

# TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

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## MEMORANDUM

EAST GREENBUSH ZONING BOARD OF APPEALS  
MEETING MINUTES  
August 24, 2010



### Members

Jeff Pangburn  
Judith Condo  
Steve Millens  
Joyce Lapham

### Also Present:

Donna Moran, Stenographer  
Tim Nugent, Attorney  
Angelina Cadena, acting ZBA  
Secretary

### CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Pangburn called the meeting to order and determined a quorum of four (4) members were present. Introductions were made.

### APPLICATION COMPLETE - SEQR CLASSIFICATION:

#2010-20 Ellis – Area Variance: Front Porch @ 15 Connecticut Ave (8/24)

MOTION: A motion was made by Jeff Pangburn as follows: **In regards to Appeal #2010-20: Ellis - Application for Area Variance, the Zoning Board of Appeals determines that this is a Type II Action and no further SEQR review is required.**

#2010-02 Malone – Use Variance: Used Auto Sales @ 7 Troy Road (8/24)

MOTION: A motion was made by Jeff Pangburn as follows: **In regards to Appeal #2010-02: Application for Use Variance and Area Variances, the Zoning Board of Appeals is progressing an uncoordinated review under SEQRA and is declaring itself Lead Agency, and determines that this is an Unlisted Action under SEQRA.**

Second by Judith Condo & roll called as follows:

J. Pangburn – YES; J. Condo -YES; J. Lapham -YES; S. Millens -YES

**MOTION CARRIED BY A 4-0 VOTE**

**PUBLIC HEARINGS:**

#2010-20 Ellis – Area Variance: Front Porch @ 15 Connecticut Ave (8/24)

Pangburn read aloud the legal notice.

The above applicant is proposing to construct a 6' X 25' front porch at the above address. The property is in the R-2 Zoning District. This is in violation of the Town's Comprehensive Zoning Law, Section II, Sub-Section 2.6.5 Residential District R-2 which requires 25 feet from the front property line, the applicant only has 15 feet from the property line. Therefore, the applicant is requesting an Area Variance, Tax Map # 155.9-16-10.

Kathleen Ellis at 15 Connecticut Ave spoke to the board about the application and submitted exhibit A (aerial of neighborhood), exhibit B (picture of house on left side), exhibit C (picture of house on right side) and exhibit D (picture of front porch).

Julio Obiglio wrote a letter in favor of the application.

No one was present to speak in favor or in opposition of the application.

Motion to close the public hearing was made by Steve Millens – seconded by Joyce Lapham – all in favor – 4-0 vote

#2010-02 Malone – Use Variance: Used Auto Sales @ 7 Troy Road (8/24)

Pangburn read aloud the legal notice.

The applicant, William Malone, is proposing to operate a business of Automotive sales, new and used, and to build a 16' x 30' addition off the rear of the building on the South end and a 7' x 12' addition off the rear of the building on the North end of the property located at 7 Troy Road, Tax map # 166.15-4-7.1. This property is in the B-1 Zoning District.

Therefore, the applicant is applying for a Use Variance and two Area Variances.

William Malone at 7 Troy Rd. presented the board with exhibit A – a package addressing the 5 character points. Chairman Pangburn read aloud exhibit A (**attached to minutes**).

Chairperson Condo asked about a condition, from the previous variance, stating cars could not be sitting on the property for a certain period of time. Malone was not sure of any condition. He said he would have 3-5 cars on display at any time and sells about 1 car a month. Hours of operation are 7:30 am to 5:00 pm.

Pangburn states the applicant hasn't shown how his appeal meets the criteria of not being able to realize a reasonable return; that the property can find a reasonable return at its current zoning.

Tom Calamaras, a previous ZBA member during Malone's original application spoke in credibility of the application. He states to his recollection the only negative thing about Malone's application was about the storage of cars, boats, and rv's at his previous location and that he was moving to the new location because it fits his needs.

Calamaras suggest that the board grant a temporary variance as long as Malone occupies the current location.

Tim Nugent asked Mr. Malone if he wanted to close the public hearing or keep it open. Mr. Malone chose to keep the public hearing open and to adjourn until the next meeting on September 14, 2010.

A Motion to adjourn the public hearing: Motion moved by Steve Millens, seconded by Judith Condo -- Carried by a 4-0 vote

Next meeting September 14, 2010.

**WORKSHOP/DELIBERATION**

#2010-20 Ellis – Area Variance: Front Porch @ 15 Connecticut Ave (8/24)

- Positive recommendation from the planning board. Motion carried by 7-0 vote
- County of Rensselaer: Bureau of Economic Development & Planning – local consideration shall prevail

The Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as – the porch is only being increase by 2 feet
2. There is no other method available to the applicant as – cannot build porch without the variance.
3. The requested variance is not substantial – it’s only a 10 foot variance. Property line set back has 15 feet and needs 25 feet.
4. The proposed variance will not have an adverse effect on the neighborhood – there are many other non conforming porches in the neighborhood.
5. The alleged difficulty is self-created; however, it should not preclude the variance

**Resolved**, that the application for an Area Variance be GRANTED with NO condition(s):

This resolution was moved by Steve Millens and seconded by Judith Condo at a meeting duly held on 8/24/10.

Discussion -- straight forward application -- variance is only 2 feet.

