

TOWN OF ERWIN

Zoning Board of Appeals

MINUTES 04/26/16 MEETING

PRESENT: Chairman Frank Thiel, Ruth Fisher McCarthy, Jay McKendrick, Angela Narasimhan, Bridget Ackerman
ABSENT: Kris West
GUESTS: Gary Brooks, Rita McCarthy, Barbara Lucas

CALL TO ORDER:

At 7:00 PM, Chairman Thiel called the meeting to order in the meeting room of the Erwin Town Hall, 310 Town Center Road, Painted Post, NY, 14870.

MINUTES:

The Minutes of the March 22, 2016 meeting were approved by unanimous consent.

2016-04

Request from Dr. Maria Marzo for an Area Variance at 275 South Hamilton St. to allow 65 sq ft wall sign where 50 sq ft maximum is permitted. Variance §130-81.B.3.d and Table 130-81-1 is requested. With Public Hearing

Notification of this action was sent to 14 adjacent property owners. A legal notice of this action printed in the Town's official newspaper, the Star Gazette on April 17, 2016, and in The Leader.

The application is the subject of a Planning Board action. The Planning Board will declare itself Lead Agency under the State Environmental Quality Review Act. No SEQR action by the Zoning Board of Appeals is required.

The property is located in B-1 Business Commercial Zone.

Table 130-81-1 states that in any instance, the maximum size for a wall sign shall be 50 sq ft.

The applicant seeks to establish a wall sign of 65 sq ft.

The applicant seeks relief of 15 sq ft.

Gary Brooks, contractor for the applicant, was in attendance and represented the applicant. Mr. Brooks noted that the design of the sign was incomplete and he had no details to present to the Zoning Board of Appeals.

The Board recommended to Mr. Brooks that scale drawings depicting the sign and lettering as requested in the variance application, and an alternate drawing, depicting a version of the sign not requiring a variance, would be helpful to the Board when considering the application at the next meeting. An explanation of why such a substantial variance is needed is also recommended.

MOTION TO TABLE APPLICATION 2016-04

MOTION: CHAIRMAN FRANK THIEL
SECONDED: BRIDGET ACKERMAN
DISPOSITION: 5-0

2016-02

Rehearing of case 2016-02 for a request from Dr. Maria Marzo for an Area Variance at 275 South Hamilton Street to allow a variable front yard setback to change the approved limits from 0-26 ft to 0-28 feet where a zero front yard setback is required. Variance of §130-89.D, §130-89.D.A.i and Appendix B - Density Control Schedule is requested. With Public Hearing

Notification of this action was sent to 14 adjacent property owners. A legal notice of this action printed in the Town's official newspaper, the Star Gazette on April 17, 2016, and in The Leader.

The application is the subject of a Planning Board action. The Planning Board will declare itself Lead Agency under the State Environmental Quality Review Act. No SEQR action by the Zoning Board of Appeals is required.

The property is located in B-1 Business Commercial Zone.

At the March 22, 2016 meeting, the Zoning Board granted Application 2016-02 for a variance of 0-26 feet. The Zoning Board Chairman is on notice from the Planning Board Site Plan review that the building is actually 28 feet from the property line. Therefore, pursuant to §130-108.F., the Chairman is requesting a vote of the Board to rehear the case to amend the ruling to increase the setback to 28 ft.

CHAIRMAN FRANK THIEL PROVIDED THE FOLLOWING NOTES REGARDING THE REHEARING OF CASE 2016-02:

- Why?
 - Recall the CEO's notations of 3.7 feet and 31 feet on the application
 - However the legal notice and Rita's notes referred to 0- to 26-foot relief; testimony at the hearing indicated that the burial of the utilities meant that the building could extend to the property line; therefore we granted a 0- to 26-foot setback variance
 - At the subsequent Planning Board on Apr 4, where the applicant was present for a site plan review, the plan view drawing that was presented showed 3.7- and 27.4-foot setbacks at the building's NE and NW corners, respectively
 - Upon seeing that drawing, I requested to speak (there was to be no public hearing); with regard to our variance grants that assumed the building could be partially within the NYSEG easement, both PEs present said that the easement may not be encroached upon, irrespective of utility burials; I then notified the Planning Board that the applicant does not have approval from the ZBA for the plan that was being presented; further relief is needed on the NW corner.
 - Therefore, we need to rehear the case
- Rules for rehearing are very simple, but rigid
 - The decision to rehear must be unanimous
 - The resolution of the rehearing must also be unanimous
- Process
 - Vote whether to rehear
 - If unanimous, review the findings from the Mar 22 hearing to see if amending a 0- to 26-foot setback to a 0- to 28-foot setback to accommodate the NW corner requires any modifications of the findings
 - Vote whether to grant the amended variance on the basis of the findings, including any modifications

MOTION TO REHEAR APPLICATION 2016-02 TO AMEND THE GRANT FOR A FRONT YARD SETBACK FROM 0 TO 26 FT TO AN AMENDED SETBACK OF 0 TO 28 FT.

MOTION: CHAIRMAN FRANK THIEL
SECONDED: ANGELA NARASIMHAN
DISPOSITION: 5-0

With unanimous approval to rehear the case, the rehearing proceeds.

The applicant seeks relief of 0 to 28 ft.

The ZBA considers the Area Variance application and the public comment and makes findings on each of the Area Variance criteria:

- (1) The requested variance will not produce an undesirable change in the character of the neighborhood.**

All members agree the variance will not produce an undesirable change. (NO CHANGE)

- (2) The requested variance will not create a detriment to nearby properties.**

All members agree the variance will not be a detriment. (NO CHANGE)

- (3) There is no other feasible method available for the Applicant to pursue to achieve the benefit the Applicant seeks other than the requested variance.**

All members agree there is no other feasible method available. (NO CHANGE)

- (4) The requested area variance is not substantial.**

All members agreed that it is substantial, but irrelevant. (NO CHANGE)

- (5) The variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.**

All members agree the variance will not have an adverse effect or impact. (NO CHANGE)

- (6) The alleged difficulty was not self-created. (This consideration shall be relevant but shall not necessarily preclude the grant of the area variance.)**

All members agree the alleged difficulty was self-created but irrelevant. (NO CHANGE)

RESOLUTION TO APPROVE APPLICATION 2016-02 FROM DR. MARIA MARZO TO ALLOW A VARIABLE FRONT YARD SETBACK OF 0' TO 28'

MOTION: JAY McKENDRICK
SECONDED: RUTH FISHER McCARTHY
DISPOSITION: 5-0

THE MEETING WAS ADJOURNED AT 7:25 PM BY UNANIMOUS CONSENT.