

**TOWN OF CORTLANDVILLE ZONING BOARD OF APPEALS**  
**Public Hearings/Meeting Minutes - Tuesday, 28 August 2018 - 6 PM**  
**Town Hall Court Room - 3577 Terrace Road - Cortland, NY**

**Board Members** (\*absent)

John Finn, Chairman  
David Plew  
Thomas Bilodeau  
Joanne Aloï  
Bernice Potter-Masler

**Others Present**

Bruce Weber, Planning/Zoning Officer  
Joan E. Fitch, Board Secretary  
John B. Folmer, Town Attorney

**Applicants & Public Present**

Emmanuel Pothos, Applicant & his Attorney William J. Pomeroy; Gina Sikora, request for Interpretation.

**The Public Hearings were opened at 6 p.m. by Chairman John Finn, who read aloud the Legal Notice as published in the *Cortland Standard* on 16 August 2018, as follows:**

NOTICE IS HEREBY GIVEN that a public hearing before the Zoning Board of Appeals of the Town of Cortlandville will be held Tuesday, August 28, 2018 at 6 p.m. at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, in the Town of Cortlandville, New York, to consider the following applications pursuant to the 1986 Zoning Law:

1. *In the matter of the application of Emmanuel Pothos, for property located at 3872 Route 11, Tax Map No. 87.00-05-05.000, for a variance in the terms and conditions of Article XVIII, Section 178-112 B 4, to allow for an off-premise sign with a height and area greater than allowed.*
2. *In the matter of the application of Emmanuel Pothos, for property located on Weaver Road, Tax Map No. 87.00-05-11.000, for a variance in the terms and conditions of Article XVIII, Section 178-112 B 4, to allow for an off-premise sign with a height and area greater than allowed.*
3. *Interpretation request of Gina Gammage-Sikora & Robert Sikora.*

The above applications are open to inspection at the office of Bruce A. Weber, Planning & Zoning Officer, Raymond G. Thorpe Municipal Building, 3577 Terrace Road, Cortland, New York, call (607) 756-7052 or (607) 423-7490. Persons wishing to appear at such hearing may do so in person, by Attorney, or other representative. Communications in writing in relation thereto may be filed with the Board or at such hearing.

John Finn, Chairman  
Zoning Board of Appeals

(Note: Proof of Publication has been placed on file for the record.)

**PUBLIC HEARING #1**

**Emmanuel Pothos, Applicant/Reputed Owner - 3872 US Route 11 - TM #87.00-05-05.000 - Area Variance - Sign Height & Area Greater Than Allowed (Zoned Business) AND Weaver Road - TM #87.00-05-11.000 - Area Variance - Sign Height & Area Greater Than Allowed (Zoned Agriculture)**

Chairman John Finn announced that they were re-convening last month's public hearing regarding this request. Reference is made to the 31 July 2018 Minutes of this Board.

Chairman Finn then recognized the appellant's attorney, William Pomeroy who explained that the applicant wanted to construct three V-shaped billboards on his two properties in the Town to be viewed by I-81 motorists traveling both north and south on the highway. Because of the

proposed location of the billboards, they are subject to Federal Highway Beautification Act of 1959, as well as the Cortland County Planning Board; they are in receipt of preliminary approval of the NYSDOT and a positive recommendation from County Planning, copies of which have been placed on file for the record.

Attorney Pomeroy went on to say that he believes there is a typographical error in the Town's Ordinance; he showed the error (in Article XVIII, Section 178-111, C) to Board members and PZO Weber. He asked that his client be allowed to erect these billboards "in accordance with the regulations of the DOT and not to impose the Town's height restrictions."

Emmanuel Pothos, applicant, explained the signage proposed. Attorney Pomeroy was of the opinion that the DOT should regulate signs that falls within its jurisdiction.

PZO Weber advised the Board of the proper procedures to arrive at their decision regarding the requested variance. At the Chair's request, PZO Weber read aloud the questions on Part II of the Full Environmental Assessment Form and recorded their responses on said form of which a copy has been placed on file for the record.

Upon completion of the FEAF, **a motion was made by Member Plew that based on the information and analysis of the SEQR concerning these applications for an Area Variance, the information provided by the applicant and the Cortland County Planning Board, the Town of Cortlandville Zoning Board of Appeals has determined, after completion of a Full Environmental Assessment, that the proposed actions will not produce any significant adverse environmental impact, resulting in a Negative Declaration.**

Chairman Finn asked if there was anyone present who wished to comment on this variance request, and there was no one.

**With everyone who wished to be heard having been heard, Chairman Finn closed the Public Hearing at 6:23 p.m.**

#### DISCUSSION/DECISION

After a brief discussion, PZO Weber proceeded with the required questions (balancing test) for an area variance; the responses given by the ZBA members, were as follows:

1. Would there be an undesirable change in neighborhood character or a detriment to nearby properties?  
Finding: No. All Board members present agreed.
2. Can the benefit sought by applicant be achieved by feasible alternative to the variance?  
Finding: No. All Board members present agreed.
3. Is the requested variance substantial?  
Finding: No, based on the NYSDOT regulations. All Board Members present agreed.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?  
Finding: No. All Board members present agreed.
5. Has the alleged difficulty been self-created?  
Finding: No. All Board members present agreed.

