

**THE ZONING BOARD OF APPEALS
MET ON THURSDAY, SEPTEMBER 24, 2020 AT 6:30PM
AT BUTLER MEMORIAL HALL, 48 GENESEE ST., NEW HARTFORD, NY
RE: CLIFF'S SUPER MART AT 17 GENESEE ST.
IN ORDER TO OBTAIN AREA AND USE VARIANCES**

1. Chairman Saunders opened the meeting at 6:30pm.

ZONING BOARD MEMBERS PRESENT:

Chairman Jef Saunders
Member Richard Jordan
Member Jan Swartwout
Recording Secretary Janet M. Durr

VISITORS:

Applicant James Clifford, Architect James Hagan, Attorney Herbert Cully, Richard Sherman, OD Reporter Ed Harris,.

2. Chairman Saunders administered the Oath of Office to those present.
3. Chairman Saunders announced that he would abstain from deliberations and voting since his law firm, Kahler and Saunders, is representing the owners of the restaurant Casa Too Mucha, 13 Genesee St., which is potentially being purchased by Clifford Company/17 Genesee Realty.
4. The lead agency (ZBA) has submitted Form 239 to Oneida County Planning for review and approval, since the property is within 500' of state and county roads. We have not received a response to date so we are unable to grant variances at this time. Chairman Saunders requested presentations at this time.
5. Attorney Herb Cully requested Area Variances for side, front and back; a height variance and a sign variance.
He also requested a Use Variance to operate a gas station on the property.
6. James Hagan, architect from Hagan Architects P.C. presented plans. They hope to purchase the property at 13 Genesee St., a restaurant known as Casa Too Mucha, currently owned by Patricia Rizzo. The property is in a B-1 Zoning District but a small lot behind the building is in the R-T Zoning. They would demolish the building in order to build a new convenience store. The new store at 17 Genesee St. adjacent to 13 Genesee St. building would be 4,500 square feet. A guard rail would be erected along the right of way to protect the building from incoming traffic. A sidewalk would go from back of parking lot around to front entrance (facing west side of lot) for safe pedestrian

walking from back lot. 4 fuel pumps would remain where they currently are. The roof canopy, tanks and accessories will remain as is. Parking for store would face the entrance on west lot. The removal of the existing store will significantly improve on-site vehicular circulation and provide more easily accessible parking for customers as well as upgrade the overall appearance of the site.

The following **AREA VARIANCES** are requested:

Height Variance: Building: 20'-23'.	Canopy: 18'.	Code is 75'
Side Yard: Building: 2' variance.	Canopy 56.5 ' variance.	Code is 10'
Rear Yard: Building: 26' variance,	Canopy 88'.	Code is 50'

Exterior Signage Variance: maintain the existing freestanding sign and install 2 new building mounted signs the same size as the existing building signs. The canopy graphics will be modified.

SPECIAL USE VARIANCE:

To permit a gas station in a B-1 zoning district.

7. **The following exhibits were presented:**

- a. Application with drawing
- b. Notification in OD
- c. Affidavit of mailing to neighbors
- d. Opinions of approval from public services: DPW, Fire and Police.
- e. Opinions of approval from: Planning Board, Zoning Officer
- f. SEQR review
- g. Awaiting 239 form approval from Oneida County Department of Planning.

8. **CRITERIA FOR AREA VARIANCES:**

A. PRACTICAL DIFFICULTY

1. Effect on Government facilities – none
2. Effect on Neighborhood –none.
3. Alternatives to Variance – none
4. Interests of Justice – no interference in justice.

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9. Chairman Saunders said the criteria for the area variances have been met.

10. **USE VARIANCE:**
 - a. **UNNECESSARY HARDSHIP:**
 1. Reasonable return: Store needs to be updated to compete in present market.
 2. Unique circumstances: The 13 Genesee St. building is dated and would be difficult to sell as is. It is a small lot and not attractive to most buyers.
 3. Essential Character of the neighborhood: It is in B-1 area and the neighborhood would not be altered. R-1 plot is presently used as a parking lot.

11. Chairman Saunders said the criteria for a **USE VARIANCE** were satisfied and we will continue the meeting for a decision when the recommendation from the County Planning Department is received.

12. SEQR (State Environment Quality Review): There is no adverse effect on the environment.

13. Since there were no objections or further discussion, the meeting was adjourned until further notice at 7:33pm.

Respectfully submitted,

Janet M. Durr, Recording Secretary

**A CONTINUATION OF THE ZONING BOARD OF APPEALS MEETING
FROM SEPTEMBER 24, 2020
REGARDING CLIFF'S SUPER MART AT 17 GENESEE ST.
ON WEDNESDAY, OCTOBER 13, 2020
AT BUTLER MEMORIAL HALL**

1. Chairman Saunders opened the meeting at 10:00am

ZONING BOARD MEMBERS PRESENT:

Chairman Jef Saunders

Member Richard Jordan

Member Jan Swartwout

Recording Secretary Janet M. Durr

VISITORS:

Applicant James Clifford, Attorney Herbert Cully, Richard Sherman, representing Patricia Rizzo, 13 Genesee St. (Casa Too Mucha)

2. Chairman Saunders presented the 239 response from Oneida County Planning Department. The project is approved, with no recommendations.
3. Chairman Saunders stated that no objections have been received. Since a partner in his law firm is representing Patricia Rizzo, owner of Casa Too Mucha, 13 Genesee St., and could be considered a conflict of interest he is recusing himself from discussion and voting.
4. Member Swartwout said he had studied the plans and felt the proposed project would be an addition to the Village. 13 Genesee St. is in need of serious renovations and would not be a desirable property for another applicant. It would be a hardship to sell. He felt granting the variances would not offend the Village and was necessary for a successful project.
5. Member Jordan agreed with Mr. Swartwout. We respect our Village and appreciate the investment Mr. Clifford is willing to make in order to make our Village more attractive

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and in keeping with its aesthetics. He has reviewed the plans carefully and has no objections to granting the variances in order to have the project move forward.

6. Since all of the criteria were reviewed and met at the September 24, 2020 meeting, a vote was taken:
 - a. Upon motion by Member Jordan, seconded by Member Swartwout, the Zoning Board of Appeals approved the front, side, back and height variances and the sign variance.
 - b. Upon motion by Member Jordan, seconded by Member Swartwout, the Zoning Board of Appeals approved the Special Use Permit for a gas station.
7. Member Jordan thanked Architect Hagan, Attorney Cully, and Applicant James Clifford for their efforts to erect a quality structure to enhance and maintain the quality of our Village.
8. The meeting was adjourned at 10:21pm.

Respectfully submitted,

Janet M. Durr
Recording Secretary