



ZONING BOARD OF APPEALS
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April 3, 2023

PRESENT: Bill Schirmer (Chair), Tim Scott Jr, Randy Ricks, Joe Mayone & Patti Kelly (Alternate)

ABSENT: Henry Rua (Vice-Chair)

ALSO PRESENT: Becky Bertorelli (Zoning Board Secretary), Kevin Brown (Building Inspector/Assistant Zoning Administrator) and Sean Weaver (Building Inspector)

Schirmer called the meeting to order at 7:00 pm. Schirmer-asked Kelly to serve as a full member and announced that a quorum was reached.

PLEDGE

PUBLIC HEARING

COMMERCIAL STREET PARTNERS: APPLICATION FOR TWO (2) SIDE YARD AREA VARIANCES.

Chris LaPorta, Passero Associates (Representative)
2964 & 2966 Route 9W
Saugerties, NY 12477
SBL#: 29.9-6-6 & 29.9-6-7
File #: 23-001

The site is located in the High Density Residential (HDR) zoning district. Chris LaPorta, Passero Associates, presented for the applicant. The applicant has updated their request, again due to the interpretation made by the Kevin Brown, Building Inspector, based on NYS requirement. The side yard area variance on the north side of the proposed pool location was decreased from 33' to a 25', which includes the area around the pool up to the engineered break in the concrete slab. The 43' side yard area variance on the north side of the proposed maintenance building location was decreased from 46' due to shifting of the structure slightly to the east with additional screening and relocation of the driveway, addressing the neighbors concern regarding visibility.

LaPorta-we have received the Ulster County Planning Board's (UCPB) response with "No County Impact". The applicant has updated the landscaping plan to include spruce trees and evergreens, as per the neighbor's request on Belknap. The maintenance building was reoriented so that it is parallel to Building #2 to address the concerns from the neighbor on Trinity Court. The alternate location that was suggested by the same neighbor was assessed. It is located adjacent to the playground and the applicant did not think that having kids playing next to the maintenance building would be a safe alternative. Kelly-how many entrances are there to the development and where are they located. Is Trinity Court staying and the entrance to the development will be running parallel to it? LaPorta-there is one main entrance off of Route 9W

and one emergency entrance off of Glasco Tpke. It was worked out with the neighbors that the applicant is relocating their access to share the entrance to the development, with an easement for each of them. The applicant is extending each of the neighbors lawns and driveways, with new asphalt, at the applicant's expense. One of the neighbor's has already been done, Mr. Hodder. Working with each of them. Kelly-grateful that the applicant has listened to the neighbor's concerns and addressed them where they have the ability to. Shirmer-the fence has been raised on the inside to 6' which helps the neighbors on Belknap. LaPorta-also assessed access from Belknap by construction vehicles. There is a silt fence that runs along the site in between the site and Belknap. No construction vehicles can access the site via Belknap. Schirmer-as stated this was referred to the UCPB and "No County Impact" was found. We did reach out to UCPB to make sure if the variances were changed if it would have to be re-referred. It does not unless the variances are larger than what was proposed at the time of the original referral. They are not, they have decreased. The other location for the maintenance building was addressed by the applicant. Ricks-the condensers located on the building that is next to Belknap can be heard kicking on and off on Belknap Lane. There is no landscaping that will alleviate the noise from the pool area for those neighbors living on Belknap Lane. LaPorta-we have increased the height of the interior fence to 6' to help and the landscaping that is proposed between the pool area and Belknap is thick. Mayone-will the neighbors on Trinity Court and Belknap Lane have access to use of the pool? LaPorta-no, it will be for tenants only, not open to the public.

The public hearing has been held over from the March 6, 2023 meeting. No one was present from the public to speak/comment on this application. A motion was made by Kelly, seconded by Scott, to close the public hearing. Board vote: Ricks-yes, Scott-yes, Kelly-yes, Schirmer-yes. Motion carried. The public hearing was closed at 7:14pm.

A motion was made by Schirmer, seconded by Kelly, to grant the 25' side yard setback area variance for the pool based on the amendments made in the April 2, 2023 submission. Which includes additional screening, including Spruce trees, and the increase in the height of the fence to 6' on the East side of the pool area. The following was determined based on the five (5) criteria regarding the balancing test that states that the Board shall balance benefit to the applicant with detriment to health, safety, and welfare to the community:

1. It was determined that an undesirable change is created to the neighbors on Belknap Lane but the applicant has provided mitigation to help alleviate that concern. The development as a whole has changed the neighborhood, the pool does not make a significant difference in comparison.
2. There is no other feasible location for the pool within the development. Due to building code compliance the pool had to be moved from its original location on the approved site plan to this location and a variance is necessary.
3. The requested variance is substantial but it is necessary in order for the applicant to meet side yard setback requirements and be in compliance with the building code.
4. The proposed variance does pose an adverse impact due to the noise created by those using the pool. However, the applicant has provided mitigation to reduce the impact of that noise through fencing and planting of spruce trees.
5. The alleged difficulty is deemed self-created because the placement of the pool on the approved site plan did not meet building code requirements and therefore had to be moved requiring a variance. However, there is no other location on the site for the pool to be located.

