

MINUTES
MUNICIPAL BUILDING
ZONING BOARD OF APPEALS

September 28, 2021

6:00 P.M.

PRESENT: Kevin Foltz, Chairman, Andy Rosenberg, Meghan Lutz, Andrew Rosenberg, Sheila Tracy, Pat McGrath, Deputy Corporation Counsel, Jason Dool, Chief Building Inspector.

ABSENT: Lynn Harper

The Chairman explained to those present the procedure followed in these Hearings, First the explanation by the Appellant as to what he/she is appealing for, second, any questions those present wishes to ask to clarify the appeal, and third, the Board will hear any opinions for or against the granting of this variance. The chairman stressed the point that anyone wishing to speak must first state their name and address.

Roll call was taken by Chairman Kevin Foltz and all the members present stated that they have seen the properties.

The first case to be called was Case No. 2242, Appeal of Leslie Burdick to erect a 4' x 5' pole sign, three 2.5' x 2.5' changeable paper signs on the east side of the building, a 2' x 5' wall sign on the west side of the building, a 2' x 15' wall sign on the south side of the building and install window signs that cover more than 50% of the window area located at 13 Park Avenue, Lockport, New York situated in a B-5 Zone.

Ms. Farideh Chubineh, owner of the building and Mr. Leslie Burdick, contractor were present at the meeting.

Ms. Chubineh provided the Board with new pictures and sizes of the signs she is requesting.

Ms. Chubineh stated that she would like to go over one sign at a time.

Ms. Chubineh said that she would like to put window signs in the top windows.

Mr. Foltz stated that he has an issue with how much signage there is going to be. He said that it will be everywhere.

Ms. Chubineh showed the Board new pictures of what she would like to install.

Mr. Burdick said that there is a pole sign existing. He said that they would like to change it out and have the logo on the face with changeable signage on the bottom.

Mr. Burdick said that the changeable portion of the sign will be electronic.

Mr. Foltz clarified that the lower portion will be an electronic message sign.

Mr. Burdick said that they changed the size of the sign on the south side of the building to 2' x 7'.

Ms. Lutz asked what windows the signage would be put in.

Mr. Burdick showed Ms. Lutz on the photos.

Mr. Rosenberg asked why there are so many Jackson and Hewitt repeat signs.

Mr. Burdick said that the signs are hard to see if you are in front of the building.

Mr. Burdick said that on the east side of the building there are framed in changeable signs like 7-11.

Deputy Corporation Counsel McGrath asked what the total square footage of signage is being proposed. She said that there is a limitation of how much they can have.

Ms. Chubineh said that without the window signs she is looking to install a 4' x 5' pole sign and a 2' x 7' wall sign.

Deputy Corporation Counsel McGrath said that from the pictures shown, they are asking for 109 s.f. of signage.

Ms. Chubineh said she is asking for 34 s.f.

Mr. Foltz stated that by ordinance she is allowed 10 s.f. of signage.

Ms. Chubineh said that she already has the 2' x 7' sign that she would like to move to this location. She said that it would cost a fortune to purchase another sign.

Mr. Rosenberg asked about the proposed sign on the west side of the building.

Ms. Chubineh said that the application is misleading. She said that the sign in the west side is in the window.

Mr. Foltz said that he calculates 49 s.f. of wall signage and pole signage without the windows. He said that she is only allowed 10 s.f.

Ms. Babis said that she is asking for 5 times the amount of signage she is allowed.

Ms. Chubineh said that she can show pictures of a lot of other businesses that have illegal signage.

Megan Brewer explained that there are several businesses in the area that have variances for their signage.

Ms. Chubineh said that other businesses are breaking the law.

Ms. Lutz stated that Ms. Chubineh needs to take that up with Building Inspection.

Ms. Chubineh said that other people have windows that are covered with signage. She said that she just wants two little logos.

Jason Dool explained that he has had several conversations with Ms. Chubineh about her signage. He said that if she was to just change the faces of the existing pole sign out, we can issue a permit today. He said that they cannot add signage to the pole sign without a variance. He said that if they do that nothing else can go on the building.

Mr. Foltz asked if Ms. Chubineh was ok with the pole sign not being an LED message sign, just changing the faces.

