

Meeting of the Village of Brockport Zoning Board of Appeals was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Thursday, July 7, 2016, 7:00pm.

PRESENT: Chair Robert Duff, Member Eileen Ryerse, Member Laurence Vaughan, Member Sal Sciremammano, Member Douglas Wolcott, Clerk Katie Brown, CEO David Rearick

EXCUSED: CEO David Miller **ABSENT:**

ALSO PRESENT: Joan Hamlin, Annie Crane, Duane Beckett, David Newman, Kris Schultz

CALL TO ORDER: Chair Duff called the meeting to order and led the Pledge of Allegiance.

REVIEW OF MEETING MINUTES: Chair Duff called for a motion to approve minutes.

→ Member Vaughan moved, Member Sciremammano seconded, unanimously carried to approve the minutes of the meeting held June 2, 2016 as written.

NEXT MEETING: Thursday, August 4, 2016 at 7:00pm if needed

CORRESPONDENCE: none

NEW BUSINESS:

1. Name: Duane Beckett for Sunnking Inc.
 Address: 4 Owens Rd.
 Tax Map ID #: 069.14-1-7.111
 Zoning: I- Industrial Use
 Parcel Size: 55.10 acres
 Property Class: 710
 Purpose: Special Permit- install one freestanding sign
 Zoning Ordinance: *Chapter 43-5(C): Signs permitted in business/industrial zones
 C. One freestanding sign shall be permitted when the main building is set back a minimum of 25 feet from the property line. Such sign shall not exceed an area of 25 square feet, plus five square feet for each separately operated use or activity in the structures, if there is more than one. In no case shall any sign exceed 40 square feet in area on either of two sides. Such signs shall be for no other purpose than identifying the facility and listing the individual occupants and may be located within any required yard area, but shall not extend beyond any property line and shall not exceed 20 feet in height.*

Applicant Presentation:

Chair Duff opened the discussion by informing the attendees that Sunnking, Inc. is seeking a special use permit to erect a sign that exceeds the code's maximum square footage. Chair Duff confirmed with applicant, Duane Beckett, that he is aware the code has a maximum requirement for freestanding signs. Chair Duff explained that, in this case, the applicant must show that his application is a permitted use that the current code's criteria does not satisfy and, therefore, there is a demonstrated need for the special permit.

To clarify for the Board members, Mr. Beckett confirmed with Clerk Brown that the intent of his application is to gain approval to erect a second sign – as there is already one freestanding sign (Allied Builders) on the parcel and the code specifies a limit to one sign – and to allow his proposed sign to exceed the square footage limitations outlined in the code.

Chair Duff read aloud the stipulations of Chapter 43-5(c) pertaining to sign size restrictions, noting the code allows an area of 25 sqft plus 5 additional sqft for each additional use in the building, if any.

Mr. Beckett advised that the design renderings provided to the Board show his proposed sign is 34 sqft without dead space. Mr. Beckett would like consideration for the growth of his company and the impact the growth has made on the Village. The company is relocating from a facility of less than 100,000 sqft to over 200, 000 sqft and employs 70 people in the Village. He believes it is appropriate to have a sign that represents this accomplishment.

Public Hearing: Chair Duff asked for a motion to open the public hearing to allow for other comment.

→ Member Sciremammano moved, Member Vaughan seconded, unanimously carried that the regular meeting be closed and the public hearing be opened at 7:07 pm

There was no public comment.

Chair Duff reminded the Board members that Mr. Beckett's application needs to demonstrate that the use he is requesting is permitted and there is a demonstrated need for the issuance of a special permit. Chair Duff asked the Board members if they have questions or concerns regarding the application.

Member Sciremammano stated that he visited the site in question and noted there is a very large sign present on the other side of the driveway (Allied Builder's sign). He feels Sunnking will need to erect a

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sign large enough to appear balanced with the existing sign. A sign that conforms to the limitations of the current code will look too small. Member Sciremammano asked Mr. Beckett if adding their business name as an addition to the existing Allied Builder's sign is an option. Mr. Beckett feels that the Allied Builders sign is unattractive, flat, and static in appearance which conflicts with his goal for the new sign. Member Sciremammano went on to say that the code's size limitations are suitable for the downtown area, but the proposed site at 4 Owens Rd is a big open area where a small sign might look inappropriate.

Member Vaughan noted that the Board recently allowed Rite Aid to erect a tower sign as well as display their name on the sides of the building. The new location of Sunnking is in a large industrial area, so there is no need to delay the application for small technicalities. Member Vaughan acknowledged that Sunnking is a prominent business in the Village and it's important to let people know where it is located in Brockport.

Chair Duff reiterated that there are two issues to consider: the construction of a second freestanding sign, and the total square footage exceeding the code allowance. He noted the Village sign code is currently in review and awaiting a public hearing for approval. However, the proposed changes for the sign code maintain the current dimensional requirements for signs. Chair Duff clarified that the Village's sign code is established by the Village Board and the Zoning Board of Appeals is obligated to uphold the zoning code. Variances and special use permits are granted upon a demonstrated need. The role of the Zoning Board is to address inflexible provisions of the code. Chair Duff asked the applicant if there is a demonstrated need to make the size larger than the code allows. Mr. Beckett explained the size was recommended by the contracted firm to create ideal visibility.

