

TOWN OF YORK  
ZONING BOARD MINUTES  
JULY 10, 2012

Present: Acting Chairman Jerry Ayers, Paul Schneider, Mark Connolly

Others Present: Jerry Deming, Carl Peter, Attorney Andrew Emborsky

Jerry Ayers called meeting to order at 7 p.m.

Discussion regarding Scott Barefoot's sign with the attorney. Jerry Deming stated that Clark Patterson said according to our zoning the square footage of the signs would be both sides (i.e  $40 + 40 = 80$ ). The attorney said that this particular sign, as proposed, requires an area variance, which has a much more discretionary analysis than a use variance.

Top sign is 24 ft and second sign is 24 ft totaling 48 which exceeds the square footage allowed. Could ask him to reduce the second sign to 16 ft to meet square footage requirement.

Attorney: Because Barefoot submitted an amended application it gives you the ability to redo the process from the beginning, if the board wants. It altered what was essentially talked about to start with. As originally submitted, the application was seeking a height variance only. The new application seeks both a height and square footage variance. Although the square footage of the proposed sign was discussed at the prior meeting, that was not part of the actual application until tonight.

Carl Peter – Size of the sign not as big an impact there as it would be at the railroad in a residential area, given the nature of the area surrounding businesses.

Paul Schneider – What about the other businesses there? Will they want bigger signs?

Carl – They would have to meet the criteria.

Attorney

- ⤴ Bigger issue is if you deny Mr. Barefoot, after “approving” it, town may be subject to an article 78 proceeding. Claim could be made that, even though first application lacked request for variance from 80 square foot requirement, it was discussed that the sign would be 96 square feet, prior to approval.
- ⤴ Less risk to let it go as approved, based on the factors discussed and the balancing test to be applied.

Jerry Ayers – new amended application changed the site of the sign, about 40 ft east of the door. Would that make a difference?

Attorney regarding amended application:

- ⤴ Height issue
- ⤴ Signs different widths
- ⤴ Change of location on the Barefoot property.
- ⤴ Area variance for square footage and height
- ⤴ If the ZBA does not wish to deny the variance request, it certainly would be within its right to ask Mr. Barefoot to bring sign to 84 sq. ft., given his submission of an amended application. It is an acknowledgement on his part that original application did not include variance request for sign sq. ft., and that the ZBA is within its rights to consider that request at this time, notwithstanding any prior approvals – he’s admitted the plan for the sign has changed. However, ZBA already talked about 96 sq. ft., as reflected in prior meeting minutes.

Mark Connolly – let's look at it as a painful learning experience, bite the bullet and let it go forward.

Jerry Ayers – according to the code, can a single pole have multiple placards adding up to 40 ft. on a side?

Attorney – code is silent about that provision. Probably something that the Town will want to discuss making clear in the future with an amendment stating how many signs may be on a single pole. Also, will want to clarify that the 80 sq. ft (and all square footage limitations listed in the code and appendices) limitation is for both sides of any given sign, not just one side, as discussed with Clark Patterson.

Jerry Deming/Carl Peter – Drape Archery couldn't put up such a sign because he's a home occupation and it would open up a use variance moving from home to retail.

Paul Schneider moved that we approve the amended application for an area variance by Scott Barefoot, allowing a height of 18 ft., and both sides of the sign totaling 96 sq. ft., Mark Connolly seconded, all in favor, carried.

Attorney – More discussion of the difference between use and area variances. There is a lower approval rate of use variances, as opposed to area variances, as area variances are simply seeking to modify the size of something within an approved area. That is not as drastic as a use variance, which tends to be an application to “stick something where it doesn't belong.”

Jerry Ayers – concern about fees charged

Jerry Deming – Town Board looking at raising fees, and working with attorneys to come up with a revised fee schedule.

Jerry Deming – No decisions should be made the night of the public hearing, especially if the ZBA is feeling pressured by the applicant to make a quick decision.

Attorney – Confirmed that there is a 62 day timeframe to make a decision, although you really don't want to wait that long. Some municipalities send a written decision in ten days.

8:10 p.m. - Mark Connolly moved to adjourn, Paul Schneider seconded, all in favor, carried.

Respectfully submitted,  
Donna Falkner, Clerk