Board vote: Ricks-no, Scott-yes, Kelly-yes, Schirmer-yes. Motion carried.

A motion was made by Schirmer, seconded by Kelly, to grant the 43' side yard setback area variance for the ***maintenance building*** based on the amendments made in the April 2, 2023 submission and the additional screening that was proposed. The following was determined based on the five (5) criteria regarding the balancing test that states that the Board shall balance benefit to the applicant with detriment to health, safety, and welfare to the community:

1. It was determined that no undesirable change is created and the applicant has provided mitigation to address neighbors' concerns.
2. There is no other feasible location for the maintenance building, the applicant has provided evidence that they have researched alternative locations and they will not work.
3. The variance is substantial but is only required because of a strip of land, owned by the county, that runs into the site and is not used for anything other than what the Board believes is a sewer easement.
4. This variance request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. This is a self created difficulty but only because of that strip of land that runs into the site. There is no other location for the maintenance building.

Board vote: Ricks-yes, Scott-yes, Kelly-yes, Schirmer-yes. Motion carried.

CARLY LYNN: APPLICATION FOR 40'6" FRONT YARD AREA VARIANCE.

611 Band Camp Circle
Saugerties, NY 12477
SBL#: 17.1-5-35
File #: 23-003

The 0.25 acre parcel is located in the Moderate Density Residential (MDR) zoning district. The applicant is requesting a 40'6" front yard area variance for an existing shed.

A motion was made by Ricks, seconded by Kelly, to open the public hearing. Board vote: Scott-yes, Ricks-yes, Kelly-Yes, Schirmer-yes. Motion carried. The public hearing opened at 7:28pm. Public Comments:

- Marilyn Bucher, 12 Gladys Lane, in support of the applicant's request. Ms. Bucher was present and also submitted a letter.

Kelly-there were a couple of neighbors, which could not be present, that sent letters against the applicant's request. There were also several neighbors, which could not be present, that sent letters in favor of the applicant's request. The Board needs to know exactly what the shed is being used for. The request is for a storage shed. Is that all it is being used for? Will it be used for living space? Lynn-not to be used for living space. Brown-since the applicant is on a corner lot it is up to her to pick which is the front and which is the side. The big concern is that the shed is located within the Town's 25' right-of-way (ROW), from the centerline of the road. If the Town needs to do maintenance within that 25' ROW, the applicant will have to move the shed at their expense. Lynn-understood. Kelly-saw the old shed on the lot, why did the applicant not remove that and place the new shed in that location? Lynn-was not ready to remove that shed. The movement of the new shed to that location is the issue. The cost would be significant. Lynn-thought if it was under the 144 square foot requirement for a building permit that I would be ok, but since there is electricity in it I need a building permit. Ricks-why are there skylights in the shed? The entry door should have been on the opposite side for privacy. There is a cable line and electrical service line going into the shed? Why is that necessary if it is not a living space? Is there a loft? Lynn-there is a storage loft located in the shed. I have a computer in the shed that I

use for my landscaping business that I do on the side. I also grow plantings in the shed, which is why I wanted the skylights.

Since no one else was present for the public hearing, a motion was made by Kelly, seconded by Scott, to close the public hearing. Board vote: Scott-yes, Ricks-yes, Kelly-yes, Schirmer-yes. Motion carried. The public hearing closed at 7:36pm.

Kelly-if this is being used for office space the applicant will need to go before the Planning Board and building department. Before a decision can be made the applicant needs to confirm that the use is for storage only. A use variance would be required. Brown-this would be an accessory structure if being used for storage only. If it is used for any profitable business or living space it will require further review by the Planning Board. Any aspect of a profitable business must be done out of the home. Lynn-it is not the plan to use it for living space. Schirmer-if the use of the shed is to change from storage you will need to go back before the ZBA for a use variance. Lynn-this will be used only for storage.

