

**ZONING BOARD OF APPEALS
TOWN AND VILLAGE OF ARCADE
17 Church Street, Arcade, New York 14009
Village Office (585) 492-1111
Town Office (585) 492-4685**

At a meeting of the Zoning Board of Appeals of the Town and Village of Arcade held on Monday, October 20, 2008 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York:

MEMBERS PRESENT: Jeff Snyder, Doug Eigenbrod, Lee Ameis, Gordon Cramer and Paul Sanders

MEMBERS ABSENT: None

OTHERS PRESENT: Marvin Zielonka, ZEO; Alan Bliss, Marty Mucher, Robert Vollmer, Margaret Morgan, Anita Stewart, Denny Heimburg, John Payne, Betty Whiting, Donald Whiting, Paul Burkett

The meeting was called to order at 7:00 P.M. by Chairman Jeff Snyder, followed by introductions of Board Members, the Secretary and the ZEO.

APPROVAL OF MINUTES:

MOTION by Doug Eigenbrod, seconded by Gordon Cramer and carried four yes votes to one abstention, to accept the minutes of the meeting of September 15, 2008. Jeff Snyder abstained as he was not present at that meeting.

PUBLIC HEARING: PERMIT NO. 1965-INTERPRETATION VARIANCE, SUBMITTED BY WYOMING COUNTY COMMUNITY ACTION IN CONJUNCTION WITH PHASE II NORTHRIDGE PROJECT, REQUESTING INTERPRETATION OF THE DEFINITION OF "GARAGE":

Chairman Snyder explained the procedure for the Public Hearing and that the Board had up to 62 days to render a decision. Chairman Snyder opened the Public Hearing.

The Board stated:

1. The Chairman quoted from the book "Outdoor Storage" by Ortho Books that a garage is a closed shelter for automotive storage that is securable and a carport is an open structure that does not enclose and secure things and any change is highly visible.
2. The Chairman quoted from Webster's New World Dictionary, 1982 edition, that a garage is a closed shelter for an automotive vehicle or vehicles and a carport is a shelter

for an automobile consisting of a roof extended from the side of a building, sometimes with an additional wall.

3. Carports as open structures are often later enclosed and then do not meet fire and building codes.

Comments from the Public:

1. Paul Burkett stated that there are several definitions of a garage: commercial, automotive and residential. Commercial garages are designed openly to park cars, usually multi-level. Residential garages are enclosed units to store cars. A carport has a very distinct definition as open.
2. A gentleman who did not identify himself stated that carports are often built because they are less expensive to construct and that the Northridge Phase II project is trying to save money.

Robert Vollmer, Architect of the project, stated:

1. Arcade Village Zoning requires garages for 50% of the units. With the open garages we are proposing, all 18 units will have one sheltered parking space. New York State recommends that garages be provided for all units.
2. Our proposal meets the definition of a commercial garage for multi-family units according to NYS Building Code.
3. The design and layout is complete and it would cause a hardship at this point to make the change.
4. We ask that you look at the NYS Building Code and interpret a garage with as much latitude as the regulations provide.

In further discussion:

1. The Board stated that the regulations given by the State are minimum standards and municipalities have the right to invoke more stringent standards. We can require full walls. Since no construction has begun, having to change the plans does not constitute a hardship.
2. Mr. Vollmer stated that by having full walls, it will block some views from the apartments. With the open structure occupants can also see their vehicles so there will be no security concerns. The Village has created the hardship by not providing a definition of a garage.
3. The ZEO stated that the other multi-family complex in the Village complied with enclosed garages. When the regulation was written the author most probably had a picture in mind of a traditional garage.
4. Mr. Burkett stated that by determining the definition of a garage it is establishing a legal term for the Village. He is sorry if the applicant thinks it is a hardship but the interpretation cannot be made just for the applicant's benefit.
5. The Board was asked by an unidentified gentleman what is the definition of the metal-framed, canvas covered structures that some people are erecting? Are they garages because people store cars in them? The ZEO stated that they are considered a temporary shelter as they have no foundations. The Board stated they were not in consideration at

this hearing.

6. Mr. Mucher asked if a variance would be considered. The ZEO stated that the applicant always has the legal right to apply to the Zoning Board of Appeals for a variance. The Board stated that it would be very difficult for the applicant to prove the issue was not self-created since construction had not begun.

The Chairman asked if there were any other comments from the Public or Board members. There were none.

MOTION by Paul Sanders, seconded by Gordon Cramer and unanimously carried, to close the Public Hearing.

MOTION by Paul Sanders, seconded by Doug Eigenbrod, and unanimously carried, that in regards to Permit No. 1965-Interpretative Variance, submitted by Wyoming County Community Action, that the definition of a garage in Arcade Village Zoning Law shall be a closed shelter that is securable, and a carport is an open structure that is not securable.

Board Members' Reasons:

Jeff Snyder – Voted yes. “Outdoor Storage” by Ortho Books states that a garage is securable and a carport is open and not securable. Webster’s New World Dictionary, 1982 edition, states that a garage is a closed shelter.

Doug Eigenbrod – Voted yes. I agree with the definitions given in both Webster’s Dictionary and the book “Outdoor Storage”. I believe it was the intent that the definition of a garage for multi-family units was a traditional, enclosed garage.

Lee Ameis – Voted yes. I agree with Doug. A garage is a closed structure that can be secured and a carport is open on more than one side.

Paul Sanders – Voted yes. I concur with Lee.

Gordon Cramer – Voted yes. I agree with the other Board members.

Chairman Snyder thanked everyone for attending.

ADJOURNMENT:

There being no further business brought before the Board, the meeting adjourned at 7:24 P.M. upon motion by Lee Ameis, seconded by Paul Sanders and unanimously carried. The next regular meeting of the Zoning Board of Appeals of the Town and Village of Arcade is scheduled for Monday, November 17, 2008 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

Respectfully submitted,

Holly L. Almeter
Secretary

October 20, 2008

Zoning Board of Appeals

Pg. 3 of 3