

MINUTES OF A MEETING OF THE
 VILLAGE OF AVON ZONING BOARD OF APPEALS
 THURSDAY, AUGUST 20, 2015
 7:00 PM; THURSDAY, AUGUST 20, 2015
 VILLAGE HALL, DPW SUPERINTENDENT'S OFFICE

- | | |
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| <p>I. ATTENDANCE</p> <p>Daniel Freeman, Chairman</p> <p>James Gerace</p> <p>Barbara Sadden</p> <p>Ernest Wiard</p> | <p>ABSENT</p> <p>Richard K. Hite</p> |
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Reid Whiting, Village Attorney
 Christopher Coyne, 181 High Street

II. APPROVAL OF THE MINUTES

MOTION: Wiard moved for approval of the minutes of the January 27, 2015, meeting, seconded by Gerace. Voting in favor were Freeman, Gerace and Wiard. Voting against were: none. Sadden abstained.

CARRIED, 3 Ayes, 0 Nays, 1 Abstention

III. OLD BUSINESS

Nothing pending.

IV. NEW BUSINESS

<p>Timothy Hite</p> <p>96 Wadsworth Avenue</p> <p>Avon, NY 14414</p>	<p>Garage construction</p> <p>Height & area variance application</p>
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Freeman read the NOTICE OF PUBLIC HEARING:

NOTICE OF
 PUBLIC HEARING

PLEASE TAKE NOTICE that a public hearing will be held before the Zoning Board of Appeals of the Village of Avon on Thursday, August 20, 2015, at 7:00 PM in the Whitney Room at the Village Hall, 74 Genesee Street, Avon, New York on the following matter:

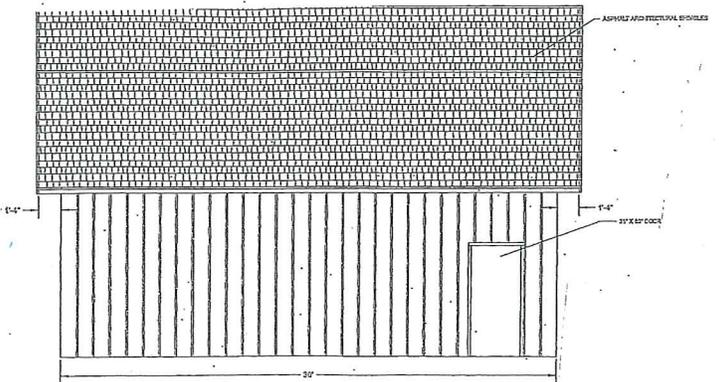
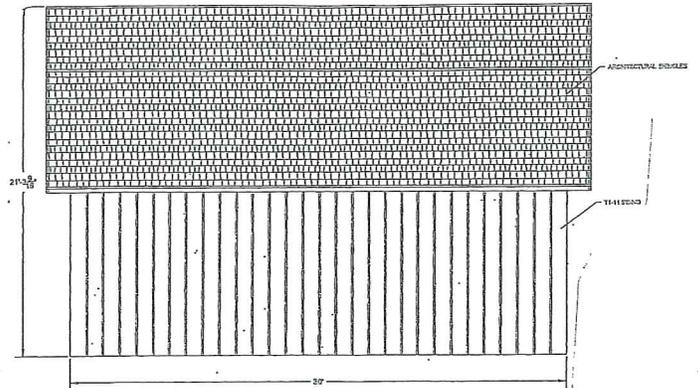
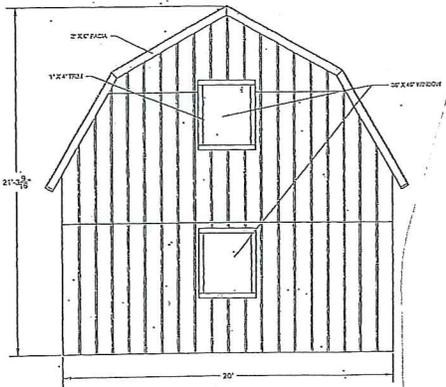
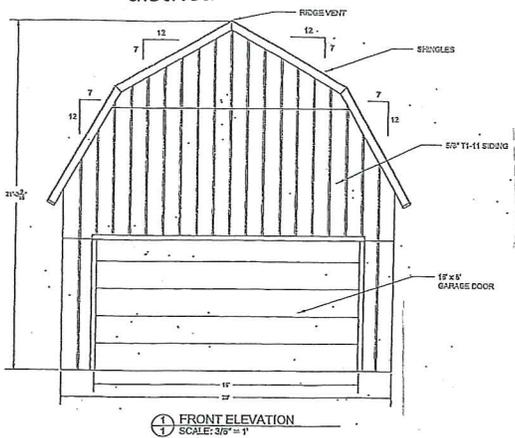
Application of Timothy Hite for an area variance concerning construction of a two-story garage at 96 Wadsworth Avenue, Avon.

The Zoning Board of Appeals will, at the aforesaid time and place, hear all persons in support of this application or objections thereto. Persons may appear in person or by agent or attorney.