A motion was made by Kelly, seconded by Ricks, to grant the 40'6" front yard setback area variance for the existing shed, to be used for storage only. The following was determined based on the five (5) criteria regarding the balancing test that states that the Board shall balance benefit to the applicant with detriment to health, safety, and welfare to the community:

- It was determined that an undesirable change is not created to neighbors, considering the neighbors comments that were received, and the use of the shed as a storage space only.
- The shed is already in place and movement to a different location is not monetarily feasible. Therefore, the benefit sought by the applicant can not be achieved by some other method other than a front yard setback area variance.
- The variance is substantial but the location can not be changed, as the shed is already in place and electricity is already installed.
- The variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood because most of the neighbors homes or structures are pre-existing non-conforming regarding the front yard setback requirement.
- The difficulty is self-created but is an existing structure. The applicant should have checked with Town zoning requirements prior to building the structure (shed).

Board vote: Ricks-yes, Scott-yes, Kelly-yes, Schirmer-yes. Motion carried.

NEW APPEAL

LITE BRITE SIGNS/STARBUCKS: APPLICATION FOR USE VARIANCE TO ADD 4 ADDITIONAL WALL SIGNS AND 1 ADDITIONAL FREE STANDING SIGN

Property Owner: Embassy Holdings, LLC

334 Route 212

Saugerties, NY 12477

SBL#: 17.16-2-27

File#: 23-004

The property is located in the General Business (GB) zoning district with Gateway Overlay (GO) and Aquifer Overlay (AQ). The applicant is requesting a use variance to have four (4) additional wall signs and one (1) additional free standing sign than what the zoning law allows. Two of the wall signs proposed are directional signs. Town law only allows one wall sign and one free

standing sign. Maria and Carmine Rotundo, Lite-Brite Signs, presented on behalf of Starbucks. Kelly-did the applicant research the Town law prior to submitting the sign building permit? Rotundo-they did but they are looking to have additional signs, as this building is located on a corner lot. There are other stores in the area with two wall mounted signs. Kelly-this is not considered a corner lot. The other signs are pre-existing, before the sign law went into effect. Schirmer-the sign law does not seem to regulate wall signs under 6 square feet. Brown-yes, less than 6 square feet is not regulated by the sign law. Traffic flow signs are exempt from the sign law limitations. Kelly-you are allowed one wall sign and one free-standing sign. If the wall sign is put on the side of the building facing Route 212 it can be seen from all directions. It can be seen when coming off the Thruway exit onto Route 212. Most people know Starbucks. Five wall mounted signs are not necessary. Schirmer-the applicant could make the "STARBUCKS " and the logo one sign and put that on the Route 212 sign. If they are connected it would be one sign. Just make sure it fits within the parameters of the sign dimension requirements. The same with the free standing sign, make it one contiguous sign. Brown-the free standing sign can not be more than 32 square feet and the one proposed is not close to that. Drive thru signs must be under 6 square feet. Weaver-NYS DOT was good with the location of the free standing sign as it is in line with the plaza signs. Kelly-the total area of the wall sign can not be greater than 2x the length in feet of the wall. Directional signs are considered part of public safety and are not restricted in number. Weaver-code to incorporate to review and possibly update the signs needed so that a variance is not required. Brown-directional signs can not contain any advertisement, so no logo on the directional signs. If the applicant decides to amend the number of signs to fit within the zoning law constraints they should submit the new plan to the Building Department for review before moving forward.

Schirmer-just in case we will schedule a public hearing for next month to be ready. A motion was made by Kelly, seconded by Ricks, to set the public hearing for May 1, 2023, if an updated plan is not submitted adhering to the zoning restrictions for signs. Board vote: Mayone-yes, Ricks-yes, Scott-yes, Kelly-yes, Schirmer-yes. Motion carried.

Schirmer-if the applicant does proceed with the variance request we will confer with the ZBA attorney to determine SEQR classification.

OLD BUSINESS

THE ZBA HAS NOT YET RECEIVED THE SCOPING DOCUMENT FROM TARPON TOWERS II/VERIZON WIRELESS PERTAINING TO THE PROPOSED CELL TOWER AT THE MT. MARION FIREHOUSE.

BOARD DISCUSSION

- Kelly-one change to the March 6th draft minutes on page 3, in the fifth paragraph, the wording needs to be read as follows: "Schirmer-asked the Board and discussed the five criteria for the area variance used to make a decision, per our zoning law, and determined". A motion was made by Kelly, seconded by Scott, to approve the March 6, 2023 ZBA minutes as amended. Board vote: Ricks-Aye, Scott-Aye, Kelly-Aye, Schirmer-Aye. Motion carried.

- Planning Board meeting minutes were received.

ADJOURNMENT

A motion was made by Scott, seconded by Kelly, to adjourn the meeting as there are no further items to discuss. Board vote: Mayone-yes, Ricks-yes, Scott-yes, Kelly-yes, Schirmer-yes. Motion carried. Meeting adjourned 8:30pm

Respectfully submitted,

Becky Bertorelli
Secretary
Zoning Board of Appeals