plans. Mr. Demm stated he had. Mr. Auleta requested the applicant provide a document at the Public Hearing from Jan Gibson indicating Mr. Gibson stating he had reviewed Mr. Demm's plan and understood the proposal.

Brad Livesey asked the applicant how far his property line was from Charles Demm Sr.'s garage. The applicant stated it was 7 or 8 feet. Charles Demm stated this was a garage that he used to put his vehicles in.

Randy Pratt asked the applicant if his garage would be located parallel to the property line. Mr. Demm stated he wanted to keep his house and garage in line with all of the other houses on the road. Mr. Pratt stated that the diagram the applicant presented shows the garage to be at a slight angle and that the front corner looked to be closer than 15 feet to the property line. Mr. Pratt requested the dimension of the front corner from the property line be indicated on the map for the Public Hearing.

Randy Pratt asked Mr. Demm why he chose a house that was 66 feet long. Mr. Demm stated this was a house that was comfortable for his family's size and they liked that house in particular. Kevin Caraccioli asked Mr. Demm if he was financing his home through a bank. Mr. Demm stated he was. Mr. Caraccioli asked if a survey was required for the financing. Randy Pratt requested the most recent survey be presented at the Public Hearing.

Randy Pratt asked that the Town Planning Board be contacted to review the application before the September 2002 ZBA meeting. Mr. Pratt asked Mr. Demm which method he would use to notify the surrounding neighbors of the Public Hearing. Mr. Demm stated he would provide a signature sheet at the Public Hearing. Brad Livesey suggested Mr. Demm notify all neighbors within a 1500 foot radius of the property line. The board members agreed.

Brad Livesey asked the applicant if the septic he intended to use was a standard bed. Mr. Demm stated he would be using a standard bed with a new type of system that was recommended by the county, a two in one system. Mr. Demm showed members the manufacturers pamphlet describing the system. Mr. Livesey asked the applicant who would be installing the septic. Mr. Demm stated that he would be.

At approximately 9:00 Greg Auleta made a motion to schedule a Public Hearing on September 19, 2002 at 7:15 PM to vote on application 2002-61 with the following stipulations/modifications:

1. The applicant will provide the dimension of the front corner of the garage from the property line.
2. The applicant will provide an updated, accurate survey map.
3. The applicant will provide an accurate Site Plan.
4. The applicant will provide a Plot Plan
5. The applicant will provide a letter from Jan Gibson approving the site plan.
6. The applicant will provide proof of notification of the Public Hearing to all neighbors within a 1500-foot radius of the property line.

Greg Mills seconded the motion. All ayes. Motion carried.

#### **Fourth Order of Business**

##### **Archival and Retrieval Process for Applications and Resolutions**

Shelley Rahn, ZBA Secretary reported she had spoken with Town Clerk, Theresa Cooper with regard to the archival and retrieval process for applications and resolutions. Ms. Cooper advised she is attempting to develop an archival system, currently she is reviewing the minutes from the ZBA minutes and resolution and depending on her memory as to what year the Public Hearing took place in order to access these documents.

Randy Pratt stated this is a problem because we are unable to access the documents to enforce the resolutions with regard to applications. He used the Bush Automotive complaint at this meeting as an example.

Greg Auleta asked Kevin Caraccioli offer some suggestions for an archival process. Mr. Caraccioli stated his files are cross-referenced by name and year in his office. He also stated other offices use case numbers. Randy Pratt stated that this issue needed to be addressed by the Town Council. Greg Auleta made a motion to address a letter to Town Supervisor, Victoria Mullen and the council members stating the need for a comprehensive archival process. The letter should read as follows:

The ZBA is requesting the Town of Oswego develop a comprehensive archival process to handle all applications and decisions relating to the Land Use Ordinance. This process should include adequate cross-referencing abilities such as by applicant's name, by tax map number, date/year of application and application number. The ZBA secretary will draft this letter, email the letter to Greg Auleta to review and then forward the letter to Ms. Mullen and the Town Council. Randy Pratt seconded the motion. All ayes Motion carried.

#### **Fifth Ordinance of Business**

##### **Open Board Discussion**

Greg Mills requested ZEO, Marcella Gibson bring the board up to date on the Spade Automotive issue discussed at the July 2002 ZBA meeting. Mrs. Gibson stated Mr. Spade is not allowed to have more than twenty vehicles on the property; this includes the vehicles he is working on. The permit does not include the property that was formerly owned by his father he cannot have vehicles on that property. Mr. Spade is to be given an order to remedy the situation. Randy Pratt voiced his appreciation of Mrs. Gibson's attendance at the meetings.

Kevin Caraccioli advised the board he has done some legal work for John Bush. He has had no involvement in Mr. Bush's current situation and was unaware of the problem. He advised that if there was any type of legal action to be made, Steve Greene would have to represent the Town and Kevin would not have any involvement.

Randy Pratt requested board members review the minutes from each meeting. He requested members present any errors/missing information be brought to the board's attention for remedy.

**Adjournment**

At approximately 9:25 Greg Auleta made a motion for the August 15, 2002 ZBA meeting to adjourn. Brad Livesey seconded the motion. All ayes. Motion carried.

Respectfully submitted,

Shelley A. Rahn  
Town of Oswego Zoning Board of Appeals Secretary