
Town of Wawayanda ZONING BOARD OF APPEALS
March 9, 2017 / 7:00 P.M.

Members Present: Richard Onorati, **Chairman**
Bruce Lewis
Jeffrey Soons
Raymond Spiak
Rosario LaSpina, alternate

Members Absent:
Daniel Post

The March 9, 2017 Town of Wawayanda Zoning Board of Appeals meeting was called to order by Chairman Richard Onorati at 7:00 P.M. Alternate board member Rosario LaSpina was asked to join the board at the Dias in the absence of board member Daniel Post.

I. PUBLIC HEARING
Kean / SBL# 22-1-57 / AR-Agricultural Residential Zone / Millsburgh Road

Applicant is applying for Area variances of 195 Schedule Zoning District in order to allow less than the required rear yard setback.

The Certified Return Receipts were collected and recorded. The Public Hearing Notices was read as it appeared in the Times Herald Record.

For the record, the board's attorney David Bavoso recused himself from this application and sat in the audience.

Ms. Ashely Kean and Gillian Manza approached the board and stated their names for the record. They explained that when they were purchasing the property a municipal title search was done and they found out that the deck and shed was over the property line in the backyard. There is nothing behind the house, it is a road. They are looking to be able to keep the deck and potting shed in the back yard.

Chairman Richard Onorati asked if that was done because of the pushing the boundary line at that time? The applicant replied that was her understanding.

Chairman Onorati said, in essence, at one time it was correct, when they moved the road this occurred. The applicant replied yes, and the property actually continues on the other side of the road. Apparently when they

did construction of the bridge that goes over the creek, they expanded the roadway when they did that work. Our lot is in the middle of Millsburgh Road and the county road, and then continues across the street.

Chairman Onorati opened the Public Hearing by asking for any questions, comments or concerns. Let the record show that there were none. Chairman Onorati asked for a motion.

Jeffrey Soons asked if there were comments from County Planning, and he was told that we have not received any yet.

Chairman Onorati asked for a motion.

Motion by Raymond Spiak, seconded by Bruce Lewis to grant the zero setbacks for the porch and shed as requested.

UPON ROLL CALL VOTE:

Russ LaSpina	Aye
Bruce Lewis	Aye
Jeffrey Soons	Aye
Raymond Spiak	Aye
Richard Onorati	Aye

Chairman Onorati declared the area variance **GRANTED**.

Sheeley / SBL# 4-1-50.31 / Dolsontown Road / TC/MC Town and Mixed Commercial Zones

Attorney David Bavoso re-joined the board at the Dias.

Applicant is applying for an Area variance of 195-36F (5) (b) to allow for a larger freestanding sign than what the zoning regulations permits.

The Certified Return Receipts were collected and recorded. The Public Hearing Notices was read as it appeared in the Times Herald Record.

Mr. John Fuller representing his applicant approached the board, stated his name for the record and explained that they are requesting a variance for a new free standing sign. The proposed sign is 31 feet tall and 11 feet wide for a total of 341 square feet on either side, including a 5' x 8' display area and

the 7' -2" circular company name sign. The Zoning law allows a freestanding sign to be 64sf max so a variance of 277 sf is requested. The sign is to be located in the western corner of the property at the intersection of NYS Route 17M and Dolsontown Road. A variance of 277 square feet is being requested.

Chairman Onorati asked a question about the message board and Mr. Evan Walsh one of the experts in attendance for the applicant explained that the sign is capable of messaging for advertisement; Time and Temperature, specials to promote business and other capabilities, such as displaying amber alerts and emergency alerts. Chairman Onorati said that we have had complaints in the past on these signs being too bright, and it was explained by Mr. Walsh that the message board has a dimming device and it understands when the sun is out and that it dims right down significantly at night.

Chairman Onorati continued that they have had complaints and they can be obnoxious, so are you telling me it won't be obnoxious and Mr. Walsh replied, yes, our engineers work really hard for it not to be overbearing and boorish. Board members asked questions with regards to the sign and. Mr. Fuller explained that in the area that this is being proposed, sign variances was given for businesses so this will not be a detriment to that area, as the property it is located in is primarily commercial uses with signs greater than the 64 feet.

Chairman Onorati opened the Public Hearing by asking for any questions, comments or concerns. Let the record show that there were none. Chairman Onorati asked for a motion.

Motion by Bruce Lewis, seconded by Jeffrey Soons to grant the area variance for the freestanding sign of 341 sf.

UPON ROLL CALL VOTE:

Russ LaSpina	Aye
Bruce Lewis	Aye
Jeffrey Soons	Aye
Raymond Spiak	Aye
Richard Onorati	Aye

Chairman Onorati declared the area variance **GRANTED**.

II. INFORMAL APPLICATIONS

BAKES / SBL# 22-1-88 / Bailey Road / AR-Agricultural Residential Zone

Applicant is applying for an AREA variance of 195-22 A (2) in order to allow less than the required square footage than what is allowed for an accessory apartment.

Mr. & Mrs. George Bakes approached the board and stated their name for the record. They explained that they constructed an apartment for Mrs. Bakes' mother who is 91 and she refuses to move into it. She wants to stay in her own home, where she currently lives.

