

**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**

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At a meeting of the Zoning Board of Appeals of the Town and Village of Arcade held on Monday, February 20, 2012 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York:

**MEMBERS PRESENT:** Jeff Snyder, Lee Ameis, Paul Sanders

**MEMBERS ABSENT:** Doug Eigenbrod, Gordon Cramer

**OTHERS PRESENT:** Gary Boorman, Assessor Doug Ronan and ZEO Marvin Zielonka

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

The Secretary distributed copies of the revised Village Zoning Law to Board Members and ZEO.

**APPROVAL OF MINUTES:**

The Secretary reported she had found a mistake in the October minutes. Under "Approval of Minutes" the date should have been September 19, not October 19.

**MOTION** by Lee Ameis, seconded by Paul Sanders and unanimously carried to accept the minutes of October 17, 2011 with the above correction.

**APPLICATION FOR USE VARIANCE, PERMIT NO. 2129-UV, SUBMITTED BY GARY BOORMAN, REQUESTING RE-USE OF AN UPSTAIRS APARTMENT LOCATED AT 372 WEST MAIN STREET, WHICH IS NOT A LISTED PERMITTED USE IN AN N/C DISTRICT AND IS A NON-CONFORMING USE WHICH SHALL NOT BE EXPANDED:**

The Chairman explained the variance process, read the application and the Criteria for Use Variance form (see Attachment A).

In discussion:

1. The Board asked the applicant for further explanation of items No. 3 and 4 on the Criteria for Use Variance form. The applicant provided additional information on the form.
2. The applicant stated that there are other homes in the area with upstairs apartments.

The ZEO clarified that the south side of West Main Street in this area, where this property is located, is a Neighborhood Commercial District that does not allow single family homes or apartments unless grandfathered. The north side of West Main Street in this area is classified as an RB3 zoning district allowing for mixed residential and commercial use.

3. The property was vacant for quite some time before the applicant purchased it in May of 2010 and there was no pre-existing apartment in use prior to purchase. The Chairman stated that if a property has not been in use for a certain period of time it is as if it never existed. The ZEO stated that the time limit for such is one year.
4. The applicant stated that the property survey shows the upstairs apartment. However, the separate electric meter for the upstairs has been removed and converted to run off the main house service. The applicant also stated that the hole for the second meter is still in place, there is parking for the apartment, access to the apartment is still existing so there will be no exterior work needed that would change the character of the neighborhood, and all rooms are still in place, i.e. bathroom, kitchen.
5. The Checklist was completed (see Attachment B).
6. SEQR was determined to be a Type II Action, Section (c) 9.
7. This property is located on a State highway and must be forwarded to the Wyo. Co. Planning Board for recommendation and comment. A Public Hearing will need to be held and a recommendation and comment sought from the Arcade Planning Board.

**MOTION** by Lee Ameis, seconded by Paul Sanders and unanimously carried to accept as complete with the additions to questions No. 3 and 4 on the Criteria for Use Variance Form, Application for Use Variance, Permit No. 2129-UV, submitted by Gary Boorman, requesting re-use of an upstairs apartment located at 372 West Main Street. Further, the Secretary was directed to forward the application to the Arcade Planning Board and Wyo. Co. Planning Board for recommendation and comment and to publish a Public Hearing to be held on Monday, March 19, 2012 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

**ADJOURNMENT:**

There being no further business brought before the Board, the meeting adjourned at 7:22 P.M. upon **motion** by Jeff Snyder, seconded by Lee Ameis and unanimously carried. The next regular meeting of the Zoning Board of Appeals of the Town and Village of Arcade will be held on Monday, March 19, 2012 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

Respectfully submitted,

Holly L. Almeter  
Secretary

Applicants' Name Gary BoormanPermit No. 2129-UVDate Feb. 20, 2012SBL No. 183.13-2-15

**ARCADE ZONING BOARD OF APPEALS**  
**VARIANCE APPROVAL CHECKLIST**

The Zoning Board of Appeals of the Town and Village of Arcade has identified the following as important elements which should be included when submitting variance applications.

Failure to submit the requested documentation and information, if applicable, may cause the Arcade Zoning Board of Appeals and/or the Wyoming county Dept. of Planning and Development to consider the application incomplete and consequently table the proposed project until complete materials are submitted.

For questions or assistance, please contact the Zoning Enforcement Officer at 716 496-7448.

**FOR BOTH RESIDENTIAL AND COMMERCIAL PROPERTIES:**

- 1. Fees paid for Variance Application and Certificate of Zoning Compliance. Both applications completed, signed and submitted.
- 2. Criteria for Area or Use Variance form completed INCLUDING explanations. One word answers of "yes" or "no" are unacceptable. **The applicant added additional explanation for Nos. 3 and 4 on the form.**
- 3. Tax map identifying adjacent properties and usages. If applicable: Agricultural Data Statement (**N/A**) and Flood Hazard Permit (**N/A**).
- 4. Property Survey prepared by a registered NY State surveyor.
- 5. Drawing of proposed construction.
- 6. Boundaries of the property plotted to scale; location and dimensions of setbacks; exact size and location of all existing buildings/structures on property; location of proposed building on lot drawn to scale with all dimensions; north arrow.
- 7. Existing watercourse and bodies of water. **None**
- 8. Type of construction materials; exterior dimensions of all buildings; architectural design features. **There will be no exterior changes to property.**

9. Description of the method of sewage disposal and location of the sewage disposal facilities. **Village sewer existing.**
10. Identification and description of the method, location, design and source of securing Public or private potable water. **Village water existing.**
11. Any easements and/or deed restrictions. **None**
12. Identification of any State or County permits required for the project's execution.  
**County Building Permit**
13. Appropriate State Environmental Quality Review form (SEQR) completed (Short or (Long form)). **Type II (c) 9**

Attachment A  
ZBA minutes Feb. 2012

Jenniter

Permit # 2129-DV.  
SBL# 183.13-2-15

### Criteria for USE VARIANCE

Please complete the following questions in as much detail as possible.

**PLEASE PRINT**

Continue answers on other side if necessary.

To allow a use not otherwise allowed in zoning, the applicant must demonstrate to the Zoning Board of Appeals unnecessary hardship. Such demonstration must include all of the following:

1. Why are you not able to realize a reasonable return without doing this project? Please explain. You need to submit financial evidence in the form of bills, receipts, etc.  
We purchased this property as a retirement residence with the financial assistance from the 2nd floor apartment a major consideration.  
\_\_\_\_\_  
\_\_\_\_\_
- 2a. Why is this hardship unique? Please explain.  
Residential rentals (2nd floor) are not unique in this neighborhood as neighbor buildings next door and across the street both contain residential rentals.  
\_\_\_\_\_  
\_\_\_\_\_
- 2b. Does this hardship apply to a major portion of the zoning district or neighborhood? Please explain.  
The neighborhood presently contains many residential rentals.  
\_\_\_\_\_  
\_\_\_\_\_
3. Will this project alter the essential character of the neighborhood? Please explain.  
NO, CHANGES TO THE EXTERIOR ARE NOT REQUIRE TO COMPLETE THIS USE. DOES NOT CHANGE THE LOOK OF THE NEIGHBORHOOD  
\_\_\_\_\_  
\_\_\_\_\_

4. Did you cause the problem for which you need to do this project? Please explain.

NO, THE APARTMENT WERE EXISTED  
BUT WAS NOT IN USE.

Samy R. Bournon  
Signature of Applicant

1/5/12  
Date

If approved, the Zoning Board of Appeals shall grant the minimum variance necessary and may impose reasonable conditions.