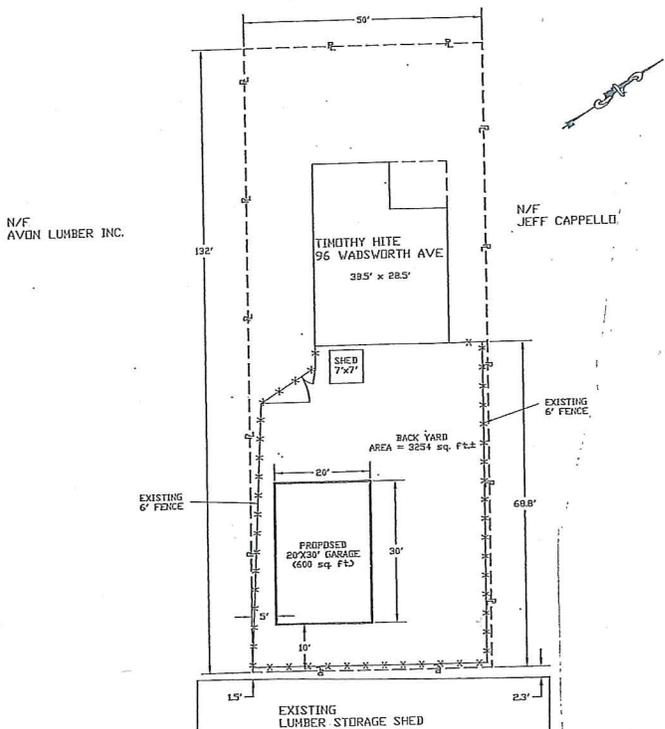
Dated: August 6, 2015
 By Order of the: Zoning Board of Appeals
 Of the Village of Avon

Building dimensions vs Village Code

Hite proposed building a 20-foot X 30-foot garage, two stories, 21-feet, 3 & 9/16-inches tall, 5 feet from his south (side) property line and 10-feet from his rear (east) property line. Avon Lumber, Inc., 108 Wadsworth Avenue was his neighbor to the south and east. Jeffrey Cappello (home) was his neighbor to the north. The property was in an R-1, One Family Residential, district.



D I S T R I C T	MIN. YARDS ACCESSORY BUILDING		MAXIMUM BUILDING HEIGHT		MAXIMUM BUILDING COVERAGE		MINIMUM FLOOR AREA (sq ft)
	Side (ft)	Rear (ft)	Prin Bldg (ft)	Acc Bldg (ft)	Prin Bldg % of lot	Acc Bldg % of rear	
A	40	30	35	35	5	5	1,200
	30	30	35	12	5	5	1,200
	30	30	35	35	5	5	1,200
	30	30	18	18	25	5	1,200
R-1	40*	30*	35	35	5	20	1,000 du
	10*	20*	35	12	30	0	1,000 du
	10*	20*	35	35	30	0	1,000 du
	10*	20*	35	12	30	20	800 du
R-2	10	10	35	12	30	20	1,000 du
	10	20	35	12	30	20	1,600 du
	10	20	35	12	30	20	800 du
	10	20	35	35	30	0	1,600 du



Chapter 30, Section 25, of Village's Zoning Schedule gave the minimum side yard setback as 10 feet and minimum rear yard setback as 20 feet. The maximum height for an accessory building in an R-1 district, according to the same Chapter and Section, was 17 feet.

Hite explained his request, saying he'd moved the garage over to the south side of his property to leave some semblance of yard. His lot was wet so, he'd planned for a cement floor on the ground level then a second story for storage.

How tall was the barn across the street at Mary Driscoll's, 91 Wadsworth Avenue? Wiard asked.

Hite estimated 30-feet.

High enough to play basketball, Freeman, who'd grown up at 58 Wadsworth Avenue, remarked. Hite's lot was 50 feet X 132 feet – obviously, cramped quarters down there, the Chairman added.

Hite had two sheds in his backyard. Wiard asked if he planned on removing them, if his variance were granted.

Yes, Hite answered.

Statutory standards

There were statutory standards to consider, Whiting told the Board, listing:

1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of an area variance?
2. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?
3. Is the requested area variance substantial?
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
5. Is the alleged difficulty self-created? This consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of an area variance.

Sadden had concerns over the height of the building, going from the 17 feet the Code allowed to the 21 feet Hite had proposed, and over the looks of the building.

Village officials had set the maximum height for accessory buildings in an R-1 district at 17-feet and that had been moved up from 12 feet, Sadden noted. Why had the maximum been set at 17 feet? she wondered, then reiterated her concerns about the looks of the building (a gambrel-roofed building in a residential neighborhood).

Two years (2010) ago, the Zoning Board of Appeals had approved a similarly-sized and styled accessory building (14-feet X 40-feet, 2-stories & 19-feet tall) at Malcolm Lafever's house at 59 Maple Street, Freeman recalled.

Then, in 2011, a building permit for a 24-foot X 60-foot, single-story, 17-foot tall barn had been issued to Gregory D. Johnson for his business, Johnson Furniture Restoration, also in R-1 at 216 Wadsworth Avenue, Wiard remarked.

