

**Village of Liverpool Zoning Board of Appeals
Minutes
Monday, November 26, 2018 – 6:00 p.m.**

Attendees:

Jon Miles, Chairman

Dennis Hebert

Melissa Cassidy

Sandra Callahan, ZBA Secretary

Pamela Carey

Stephen Race

Bill Reagan, Codes Officer

John Langey, Attorney

Call to Order

Chairman Miles called the meeting to order at 6:00 p.m. and led all present in the Pledge of Allegiance.

Adoption of Minutes

Mr. Hebert moved and Ms. Carey seconded the motion to adopt the minutes from October 22, 2018.
Approved.

Old Business – On the application of Matt Wilson for an area variance for the continued maintenance of a driveway located at 117 Brow Street. The driveway is 45' from the property line on Brow St. Mr. Wilson wants it to be a 2 car driveway on the Tulip St. side.

Chairman Miles said that procedural issues relate to the application itself. The application appears to be incomplete.

Attorney Langey explained to Mr. Lavallo we realize there were procedural errors, and we are ready to move forward now.

Attorney Langey asked if there was any additional information from the public or the applicant.

Mr. Wilson said he would like to keep the driveways the same as they are and keep the parking as it is.

A letter was received from Anthony Lavallo – 101 Tulip St. whose opinion is to approve the variance for the front of the property but not for side parking.

Mr. Lavallo said the ZBA is given authority on the basis of the denial of the application. He didn't see a copy of the denied application. Mr. Reagan said he had denied the original application. Mr. Lavallo said this was procedurally improper due to the application completion.

Mr. Lavallo also stated that the current use of the property is for commercial use, a cleaning business is being run out of the house. The driveway on Tulip and the lower portion of the driveway are being used for the commercial business.

Mr. Wilson said that the garage bay is used for storage of supplies. There is no office, no phone and no rent is being paid. Attorney Langey said this could be interpreted as a commercial use and would suggest they stop using it as such.

Mr. Lavallo said the lot he would like to see removed is not being used for this property. It is more of a commercial parking lot. Residents who aren't tenants are parking there. The applicant is the only person on Brown St. with 2 driveways.

The front property didn't have a driveway previously and over time the parking area in the front grew.

The commercial parking has to be addressed and should be removed and turned back to green space.

Mr. Wilson said that events at the lake cause no parking on village streets and he lets neighbors use it occasionally. If the driveway is removed, it would make street parking difficult for neighbors. There is legal parking on one side of Tulip.

Mr. Wilson said the current parking is sufficient but he needs parking available for future tenants and that the driveway has been there for 15 years.

Jennifer Wilson – 105 Brow Street thinks the driveway is ok the way it is.

Mr. Lavallo said he is a good neighbor. This is a residential area, let's keep it that way.

There being no further comments, Ms. Carey moved and Mr. Hebert seconded the motion to close the public hearing.

Chairman Miles read the guidelines for granting a variance:

1 – Will the variance create an undesirable change to the neighborhood?

He said this is a unique neighborhood with a narrow street

Mr. Race said nothing changes if the variance is granted.

Mr. Reagan said they already have approved variances for the driveways. They currently have two 16x20 driveways. They want to allow for 5 cars on Brow St. There is currently 45' of pavement on Brow St. He suggested they make the driveway deeper.

2 – Can the variance be achieved by some other method? No

3 – Is it substantial?

Not as currently submitted, asking for 1 more parking space.

4 – Will the variance have an adverse effect on the environment?

No – snow removal isn't an issue

5 – Is the situation self-created?

No – It is currently a non-conforming driveway that was in place when the home was purchased.

Chairman Miles said everyone seems to agree the Brow Street parking is ok and would need to increase the depth.

There are 2 options, to have 3 parking spaces in front and 2 in back or all 5 in front and eliminate the back driveway. Chairman Miles would like all 5 parking spaces to be on Brow and extend the driveway and turn Tulip St. side back to green space. Ms. Carey agreed with putting Tulip St. side back to green space.

