

ZONING BOARD OF APPEALS

MEETING MINUTES

November 26, 2019

Town Hall

Meeting Room

7:00pm

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Members Present: Heather Hanson, Dave Robbins, Dick Seely, Krista Niles-Updyke, Nicholas Ahearn

Members Absent:

Staff Present: Tom Whispel, Robert Switala

Guests: Andrea Barnes, Will Rowe

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Minutes

October 22, 2019

**Motion by Seely to approved, seconded by Ahearn, to approve the minutes of October 22, 2019, Discussion, None; Motion Carries 5-0.**

**PUBLIC HEARINGS**

**BARNES VARIANCE  
2349 STATE ROUTE 352  
TAX PARCEL # 87.03-1-13**

Chair Hanson opened the public hearing at 7:02pm, noting it had been duly published in the Star Gazette.

Speaking for: Andrea Barnes – owner and described why she installed fence and was compliant with requirement to move the fence if DPW would require road to be widened in the area.

Speaking against: None

Public hearing closed at 7:05pm

**WILLIAMS AUTO GROUP AREA VARIANCE  
951 COUNTY ROAD 64  
TAX PARCEL # 58.03-1-3, 58.03-1-7, 58.03-1-8 AND PORTION OF 58.03-1-5**

Chair Hanson opened the public hearing at 7:05pm, noting it had been duly published in the Star Gazette.

Speaking for: Willy Rowe – project manager for Williams, provided why Williams is seeking variance for height of flag-pole. Provided information on proposed lighting of flag from top of flag-pole and shines only on flag with no light pollution.

Speaking against: None

Public hearing closed at 7:11pm

**OLD BUSINESS**

**ZBA-05-2025  
BARNES VARIANCE  
2349 STATE ROUTE 352  
TAX PARCEL # 87.03-1-13**

Resolution by: Robbins  
Seconded by: Seely

WHEREAS, the Town of Big Flats Zoning Board received a zoning variance application on September 13, 2019 from Andrea Barnes to maintain an existing fence constructed within the right-of-way of Glider Circle. The parcel is located in the Residential 2 (R2) Zoning District. Section 17.36.060 (B)(2) states that a fence shall be constructed entirely within the boundaries of a lot; as a result, the application is seeking a variance from this section; and

WHEREAS, the Town of Big Flats Code Enforcement has provided a staff report from Bergmann, dated September 23, 2019; and

WHEREAS, a public hearing on the subject application was held on November 26, 2019; and

WHEREAS, the proposed variance is a Type II action per 6 NYCRR Part 617.5(C) and does not require environmental review; and

WHEREAS, the Town of Big Flats Zoning Board has reviewed the submitted materials in accordance with Chapter 17.60 of the Town of Big Flats Municipal Code; now

BE IT THEREFORE RESOLVED, that the Zoning Board of Appeals of the Town of Big Flats grants variance from Section 17.36.060 (B)(2) with the condition that in the event that the Town

of Big Flats reserves the right to remove the fence within the Town Right-of-Way in the future at no cost or obligation to the Town.

CARRIED: AYES: Hanson, Robbins, Seely, Niles-Updyke, Ahearn

NAYS:

ABSTAINED:

Dated: Tuesday, November 26, 2019

BIG FLATS, NEW YORK

By order of the Planning Board of the Town of Big Flats

Heather Hanson, Chairwoman

#### Criteria Review- Sign Area Variance

1. Whether an undesirable change will be produced in the character of the neighborhood  
Hanson, no; Robbins, no; Seely, no; Niles-Updyke, no, Ahearn, no
2. Whether the benefit sought can be achieved by some other method.  
Hanson, yes; Robbins, yes; Seely, yes; Niles-Updyke, yes; Ahearn, no
3. Whether the requested area variance is substantial  
Hanson, no; Robbins, no; Seely, no; Niles-Updyke, no, Ahearn, no
4. Whether the proposed area variance will have an adverse effect on the neighborhood  
Hanson, no; Robbins, no; Seely, no; Niles-Updyke, no, Ahearn, no
5. Whether the alleged difficulty of compliance was self-created  
Hanson, yes; Robbins, yes; Seely, yes; Niles-Updyke, yes; Ahearn, yes

#### **ZBA-05-2026**

#### **WILLIAMS AUTO GROUP AREA VARIANCE SEQ**

#### **951 COUNTY ROAD 64**

#### **TAX PARCEL # 58.03-1-3, 58.03-1-7, 58.03-1-8 AND PORTION OF 58.03-1-5**

Resolution by: Robbins

Seconded by: Niles-Updyke

WHEREAS, the Town of Big Flats Zoning Board received a zoning variance application on September 13, 2019 from Williams Auto Group to construct a 50 foot tall flag-pole. The property is located in the Business Regional (BR) District. A flag-pole shall be considered as a free-standing sign and Section 17.52.050 (D) states that no free-standing sign for a business use in the BR District shall exceed 36 feet in height; and

WHEREAS, the Town of Big Flats Code Enforcement has provided a staff report from Bergmann, dated September 23, 2019; and

WHEREAS, a public hearing on the subject application was held on November 26, 2019; and

WHEREAS, pursuant to 6 NYCRR, Part 617 the proposed action shall be considered an Unlisted action under SEQR with an uncoordinated review and the applicant has submitted Part 1 of the Short Environmental Assessment Form; now

BE IT THEREFORE RESOLVED, pursuant to 6 NYCRR, Part 617, the Town of Big Flats Zoning Board declares lead agency status and has completed Part 2 and Part 3 and declares that the proposed Unlisted action will not have significant effect on the environment and that preparation of an Environmental Impact Statement will not be required, thereby issuing a Negative Declaration.