Chair Duff asked for a motion to close the public hearing.

→ Member Vaughn moved, Member Sciremammano seconded, unanimously carried to close the public hearing and re-open the regular meeting.

Chair Duff restated that the role of the Zoning Board is to hear appeals but cannot change the code and are only able to provide for demonstrated needs. The Board is meant to address situations of rigid inflexibility, not to overrule the Village Board as the primary governing body. In this case, he believes a freestanding sign posted on the property within the code limitations would accomplish the goal of advertising. To meet the code's sign requirement of 25 sqft for one business, the sign contractor would need to start over and redesign the sign.

Member Sciremammano asked whether Sunnking will have any frontage on Owens Rd. Mr. Beckett stated they will not. Member Sciremammano suggested that a wall sign on the front of the building would not be visible from the road, impeding the ability to advertise. Mr. Beckett agreed and, for this reason, a freestanding roadside sign is necessary.

Member Vaughn commented that today's application is pertaining to the signs of 2 businesses (Sunnking, Allied Builders) and he feels each business should be allowed to have their own sign to advertise. Other business parks have freestanding signs for each business and the Board shouldn't penalize a new business because a preexisting business has a sign already. Member Wolcott agreed. Member Sciremammano added that without a freestanding side by the road, delivery drivers may find it challenging to locate the business.

Chair Duff asked for a motion to approve a second freestanding sign at 4 Owens Rd.

→ Member Wolcott moved, Member Sciremammano seconded

Clerk Brown stated the motion is to approve a second freestanding sign at 4 Owens Rd as an exception to Chapter 43-5(c) of the Village Code which restricts to one freestanding sign.

Role call vote:

Member Wolcott	Aye	
Member Sciremammano	Aye	
Member Duff		Aye
Member Ryerse	Aye	
Member Vaughn	Aye	

The motion carries unanimously with 5 votes in favor, 0 opposed.

Chair Duff restated that the second issue in question is the dimensional requirements of the sign. The Zoning Board is obligated to the Village Code which establishes the dimensional sizes of signs. Chair Duff asked for a motion to approve the dimensional sizes of the freestanding size for 4 Owens Rd to exceed the square feet limitation as Chapter 43 describes.

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- Member Sciremammano moved to allow the size of the freestanding sign at 4 Owens Rd, Member Wolcott seconded

Member Vaughn noted that the motion should include specifics as to the square footage of the sign being permitted by the Board. The proposed sign is 48.7 total sqft, 34 sqft without dead space.

Chair Duff asked for clarification on how the Village Code calculates square footage. CEO Rearick explained the Code Enforcement Office uses the square footage calculated by the professional design renderings. Removing dead space is necessary to conclude actual square footage. In this case, 34 sqft is the size. CEO Rearick added that he confirmed with CEO Miller that the Code Enforcement Office has no issue with the proposed sign size.

- Member Sciremammano amended his motion and moved to allow the freestanding sign at 4 Owens Rd to be constructed to the size submitted in the application with an overall dimension of 48.7 sqft and a dimension of 34 sqft without dead space, Member Wolcott seconded.

Clerk Brown stated the motion is to approve the application's proposed size for a freestanding sign at 4 Owens Rd as an exception to Chapter 43-5(c) of the Village Code which limits signs to 25sqft.

Role call vote:
 Member Wolcott Aye
 Member Sciremammano Aye
 Member Duff Aye
 Member Ryerse Aye
 Member Vaughn Aye

The motion carries unanimously with 5 votes in favor, 0 opposed.

2. Name: Kris Schultz for Remington Woods, LLC
 Address: 35 Cailyn Way
 Tax Map ID #: 068.11-9-27
 Zoning: Planned Development District
 Parcel Size: 0.27 acres
 Property Class: 311
 Purpose: Area Variance
 Zoning Ordinance: *Chapter 58-13.1(A-2),(B): Q Planned Development Districts- Permitted Uses (A-2). All uses permitted in the O Residential as they are regulated by that district. (B). The Planning Board shall have the right to regulate any other areas not covered by this chapter*

Applicant Presentation:

Chair Duff opened the discussion stating that the applicant is seeking an area variance as an exception to the setback distance required by the zoning code for side yards. Chair Duff read aloud the New York State criteria for an area variance test.

Applicant Kris Schultz began by providing background on Remington Woods and explained the original developer, Mark Calcagno, had an agreement with Ryan Homes to build homes on the lots once they were developed. The project stalled due to a downturned housing market. Mr. Calcagno sold the land and all planned development plans to Tom Thomas, owner of Remington Woods, LLC. Part of the planned development included land areas to be donated to the Village of Brockport that contained ponds, drainage paths, and environmentally sensitive areas. Mr. Schultz clarified for the Board that the Remington Woods development is off of West Ave past the hospital, turning left on the last road just past Willowbrooke, before Redman Rd.

