



Village of Colonie

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DRAFT MINUTES **WEDNESDAY, DECEMBER 6, 2023** **6:30 PM**

EDWARD SIM
DEPUTY MAYOR

**PATTY SCHWARZ
LOCKART**
TRUSTEE

ART WHITE
TRUSTEE

JAMIE BLOT
CLERK

The regularly scheduled meeting of the Village of Colonie Zoning Board of Appeals was held on Wednesday, December 6, 2023, at 6:30PM.

The meeting was called to order by Chairman VanBuren at 6:30 p.m. with a salute to the flag. Chairman Van Buren requested that all electronic devices be turned off or muted.

ROLL CALL:

Chairman: Lou VanBuren
Members: Trevor Normandin
Joshua Rowinski (Absent)
Phil Minissale
Christopher Larrabee
Liaison: Jim Rubino
Alternate: Les Decker
Counsel: Victor Caponera

Chairman VanBuren announced that some changes have been made to the Zoning Board of Appeals. Mr. Frank Prevratil has been appointed a Trustee for the Village of Colonie and will no longer be on the Board. Mr. Chris Larrabee, who is currently the alternate, will move to Mr. Prevratil's permanent position. The new alternate will be Mr. Les Decker, a familiar face in the Village and retired DPW Superintendent. Congratulations to all and thank you for your service.

The minutes from the November 1, 2023, Zoning Board of Appeals meeting were reviewed. Commissioner Minissale made a motion to approve the minutes. Commissioner Larrabee seconded the motion.

VOTE: Unanimous to approve the minutes.

59 Broderick St
Mr. & Mrs. Nahlupin – Tinting Business/Hobby
Area Variance

Mr. & Mrs. Nahlupin came before the Zoning Board of Appeals on November 1st, 2023 to request an area variance for their home located at 59 Broderick St. Mr. Nahlupin would like to run a window tinting business/hobby out of the garage of his home.

Chairman VanBuren stated that no further comments would be allowed at this meeting as the Public Hearing on November 1, 2023 was closed after all residents were given the opportunity to speak at the Public Hearing both for and against the proposed Area Variance.

Chairman VanBuren made a motion to approve Mr. & Mrs. Nahlupin's request for an Area Variance and read the following into the record.

“Mr. Stephan Nahlupin and his wife, Anna Nahlupin, applied to the Planning Commission requesting approval for a home window tinting business as defined in Section 242-3 of the Village of Colonie Code. A home occupation is defined as “any use conducted by a resident entirely within a single family or two-family dwelling or its accessory building for gain, and which use is clearly subordinate to the use of the dwelling as a place of residence, and which complies with the conditions and criteria of Section 242-5 of this Chapter”.

And Whereas in a letter dated September 5, 2023 to the Village of Colonie Planning Commission, Steven Meservey, on behalf of the Village of Colonie Code Enforcement officials determined that both he and Randy Rivera reviewed the application regarding the proposed home occupancy request for 59 Broderick Street and determined that the application meets the definition of home occupation in accordance with Section 242-3, and further determined that it complied with the provisions of Section 242-5 of the Colonie Village Code.

And Whereas after the Village of Colonie Planning Commission determined a review of the building plans of the home located at 59 Broderick Street, which showed that the floor space of the principal dwelling was 1400 square feet, and that the square footage of the garage in which the Lupin's propose to conduct their home occupation was 400 square feet, that it exceeded the provisions of Section 242-5(H)(b) and it was more than 25% of the floor space of the principal dwelling. The garage was measured to be 400 square feet, which meant that the proposed use of the garage for home occupation would be 28.5% of floor space of the principal dwelling, which means that the proposed use exceeded the 25% maximum by 3.5%. As a result, the matter could not be taken

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up by the Planning Commission and the Nahlupin's applied for an area variance before the Zoning Board of Appeals.

1. An area variance is allowed under Village Law section 7-712-b-3. The applicant is seeking an area variance from the Village of Colonie Code Section 242-5(H)(b) which exceeds the maximum 25% use by 3.5%.
2. Whereas, said Board heard the appeal of Mr. and Mrs. Nahlupin at its November 1st, 2023 hearing, and
3. Whereas, said Board on November 1st, 2023, and after due notice held a public hearing on said appeal at which hearing any and all persons interested in said appeal were given an opportunity to appear and be heard, and after hearing residents both for and against the proposed home occupation and after considering the balancing test, including whether an undesirable change would be produced in the character of the neighborhood, or be detrimental to nearby properties, and whether the requested variance is substantial, and whether the benefit sought by the applicant could be achieved by some other method, and whether the alleged difficulty or hardship was self-created, the Board after careful consideration and after reviewing the entirety of the record, including the application to the Planning Commission and the application to the Zoning Board of Appeals by Mr. and Mrs. Nahlupin , and after giving careful consideration to all those who neighbors that lived in close proximity to the applicants property, the Board determined that the proposed home occupation would not create an undesirable change in the neighborhood character, or be a detriment to nearby properties. The Board also determined that due to the difference between the maximum allowed 25% and the requested 28.5% of home occupation use is a 3.5% variance, that it was not substantial. The Board also determined that given the fact that the applicant would only be using soap and a hairdryer, that there would be no adverse effect either physical or environmental, on the surrounding properties.

The Board also confirmed that the benefit sought by the applicant could be achieved by some other method, which would require the applicant to locate his window tinting outside of his garage at another location. The Board also determined that while the alleged difficulty was self-created, said factor is relevant but would not preclude the grant of an area variance .The Board concluded that considering all of the above factors and the balancing test between the benefit to the applicant with the potential detriment to health, safety and welfare of the community, the Board determined that the applicant's request should be granted for a 3.5% variance from the required 25% maximum for a total of 28.5% of the floor space of the principal dwelling .

NOW, THEREFORE BE IT RESOLVED, based on the entire record before the Board, this variance is:

APPROVED APPROVED IN PART CONDITIONALLY APPROVED DENIED

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conditionally approved subject to approval of a special permit by the Planning Commission pursuant to Section 242-5 H of the Village of Colonie Code and any added conditions or modifications that may be placed on the applicants proposal by the Planning Commission, however, there shall be no other employees other than Stephan Nahlupin and his wife, the hours of operation are limited from 10 a.m.- 8 p.m. Monday through Saturday with no operation on Sunday, and there shall be no more than two vehicles parked in the driveway at any time, which are there for installation of window tinting on said vehicle.

NOTE: Unless otherwise specified, any decision of the Zoning Board of Appeals shall expire and become null and void one year after the filing of such decision if the applicant has not exercised such authorized activity within such period. Issuance of a building permit in accordance with and within one year of such decision shall be deemed prima facie evidence that such activity has been exercised.

Commissioner Minissale seconded the motion.

VOTE:	Chairman Van Buren	YES
	Commissioner Minissale	YES
	Commissioner Larrabee	YES
	Commissioner Normandin	YES
	Commissioner Decker	YES

Attorney Caponera announced that the Area Variance has been approved. Chairman VanBuren reminded the Nahlupin's of the conditions set forth in the narrative. Chairman VanBuren also added that the Nahlupin's would need to go back to the Planning Board for a Special Permit.

Mr. Nahlupin thanked the board.

Commissioner Normandin made a motion to adjourn the meeting at 6:48PM.
Commissioner Minissale seconded the motion.

VOTE: Unanimous to approve the motion.

Respectfully submitted,

Stacie Douglas
Zoning Board of Appeals Coordinator