At the conclusion of the test, **a motion was made by Member David Plew to grant the area variance based on this Board's findings, for TM #87.00-05-05.000, as requested. The motion was seconded by Member Aloï, with the vote recorded as follows:**

**Ayes:** Chairman Finn  
Member Plew  
Member Bilodeau  
Member Aloï  
Member Potter-Masler

**Nays:** None

**Motion passed.**

**This becomes Action #17 of 2018.**

A motion was then made by Member Aloï to grant the area variance based on this Board's findings, for TM #87.00-05-11.000, as requested. The motion was seconded by Member Potter-Masler, with the vote recorded as follows:

**Ayes:** Chairman Finn  
Member Plew  
Member Bilodeau  
Member Aloï  
Member Potter-Masler

**Nays:** None

**Motion passed.**

**This becomes Action #18 of 2018.**

## **PUBLIC HEARING #2**

### **Gina Gammage-Sikora & Robert Sikora, Applicants/John Sikora, Reputed Owner – 1010 McLean Road – TM #96.09-02-25.000 – Interpretation of PZO Weber**

PZO Weber advised the Board that the applicant had requested an interpretation of his decision. Mrs. Sikora had requested to establish an artist's gallery at this location where works of artists not residing at the residence are displayed for sale; she considered this a "garage sale." PZO Weber's interpretation is that this would be a retail business and, upon visiting her website, sikoraarts.com, it became clear it was not a garage sale.

PZO Weber, in his undated statement provided to Board members, added that "at the same time that Ms. Sikora is requesting this interpretation, she is applying to the Planning Board for a Conditional Permit for a home occupation as an artist studio.

Chairman Finn then recognized Mrs. Sikora who presented her lengthy statement dated 31 July 2018, a copy of which has been placed on file for the record. PZO Weber advised the Board that what they are considering is should an art gallery that sells pieces of art from various artists to the public be considered the same as a garage sale? His interpretation was that "it is not;" they are two different things. A garage sale is typically the sale of used goods; typically, the sale of someone's art is not the sale of used goods, he said.

Mrs. Sikora explained that the proposed gallery would be called "Sikora Art Gallery" and it would open "three hours per month from 5 p.m. to 8 p.m. only." In response to Member Aloï's question, PZO Weber advised that "we are not talking about a specific location; this would be Town-wide in any zoning district." He also stated that the applicants can also apply for a variance. They have also applied to the Town Board to change the language within the Zoning Ordinance to allow the art gallery. Also, as stated above, their son John is applying to the Town Planning Board for a Conditional Permit to operate a home occupation for an art studio; he would be able to sell his wares from there because it's a "home occupation" and it's his art studio.

At the conclusion of this very lengthy discussion, a motion was made by Member Plew that the Zoning Board of Appeals considers the artist gallery the same as a garage sale. No second was obtained. Motion died.

A motion was then made by Member Aloï that the Town of Cortlandville Zoning Board of Appeals supports the interpretation of the Planning/Zoning Officer in that what is being proposed is a retail business. The motion was seconded by Member Bilodeau, with the vote recorded as follows:

<b>Ayes:</b>	<b>Chairman Finn</b>	<b>Nays:</b>	<b>Member Plew</b>
	<b>Member Bilodeau</b>		
	<b>Member Aloï</b>		
	<b>Member Potter-Masler</b>		

Motion passed.

**This becomes Action #19 of 2018.**

PZO Weber explained the available avenues to Mrs. Sikora: apply for a variance or through changing the Zoning Ordinance. He also stated he had explained the criteria to prove a “hardship” to her. PZO Weber said he had, in consult with Town Attorney Folmer, previously advised Mrs. Sikora to speak with legal counsel. Attorney Folmer, at this time, also explained that there was nothing this Board could do to alter any of those conditions already set forth by the State statute.

Mrs. Sikora vehemently continued her argument and was not happy with the outcome.

### **APPROVAL OF MINUTES – 31 JULY 2018**

A motion was made by Member Bilodeau to approve the ZBA Minutes of 31 July 2018, as submitted. The motion was seconded by Member Aloï, with the vote recorded as follows:

<b>Ayes:</b>	<b>Chairman Finn</b>	<b>Nays:</b>	<b>None</b>
	<b>Member Plew</b>		
	<b>Member Bilodeau</b>		
	<b>Member Aloï</b>		
	<b>Member Potter-Masler</b>		

Motion passed.

**This becomes Action #20 of 2018.**

### **ADJOURNMENT**

At 7:15 p.m., on a motion by Member Aloï, seconded by Member Potter-Masler, with everyone present voting in the affirmative, the meeting was adjourned.

  
Joan E. Fitch, Board Secretary

Emailed to KRP, Bd. Members, JBF,  
BW, DD, DC, KM on 10/19/18.