CARRIED: AYES: Hanson, Robbins, Seely, Niles-Updyke, Ahearn

NAYS:

ABSTAINED:

Dated: Tuesday, November 26, 2019

BIG FLATS, NEW YORK

By order of the Planning Board of the Town of Big Flats

Heather Hanson, Chairwoman

**ZBA-05-2027**

**WILLIAMS AUTO GROUP AREA VARIANCE**

**951 COUNTY ROAD 64**

**TAX PARCEL # 58.03-1-3, 58.03-1-7, 58.03-1-8 AND PORTION OF 58.03-1-5**

Resolution by: Robbins

Seconded by: Seely

WHEREAS, the Town of Big Flats Zoning Board received a zoning variance application on September 13, 2019 from Williams Auto Group to construct a 50 foot tall flag-pole. The property is located in the Business Regional (BR) District. A flag-pole shall be considered as a free-standing sign and Section 17.52.050 (D) states that no free-standing sign for a business use in the BR District shall exceed 36 feet in height; and

WHEREAS, the Town of Big Flats Code Enforcement has provided a staff report from Bergmann, dated September 23, 2019; and

WHEREAS, a public hearing on the subject application was held on November 26, 2019; and

WHEREAS, the Town of Big Flats Zoning Board has reviewed the submitted materials in accordance with Chapter 17.60 of the Town of Big Flats Municipal Code; and

WHEREAS, pursuant to 6 NYCRR, Part 617 the proposed action shall be considered an Unlisted action under SEQR with an uncoordinated review and the applicant has submitted Part 1 of the Short Environmental Assessment Form and the Town of Big Flats Zoning Board has declared as lead agency that the proposed Unlisted action will not have significant effect on the environment and that preparation of an Environmental Impact Statement will not be required, thereby issuing a Negative Declaration; now

BE IT THEREFORE RESOLVED, that the Zoning Board of Appeals of the Town of Big Flats grant the variance from Section 17.52.050 (D) with the conditions that the lighting be shielded and dark-sky compliant and that the flag shall only be an American flag.

CARRIED: AYES: Robbins,  
NAYS: Seely, Niles-Updyke, Ahearn, Hanson  
ABSTAINED:

Dated: Tuesday, November 26, 2019  
BIG FLATS, NEW YORK  
By order of the Planning Board of the Town of Big Flats  
Heather Hanson, Chairwoman

#### Criteria Review- Sign Area Variance

1. Whether an undesirable change will be produced in the character of the neighborhood  
Hanson, no; Robbins, no; Seely, no; Niles-Updyke, no, Ahearn, no
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Hanson, yes; Robbins, yes; Seely, yes; Niles-Updyke, yes, Ahearn, yes
4. Whether the proposed area variance will have an adverse effect on the neighborhood  
Hanson, no; Robbins, no; Seely, no; Niles-Updyke, no, Ahearn, no
5. Whether the alleged difficulty of compliance was self-created  
Hanson, yes; Robbins, yes; Seely, yes; Niles-Updyke, yes; Ahearn, yes

#### Discussion:

Seely – concerned with setting a precedent. Not sure there is any way to qualify the variance to keep other businesses from installing higher free-standing signs.

Robbins – each variance has to stand on its own, doesn't mean granting one will allow for granting of future applications.

Niles-Updyke – could open door to allow argument for future variances

Hanson – concerned with height, it is significantly higher than allowed by code, not sure it needs to be that tall to achieve what the applicant wants to achieve.

Ahearn – 36’ is substantial and reasonable height for a flag-pole

Niles-Updyke – scale when compared to area isn’t significant, concerned with potential failure and if any inspection will occur.

Ahearn – questioned elevation drop from I-86 to County 64. Applicant noted that trying to get above utility poles and wires.

Rowe – existing Toyota flag-pole is a 60’ height.

Hanson – saw this and felt this was too high and confirmed this was prior to new sign ordinance.

Believe what the applicant wants to do can be accomplished with a 36’ pole.

Rowe – comments on new wires and pole configuration.

Niles-Updyke – is 50’ necessary to be visible and not pertinent to business

**Motion by Robbins, seconded by Ahearn, to adjourn at 7:35pm, Discussion; None, Motion Carries 5-0.**

Meeting adjourned at 7:35PM