Ms. Chubineh said that she would put the logo on the pole sign and changeable letters.

Jason Dool explained that if the face is the same size and the sign is not an electronic message sign, it is ok.

Ms. Chubineh said that she would like to put up the 2' x 7' wall sign on the front of the building.

Mr. Foltz said that if she installed the 4' x 5' pole sign face and the 2' x 7' wall sign she would have 34 s.f. of signage.

Jason Dool clarified that she would be withdrawing her request for the LED message sign. He questioned the three changeable signs that are on the drawings.

Ms. Chubineh said that she doesn't want the 2' x 3' signs anymore.

Mr. Foltz read aloud a letter sent by the 7-11 management against the signage request.

The meeting was opened to the public.

Mr. Foltz asked Ms. Chubineh if she is withdrawing her request for and LED electronic message sign.

Ms. Chubineh said yes.

Mr. Foltz asked if she is withdrawing her request for three paper changeable signs.

Ms. Chubineh said yes.

Mr. Foltz clarified that the only thing she is asking permission for is a 2' x 7' wall sign and the window signage.

Mr. Foltz asked them to explain the window signage.

Mr. Burdick said that they would like to install a 2' x 15' and a 2' x 5' window sign.

Mr. Foltz asked if they would be fully covering the windows.

Mr. Burdick said yes.

Megan Brewer explained that they can cover 50% of a window.

Ms. Chubineh said that she has had her business since 1998, she is familiar.

Mr. Foltz said that this is an additional 20 s.f. of signage.

Mr. Burdick said that they can cover 50% already.

Ms. Lutz asked if the window signs are going to be lit.

Mr. Burdick said yes.

Ms. Chubineh said that she will do whatever the law says, it can turn off at midnight.

Mr. Burdick said that it is on a timer now from 8-12 but can be changed.

Ms. Chubineh said that she was told the law as midnight.

Mr. Foltz said that this is a business district not residential, 12 is ok.

Ms. Chubineh said that it will change with the seasons.

Mr. Dool asked if they are taking about being externally lit or internally lit.

Mr. Burdick said that the fluorescent lights are on a timer.

Mr. Dool said that they are back lit then. He said that normally, only signage that is in a residential area has lighting restrictions. He said that there are no restrictions for downtown or main street. He said that a restriction is unnecessary.

Ms. Lutz asked if they are only approving the window signage exceeding 50% for the proposed location.

Megan Brewer said yes.

The meeting was closed to the public.

There being nothing further Nancy Babis made a motion to approve the request for a 2' x 7' wall sign as follows:

AND IT APPEARING, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean and orderly condition

Seconded by Meghan Lutz.

Kevin Foltz-yes
Andy Rosenberg-yes
Meghan Lutz-yes
Sheila Tracy-yes
Nancy Babis-yes

AREA VARIANCE GRANTED

Meghan Lutz made a motion to approve the request for the two proposed window signs to exceed 50% of coverage as follows:

AND IT APPEARING, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean and orderly condition

Seconded by Sheila Tracy.

Kevin Foltz-yes
Andy Rosenberg-yes
Meghan Lutz-yes
Sheila Tracy-yes
Nancy Babis-yes

AREA VARIANCE GRANTED

The next case to be called was Case No. 2243. Appeal of Ulrich Sign Company to erect a 4' x 2.5' ground sign located at 114 West Avenue, Lockport, New York situated in a B-5 Zone.

Mr. Andrew Warne from Ulrich Sign Company was present.

Mr. Warne stated that they would like to erect a double sided, nonilluminated sign at the corner of Hawley and West Genesee Street. He said that the sign is to direct patrons into the Shamus's parking area. He said that Ms. Murphy bought the property in 2020 and most people don't know it is a parking lot for the restaurant.

Ms. Tracy asked if the sign is going to block people's vision driving down the street.

Mr. Warne said no, they will make sure it is set back.

Mr. Foltz asked if the sign is going to be lit.

Mr. Warne said no, she may install flood lights down the road, but he isn't sure.

The meeting was opened to the public.

The meeting was closed to the public.