Sadden had brought-up the height of the garage Hite had proposed, but Gerace didn't think the building would be an eyesore especially when compared with the buildings at the lumber yard and King Cole.

In 2013, James Harrington had received a building permit for a 40-foot X 50-foot, single-story, 16-foot tall garage in and R-1 district at 157 East Main Street. You wouldn't even see Hite's garage, Gerace said.

With the buildings the lumber yard had, Hite's garage would be an improvement to the neighborhood, Freeman asserted.

And the lumber yard and Jeffrey Cappello have no problem with Hite's garage, Gerace added.

Yes, Hite said, he'd talked with them both; the garage would be the same color as his house, he added.

Sadden didn't have a problem with Hite's moving the garage closer to the property line, that was totally understandable, but, she said, she did have a problem with the height.

Hite wanted to be able to stand up on the second floor, he explained. The height he'd proposed would give him eight feet of clearance on the second floor.

The Board, Whiting said, must consider:

- Whether the variance would create an undesirable change in the character of the neighborhood
- Whether the variance would be detrimental to nearby properties
- Whether the benefit desired could be achieved by means other than the variance

The only issue is the height, Freeman asserted.

And, the Village Code said the maximum height should be 17 feet, Sadden reminded her fellow Board members. They must consider the future of the village, she urged. The lumber yard might always be there, but Hite's garage would be in a residential neighborhood and it looked like a barn – albeit a nice barn.

For the protection of the village's future, Sadden said she couldn't agree with it. Hite's house was 38.5 feet X 28.5 feet, and the garage he was proposing would be almost the same size.

Sadden understood Hite's need for the garage and conceded the building might look better than what was on the surrounding properties.

The cars you work on would be moved into the barn? Freeman asked. Hite indicated they would. A nuclear bomb would have to go off there to clean-up King Cole and the lumber yard, Freeman remarked.

We did approve Maple Street (Lafever), Gerace reminded.

And, you have King Cole's barn in Hite's neighborhood, Freeman added.

Was the area variance substantial and how substantial was the deviation in height and area? the Board was asked to consider.

Wiard said he had seen the stakes where the proposed construction would take place.

The Code called for a 20-foot setback from the rear property line and 10 feet from the side, Hite said, adding if he went along with that it'd would put the garage in the middle of his back yard.

Could these things, the height and area variance requests, be separated? Sadden asked.

Would there be an adverse impact on the character of the neighborhood? Whiting reiterated.

Hite said he had originally planned for his first floor to be 10 feet tall, but he had cut that down to nine. He'd nine feet to jack-up vehicles, he explained.

And, you would have access through a gate, entering the back yard on the south side (through the Avon Lumber property)? Sadden asked.

I have ingress/egress rights, Hite said.

How tall was the lumber yard building behind his property? Freeman asked.

Twenty-five to 30 feet, Hite estimated.

MOTION: Gerace moved for approval of Hite's height and area variance application – as stated in his proposal, seconded by Wiard. Voting in favor were: Freeman, Gerace and Wiard. Voting against was: Sadden.

CARRIED, 3 Ayes, 1 Nay

V. ADJOURNMENT

MOTION: Wiard moved for adjournment at 7:51 PM, seconded by Gerace. Voting in favor were: Freeman, Gerace, Sadden and Wiard. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

Gary Margiotta
Deputy Clerk

Date: 07/14/15

Appeal No: _____

APPEAL TO THE ZONING BOARD OF APPEALS FOR AN AREA VARIANCE

I (we) Timothy Hite of 96 Wadsworth Avenue
Name of Applicant Street Address of Applicant

Avon New York DO HEREBY APPLY TO THE
Municipality State

ZONING BOARD OF APPEALS OF THE INCORPORATED VILLAGE OF AVON, NY, FOR AN AREA VARIANCE

Property Location: 96 Wadsworth Avenue, Avon, NY

Zoning District: R-1 Section of Code: 30 Subsection: 25 Paragraph: 3

Previous Appeal #: _____ Date: _____

Difficulties Caused by Code: The setbacks of 10 feet to the side and 20 feet to the rear would require Me to build a garage in the center of my back yard, thereby making the rest of the backyard of little use. The height limit of 17 feet would not allow me to have a second story for storage purposes. Like most properties on Wadsworth Avenue, I have frequent flooding issues. I am unable to use my cellar for storage, therefore and I am in need of more dry storage space. The height limitation would prevent me from adding a useful storage space above my proposed garage.

Minimum Relief Required: A reduction of setbacks to 5 feet on the side and 10 feet on the rear would allow me to retain a useful lawn area in my back yard. And an increase of the allowable building height to just over 21 feet would provide me with much needed dry storage space.

Variance Requested: _____

Reduce side setback to 5 feet.

Reduce rear setback to 10 feet.

Increase allowable building height to 21 feet - 4 inches.

Appeal of: _____

Action: _____

Date of Hearing: _____

Date of Action: _____