Mr. Thomas has been attempting to get housing built and sold over the last 6 years, typically with one or two constructed each year. Due to a recent upswing in the market, multiple homes are being built this year. When constructing a house, the layout process includes marking property lot lines, but not "staking out" the house. The lot in question today is the end lot in its section. Mr. Thomas assumed he owned the parcel adjacent to the lot's west property line. With this assumption, Mr. Thomas began construction of the house with plans to adjust the lot lines (aka re-subdivide) as needed to comply with setback requirements. After completing more than 50% of the house construction, Mr. Thomas has learned that the land on the lot's west side has already been deeded back to the Village of Brockport as part of the original development agreement made with Mr. Calcagno.

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For reference, Mr. Schultz provided the Board with an aerial photo of the lot and adjacent parcel on the west. He went on to say the west side parcel cannot be developed as it is owned by the Village, contains a creek that connects to the canal, and will eventually have a series of ponds installed. Therefore, the setbacks at 35 Cailyn Way being closer than standard requirements do not impose problems to the west lot. Based on the present layout, Remington Woods is seeking a variance on the east side of the house for half a foot and 4.6 feet on the west side (making setbacks 9.5' on the east and 5.4' on the west). Mr. Schultz believes the only alternative to a variance is to attempt to buy land back from the Village, which is an extensive, lengthy process and unrealistic as the house has already been sold. He noted that in his 30 years in the industry, this is only the third time he has encountered a house layout that has not properly conformed to fit setbacks- a rare occurrence. In this instance, the house construction was expedited to meet demand. He reiterated that the variance will not impact any environmentally sensitive areas, neighboring properties, or road setbacks. The house located at 35 Cailyn Way is approximately 2000 sqft.

Public Hearing: Chair Duff asked for a motion to open the public hearing to allow for other comment
 → Member Vaughn moved, Member Wolcott seconded, unanimously carried that the regular meeting be closed and the public hearing be opened at 7:47 pm.

CEO Rearick presented the Board with photos of the Village parcel west of 35 Cailyn Way which show a drainage ditch with significant swell. CEO Rearick agrees with the applicant that the parcel cannot be developed. Chair Duff asked if the house at 35 Cailyn Way will be affected by rainfall in the ditch. CEO Rearick confirmed it should not as it is located too far away. He added that the Code Enforcement Office has no issues with the application.

Chair Duff asked if the Board had questions/comments pertaining to the area variance test criteria. Member Vaughn commented that he understands how mistakes can be made when a project changes hands and takes significant time to progress. He concurs that the setbacks will not have an effect on adjacent lots and noted that most setback requirements are determined for fire safety purposes. He believes that the setbacks as proposed in the application still allow a sufficient buffer to deter the spread of fire.

Member Sciremammano confirmed with the applicant that the original lot layouts were approved with each lot being approximately 80ft wide x 147ft deep. The issue in this case is just a result of Mr. Thomas not realizing he did not own the adjacent parcel to the west.

Chair Duff asked the Board if they envision any alternative method more feasible to pursue other than an area variance or if they have concerns about the variance being substantial.

Member Ryerse noted that it is difficult for her to imagine a design professional planning to put a 60ft house on an 80ft lot. Mr. Schultz reminded the Board that Mr. Thomas planned to move the lot lines until learning he did not own the property. Typically in developments like Remington Woods, gifting of land is done after development is complete. In this case the Village Engineer wanted it gifted back as soon as possible because the site contains substantial drainage that was important for the Village to upkeep and maintain.

Member Vaughn does not think the circumstance was created purposely, nor was any malice intended. He believes not granting the variance would impose a significant hardship on the developer.

Member Wolcott is concerned that in the future the homeowner may try to ask for more land to the west and wants to be sure this issue will not face the Board again. Mr. Schultz assured the Board that the home owners will be made aware of the variance and that the land to the west is Village owned and not purchasable. He noted that he cannot guarantee the owner will not encroach as far as mowing or walking on the land, but there will be detailed communication explaining that owning more land is not an option.

Chair Duff asked if the Board had any concerns about the impact on environmental conditions. The Board had no concerns. Chair Duff asked if the Board had any concerns about the difficulty being self created. Member Ryerse believes it was self created, but the Board should not impede the request at this point. Member Sciremammano believes it was unintentionally self created, but it will not have a devastating impact

Chair Duff asked for a motion to close the public hearing.

→ Member Sciremammano moved, Member Vaughn seconded, unanimously carried that the public hearing be closed and re-open the regular meeting.

Chair Duff asked for a motion to approve the application for area variance at 35 Cailyn Way.

→ Member Vaughn moved, Member Wolcott seconded, that the application for the area variance

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be approved.

Clerk Brown stated the motion is to approve the application as presented for an area variance at 35 Cailyn Way.

Role call vote:
Member Vaughan Aye
Member Ryerse Aye
Member Duff Aye
Member Sciremammano Aye
Member Wolcott Aye

The motion carries unanimously with 5 votes in favor, 0 against.

Adjournment:

→ Member Vaughn moved, Member Wolcott seconded, unanimously carried that the meeting be adjourned at 7:59pm.

Katie Brown, Clerk

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