

Zoning Board Meeting
April 18, 2017

Members Present: Mark Connolly, Jerry Sturm, Charity Donnan, Harold Wolcott, Dustin Geiger

Others: Carl Peter, Jim Campbell Esq., Ken Mignemi, Paul Raymond (Cal-Diesel), Mike VanGelder, Joe Zambito

5:30 pm – Mark Connolly called the meeting to order for three public hearings.

Mr. Mignemi asked why variance had to go to the county for review. Mr. Peter answered that anything within 500 feet of an agricultural district or state highway had to go to the county for review.

Mr. Peter explained that the Zoning Board of Appeals has to give the use variance before the Planning Board would do a site plan review after hearing from the county. The county planning board meets the second Thursday of the month and to supercede the county we would need a super majority (4 out of 5) – if county recommends disapproval of the use variance the ZBA can override it by a majority plus 1. If only split into 2 lots, it is not a subdivision.

Mr. Campbell – this division is not unusual. The Planning Board would be concerned about size of lots, lighting, drainage. The real issue is the use variance (which is hard to get) and it needs to go to the county first. Mr. Zambito & Mr. Mignemi would have to address the Use Variance criteria on Page 84 of the town zoning, standards (2)a (i)-(iv).

- (i) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (ii) The alleged hardship relating to the property in question must be unique, and not apply to a substantial portion of the district or neighborhood;
- (iii) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (iv) That the alleged hardship has not been self-created.

Mr. Campbell said to answer (i) there is no area for light industrial in town. Written referral needs to be submitted to county by first of month- changing permitted uses allowing light industrial in industrial. General feeling of the board – no one had any problem with the use variance.

Tabled Zambito-Mignemi for now

Mr. Campbell – in the town minutes from July 14, 2016 – Resolution offered by Mr. Smith and seconded by Mrs. Parnell to enter into an Agreement between the Town of York and the Livingston County Planning Board to EXEMPT referral of certain local zoning and subdivision applications"?. Voted on and approved, Yes-4, No-0

Mr. Campbell – do not have to submit sign variances to the county.

Cal-Diesel – Paul Raymond – area variance for sign

Mr. Connolly said that Cal-Diesel wants to put a sign in front of the building. Mr. Raymond said the sign would be 125 feet off the road facing Rt. 36 so people don't miss the business. They want to build a brown cement wall with Caledonia Diesel written out on it with flag poles behind the wall and stainless steel lettering with indirect lighting (permitted) and LED on flags.

Mr. Connolly read the 5 considerations for area variance and asked board for the answer regarding Mr. Raymond's request. (p. 84 (2)b (i)-(v)). In making such determination the board shall also consider:

- (i) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
Answer – No
- (ii) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
Answer – No – other feasible alternative
- (iii) Whether the requested area variance is substantial.
Answer – Yes (code is 88 square feet – sign is 134 feet)
- (iv) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
Answer – No
- (v) Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
Answer – Yes but does not preclude granting of the area variance

Motion to grant the variance for Paul Raymond of Cal-Diesel without conditions by Mr. Sturm, seconded by Mr. Wolcott, carried.

Yes – 5 No - 0

Van Gelder – area variance for signs

Mr. Van Gelder would like to put up three free-standing signs, one on Rt. 63 and two on Retsof Road, 80 sq. ft. per face, 12 ft. and lighted on both sides of driveway. People have missed his driveway and driven over the lawn.

Mr. Peter said that Mr. Van Gelder is only permitted one free standing sign in hamlet commercial and only a 10 sq. ft. (window size) is allowed per our zoning.

Mr. Connolly asked the same questions as Mr. Raymond and answers as follows:

- (i) No
- (ii) No
- (iii) Yes – 3 signs opposed to one
- (iv) No
- (v) Yes

The Toya Tire signs are lit from inside, and the wooden sign will have a light shining on it. Mr. Connolly said inside lit signs not allowed in hamlet commercial and signs also too big. So the area variance would include internally lit signs and larger signs.

Motion by Mr. Wolcott to grant the area variance to Mike Van Gelder for the larger signs and two internally lit signs, Mr. Sturm seconded, carried

Yes – 5 No – 0

Mr. Connolly closed the public hearing at 6:20 pm.

Motion by Mr. Connolly to approve the February 28 minutes, Mr. Wolcott seconded, carried.

Yes – 5 No – 0

Motion by Mrs. Donnan to close the meeting at 6:30 pm, seconded by Mr. Connolly, carried.

Yes – 5 No - 0

Respectfully submitted,
Donna K. Falkner