Ms. Carey moved and Mr. Hebert seconded the motion to grant the variance for a 45' driveway no more than 20' from the sidewalk with the elimination of the Tulip St parking within 12 months. All ayes, variance granted as follows:

**RESOLUTION
ZONING BOARD OF APPEALS
VILLAGE OF LIVERPOOL
AREA VARIANCE FINDINGS AND DECISION**

Date of Resolution: November 26, 2018

Applicant: Matthew Wilson
Address: 117 Brow Street
Liverpool, New York 13088
Hearing Held On:

Zoning District: R-2
Published Notice: ✓
Notice to County: N/A
10/22/18& cont'd 11/26/18

Tax Map ID # 004.-04-02.0

Property Location: 117 Brow Street

Reasons for which Variance is Requested: Applicant wishes to continue maintaining and using a 45' wide driveway, requiring a variance for 21' of relief from the 24' width allowed under the Village Code, on Brow Street. The request is necessitated by a lack of appropriate parking onsite.

Applicable Sections of Village Zoning Code from which Relief is Sought: §380-94(A)(3)

SEQR Determination: Lead Agency Type I Negative Declaration
Type II Positive Declaration Unlisted

FACTORS CONSIDERED:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Yes No
Reasons: The existing parking arrangement has led to a concern about the two (2) separate parking areas on Brow Street and Tulip Street.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes No
Reasons: The benefit of five (5) parking spaces to accommodate the two-family dwelling cannot be achieved elsewhere on the site as the Tulip Street parking area is undesirable.
3. Whether the requested variance is substantial: Yes No
Reasons: A total of five (5) parking spots (if on Brow Street) would be consistent with the existing total use of parking spaces.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Yes No

Reasons: Snow removal has not been an issue and the removal of the small lot on Tulip Street will improve the area. The applicant has alternatives for snow removal on or offsite.

5. Whether the alleged difficulty was self-created: Yes No

Reasons: This is a self-created hardship to the extent that applicant bought the property with knowledge of the 1991 driveway regulations and this was a legally nonconforming lot.

DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, finds that:

the benefit to the Applicant DOES NOT outweigh the Detriment to the Neighborhood or Community and therefore the variance request is DENIED.

the Benefit to the Applicant DOES outweigh the Detriment to the Neighborhood or Community and therefore the variance request is APPROVED.

Reasons: With the condition of removing the Tulip Street parking area and extending the depth of the Brow Street parking area, the applicant can achieve this goal of maximizing onsite parking while eliminating the non-desirable parking on Tulip Street.

The ZBA further finds that a variance for **21' of maximum driveway width relief** from **§380-94(A)(3)**, of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety, and welfare of the community because: **there were no identified harms from the proposal, subject to the below conditions.**

STANDARD CONDITIONS (If Approval is Granted):

1. That the applicants obtain any necessary permit(s) from the Codes Enforcement Officer or otherwise commence the use within one (1) year from the filing of the variance decision.
2. That the construction and use of the premises be completed in strict compliance with the submitted plans and application materials.

ADDITIONAL CONDITIONS (If Approval is Granted): The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

1. The new parking area provided on Brow Street is to be no more than 20' (at least 18' in depth) from the sidewalk. The applicant must improve the parking surface area to accommodate the vehicles.
2. Applicant must eliminate/physically remove and discontinue use of the existing Tulip Street parking area and return same to grass, as well as extend the Brow Street parking area within 12 months (no later than November 26, 2019). No parking may be established on the Tulip Street side of the premises.
3. Applicant shall comply with the Zoning Laws of the Village of Liverpool, including the discontinuance of any commercial use of the premises.
4. Applicant shall comply with all previous approvals granted by the Village of Liverpool that are not inconsistent with this amended approval for parking/driveways.

The Board by motion made by P. Carey and seconded by D. Hebert adopted the above Resolution.

Jonathan Miles
Chairman, Zoning Board of Appeals

Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY	EXCUSED
Chairman	JONATHAN MILES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member	PAMELA CAREY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member	DENNIS HEBERT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member	MELISSA CASSIDY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member	STEPHEN RACE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

There being no further business, Ms. Carey moved and Mr. Race seconded the motion to adjourn. All Ayes, meeting adjourned at 6:50 p.m.

Respectfully submitted,

Sandra J. Callahan
Zoning Board Secretary