There being nothing further Mr. Rosenberg made a motion to approve the variance to erect a 4' x 2.5' ground sign as follows:

AND IT APPEARING, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean and orderly condition

Seconded by Sheila Tracy.

Kevin Foltz-yes
Andy Rosenberg-yes
Meghan Lutz-yes
Sheila Tracy-yes
Nancy Babis-yes

USE VARIANCE GRANTED

The next case to be called was Case No. 2244. Appeal of JoAnn Burke to erect a 6' vinyl fence on the south property line located at 284 Pine Street, Lockport, New York situated in an R-2 Zone.

Ms. Burke showed the Board a copy of her property survey. She said that she would like to erect the new fence for privacy. She said that the chain link fence that is there is old and dilapidated.

Ms. Lutz stated that the chain link fence that is there now is on City property. She said that the new fence would have to be moved back.

Ms. Burke said that she can do that.

Ms. Babis asked how many gates she is installing.

Ms. Burke said two, one on the Price Street side and one on the carport side.

Ms. Tracy asked if the fence is going to go all the way out to Pine Street.

Ms. Burke said no, it will go to the back of the front porch.

The meeting was opened to the public.

Mr. John & Mrs. Donna Badach, 184 Waterman Street, stated that their driveway is connected to Ms. Burke's.

Ms. Badach said that the fence will be 3' from their driveway at the corner of Price and Waterman.

Mr. Badach asked to see a diagram of where the fence will be located.

Ms. Badach asked if the new fence will be past where the chain link one is now.

Ms. Burke said no, it will be the same.

Ms. Badach said that she is against the fence being installed. She said that she and her husband sit on their back porch and drink coffee in the morning. She said that they used to be able to see down to So. Transit Street before the prior owners put up the carport. She said that she doesn't oppose a fence being installed but it should be chain link like it is now. She said that they will now have to lean forward to see down the street. She said that it will block their view and make it hard to back out of their driveway. She said that it will create a blind spot when they back up their car. She said that you can see through the chain link fence.

Mr. Badach showed the Board pictures of the current layout.

Ms. Badach asked what they are going to do with the snow if there is a 6' fence right at the sidewalk.

Ms. Burke stated that she has a backup camera on her car and always looks at it.

Mr. Badach became combative with Ms. Burke. Jason Dool explained that no one is going to argue back and forth, to please state their concerns.

Mr. Badach said that a back up camera does not see around the corner; you can't see around a 6' fence.

Mr. Badach said that he agrees with the Zoning Ordinance. He said that you can see through a chain link fence.

Ms. Badach said that Ms. Burke already has a fenced in yard. She said that a 6' fence will obstruct her view.

Ms. Badach said that the fence is going to create a blind spot and there is a stop sign right there. She said that she has a problem with the height.

Mr. Badach said that even if the fence is 2' back, it is still going to be a hazard.

Mr. Foltz explained that corner lots are very difficult. He said that if they move the fence all the way in, it will cut their yard in half.

Ms. Badach said that the fence needs to be transparent, it is too high.

Jason Dool asked Mr. and Mrs. Badach if they still have all of the bushes growing in their yard that are shown in a picture.

Ms. Badach said that she cuts them back every season.

Mr. Dool explained that in the picture shown they are too high and cause a visual obstruction.

The meeting was closed to the public.

Ms. Burke stated that she had a confrontation with then neighbors when she first bought the house.

Mr. Foltz said that the fence will have to be moved back 2'. He asked what color the fence is going to be.

Ms. Burke said white.

There being nothing further Nancy Babis made a motion to approve the request to erect a 6' vinyl fence on the south property line as follows:

AND IT APPEARING, the fence shall be moved 2' to the north,

WHEREAS, benefit cannot be achieved by other means feasible to the applicant, and

WHEREAS, there will be no change to the character of the neighborhood, and

WHEREAS, request is not substantial, and

WHEREAS, there will be no adverse physical or environmental effect, and

WHEREAS, alleged difficulty is not self-created, and

WHEREAS, premises shall be kept in a neat, clean and orderly condition

Seconded by Sheila Tracy.

Kevin Foltz-yes
Andy Rosenberg-yes
Meghan Lutz-yes
Sheila Tracy-yes
Nancy Babis-yes

AREA VARIANCE GRANTED