Board Member Jeffrey Soon asked if the apartment already exists, which it does and he wanted to know if they could add any additional square footage. They could not. It was intended for a Mother Daughter. It is undersized by 160 square feet.

Motion by Raymond Spiak, seconded by Bruce Lewis to set a Public Hearing for April 13, 2017.

All voting members voted yes

Motion – CARRIED

RAMOS / SBL# 31-9-4 / Maureen Drive / SR-Suburban Residential Zone

Applicant is applying for an AREA variance of 195-17 A (3) (a) in order to allow an existing 12 x 24 Pergola structure built without approvals and built within inches of the side yard property line.

Mr. Joseph Ramos approached the board and stated his name for the record. Mr. Ramos explained that he built this, what he calls a "Picnic Shelter" 12 x 24 accessory structure 6 inches from the property line, inside of his fence and the setback requirement is 10 feet. It provides us shelter from the sun and rain and is in the back yard near the swimming pool. Mr. Ramos explained that they always used 10 x 10 pop up tents for the same purpose but they always blew away. Mr. Ramos passed around pictures to the board members showing them the existing structure.

Motion by Raymond Spiak, seconded by Bruce Lewis to set a Public Hearing for April 13, 2017.

All voting members voted yes

Motion – CARRIED

A&B Caulking / SBL# 1-1-64.1 / MC-1 Mixed Commercial Zone / USE Variance a Church / Dolsontown Road

Applicant is applying for a USE Variance of 195-Schedule of Zoning District Regulations for the MC Zone to allow for an existing Church in a building that was approved for a warehouse/office use.

Mr. John Fuller, representing the owner of the property explained that he has represented the owner in the past with this building (AB Caulking) and the strip mall next door in 2008 – 2009. The business declined rapidly after the crunch; in 2014 he decided to sell off a portion of the business. It had been sitting there since 2014 for sale or lease with no success in doing that. In the meantime last fall a realtor approached them about occupying the space. They failed to check with the local zoning to see if it complied. They worked out a lease agreement and the Church began occupying the space until Mr. White the Building Inspector Code Enforcement Officer identified it as a problem and they received a notice of violation. You received a brief letter from AB Caulking/ Mr. Torelli explaining the backdrop of the situation and a long letter from the Church.

The proposal is to obtain a use variance for Sunday Worship, low intensity.

Chairman Onorati asked how long the lease was, Mr. Fuller said four maybe three years, but he would have to check on that.

Chairman Onorati said that he was speaking for himself and that church groups have appeared before us and they have denied these people. We have been very good to churches that have sought area variances. The basic question is, would we be in this situation if they followed the zoning? Are there any comments from the board?

Board Member Jeffrey Soons asked how far away the zoning district is from it, from the round about? Mr. Fuller said on the other side of it.

Chairman Onorati asked Mr. Fuller if he understood the implication of his request.

Mr. Fuller said yes, I understand fully. It's a very difficult request.

Chairman Onorati explained that historically we've asked what the community wants; many nights were spent trying to figure out what zones Churches should be put in. I love Churches, but the problem and the reason why you put them in certain zones are so they don't go off the tax rolls. To be very honest with you the reason Dolsontown Road was created into that zone there; is it's a natural push, people wanted businesses there. Mr. Fuller said that the understood the situation.

Chairman Onorati asked if he still wanted to go to Public Hearing.

Attorney David Bavoso asked how close are the neighboring buildings and what are their uses?

Mr. Fuller said the building adjacent is his applicants strip mall building, not even 100 feet away, the other side is a residence then Cyclemotion/ Kawasaki and then Serve Pro.

Chairman Onorati asked again, if they were requesting to go to Public Hearing.

Mr. Fuller said that he has done use variances in the past and that this is a very difficult one. He said he would like to reconvene with his client and see what his position is, unfortunately it's a self-created hardship, and it was difficult occupying the building.

Board Member Raymond Spiak asked if they would be occupying the whole building, and Mr. Fuller said yes.

Chairman Onorati said this is his opinion, and if the board does not wish to grant the variance at public hearing, that maybe if the board agrees we can consider allowing sometime and flexibility to find another building.

Attorney Bavoso said that was something that would need to be discussed with the Building Inspector. He would need to be convincing that they are actually trying to find another location.

Mr. Fuller asked if that was something we would need from a public hearing to make that recommendation. Attorney Bavoso said no, the public hearing would only be on the matter of the use variance.

Mr. Fuller continued that the Minister went through a very lengthy discussion on how they ended up there and I'm very sympathetic to that but I do recognize the difficulty for this board to grant such a variance.

Attorney Bavoso asked if there were any restaurants in the area, and Mr. Fuller said that there was a Pizzeria next door. Attorney Bavoso said that his concern is if the Pizzeria has a liquor license, because if you have a liquor license you are not allowed to be a certain radius to school or a church.

Chairman Onorati said to Mr. Fuller, will you get back to us on this?

Mr. Fuller said that he would talk to his client and explain the situation and if they want to pursue it and I will also explain to them that there may be some sentiment to give them time to address the violation, which basically means to find another location.

This matter has been tabled until a future meeting when we hear back from them.

The March 9, 2017 Town of Wawayanda Zoning Board of Appeals meeting was adjourned at 7:14 by Chairman Richard Onorati.

Respectfully Submitted,

Patricia Battiato
Secretary to Planning