A vote was taken as follows:

Judith Condo	<u>  y  </u>
Joyce Lapham	<u>  y  </u>
Steve Millens	<u>  y  </u>
Jeff Pangburn	<u>  y  </u>
Lou Polsinello III	<u> absent </u>
William Ritz III	<u> absent </u>
Bob Seward III	<u> absent </u>

Motion carried by a 4-0 vote

SEQR DETERMINATION & RECOMMENDATION

NONE

STATUS - New Appeals

#2010-16 Cronin – Area Variance: awnings w/text @ 715 Col Tpk (8/10)

#2010-18 Cellco/Verizon – Special Use Permit – 225 Columbia Tpk (9/14)

#2010-21 Cellco/Verizon – Special Use Permit – 594 Columbia Tpk (9/14)

NEXT MEETING: September 14, 2010

MOTION TO ADJORN

**There being no further business before the Board, the meeting was adjourned.**

**Respectfully Submitted**

**Angelina Cadena, Acting ZBA Secretary**

EXHIBIT A  
2010-02 main

Use Variance

Several months ago I came before this board in conjunction with Wachovia Bank to request a use variance for the vacant property formerly known as Grease Monkey. Again I am here to request another use variance. I would like to address the criteria for that.

Cannot Realize a Reasonable Return

When we first came here I was under contract with both Wachovia and the party that was to take over my former property. This was established long before we appeared here. The financing for both properties was established according to the business I was doing at that time and the economy. Unfortunately the economy worsened, and I fully expected to still be allowed to sell autos at my new location, especially after there was no condition prohibiting it in the board's resolution. Since relocating to a smaller location I am now no longer able to store vehicles, or provide rental vehicles. Both reduced income but this was expected. Not being able to sell vehicles was not. This loss in income will create a major hardship.

Unique Hardship

This building was originally placed on a very small lot in a commercial zone. After many years on the market it was finally sold contingent upon approval for the specific use as a Grease Monkey franchise. Any other use would be very difficult to sustain due to the size of the lot, in particular there would have been a problem with adequate parking. This is not a case of a unique piece of ground but of a unique building that was constructed for 1 particular use. To change it would be financially prohibitive, even if zoning would allow it. (Another example of financial hardship.) For these reasons this property needs to have its uses maximized, also because body work was prohibited.

Will Not Alter Character of Neighborhood

This property is surrounded by commercial property. The closest residence is currently on the market as commercial. The basic zoning concept of this property will remain.

Self created Hardship

Agreed this is a case of a self created hardship, after the downturn in the economy, and the expectation of auto sales are taken into consideration.

### Area Variance

My proposal is to add on another repair bay to the rear of my building. This is a necessity due to the fact that in order to stay competitive with other repair garages I need the ability to have space to take on more repair jobs, including the ones that may require 2 or more days, tying up the limited space available, and not leaving autos outside waiting.

I now would like to address the conditions for an area variance.

### Undesirable Change to the Neighborhood

As I stated before this property is zoned commercial, and surrounded by other commercial property, a car wash, hardware store, ( which leases large pieces of equipment), a Laundromat, an amusement park and 4 eating establishments. Certainly a change consistent with its present use will not impact any of these properties.

### Another means of Accomplishing Change

No. As you look at the property from the front it is easy to see that there is not enough room on the left for an extension. Also on the right is the driveway to the rear, and I can't expect anyone to feel the best way would be to extend the front and make the building appear unsightly.

### Is Area Variance Substantial

No. The new addition will be app 16x30 ft., which is only app. a 23% increase in the size of the building. Also it will be constructed along the existing lines of the building on the side. To the rear there will still exist a 90 ft. + rear setback. Approval of this variance will allow extension of an already approved non conforming structure, which was originally approved due to the narrow width of the property, while there was great depth. (See attached diagram.)

### Physical, Visual Impact on Area

Due to the unique characteristics of the surrounding area very few people will actually be able to see this addition, except when they are at the rear of each of the adjoining properties, where they will be treated to a more unsightly view then what I am proposing. This addition also will neither impact water run -off, nor create a visual obstruction impacting safety, or create more traffic for RT. 4. This property is also surrounded by others that makeup a large parcel that face 2 roads at a corner that is less than 90 degrees which places all the rear areas compressed into a smaller area that blocks all from highway vision.

**Self Created Hardship**

Once again I want to refer to the hardship criteria for the use variance.

In conclusion I would like to state that I have been a lifelong resident of EG. As with my former property on 9&20, I have always maintained an attractive, well kept property. Keep in mind this property was vacant and in poor condition for a few years. An eyesore to all traveling Rt. 4. I have also eliminated an animated sign that was placed in front, and have once again put to attractive use a vacant property that has been mentioned on several occasions during interviews of town board members, concerning its past disuse.

The vehicles that I display for sale are always well maintained and do not display unsightly signage or distracting displays, unlike at other locations in EG. Many are also used as personal vehicles I will also maintain the building and addition in the same manner if the board decides to grant these variances, and the addition will be constructed consistent with the existing building

Finally I am submitting several pictures to further enforce the points that I have made for the approval of my application.

Picture #1 is taken from the rear of the building facing north. It shows an intense use of the Friendly property for parking, minimal green space and dumpsters in the rear.

Picture #2 shows the view of the Mystic Lagoon Amusement Park.

Picture # 3 is from the rear of the building directed at Premier Tire.

Picture # 4 faces east looking at the rear of the car wash and Quigley's. In both properties dumpsters are clearly visible, not enclosed.

Picture#5 shows the rear of my building.

Picture # 6 shows the rear of my parking lot, clearly showing that there is not an abundance of autos waiting for work or completed.

Picture # 7 shows the front of my building with autos displayed for sale in an orderly manner, which is typical of my operation.

Picture # 8 shows the typical condition of one of my competitors lot, where autos are also at times displayed for sale.