

MINUTES
MUNICIPAL BUILDING
ZONING BOARD OF APPEALS

January 25, 2022

6:00 P.M.

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

ABSENT: Sheila Tracy, Sam Marotta

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. 2250, Appeal of Margo Fraass-Schmelke to erect a 6' vinyl fence on the north side of the property located at 190 Beattie Avenue, Lockport, New York situated in an R-1 Zone.

Mr. Chris Schmelke and Ms. Margo Schmelke were present.

Mr. Schmelke stated that they had the fence installed by the Vinyl Outlet. He said that they brought the fence in 10' from where the previous one was. He said that after the fence was installed, he got a notice that the fence was too high. He said that he didn't think it was an issue because there are hedges behind them that are taller than the fence.

Mr. Foltz said that corner lots are a pain. He said that generally it affects the side street more. He said that they stopped the fence in the right place, not in front of the house. He asked if they got a permit for the fence.

Mr. Schmelke said yes.

Mr. Foltz asked if the contractor questioned the fence location.

Mr. Schmelke said no, he told them to bring it in 10'.

The meeting was opened to the public.

The meeting was closed to the public.

There being nothing further Meghan Lutz made a motion to approve the request to erect a 6' vinyl fence on the north side of the property 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 Nancy Babis.

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

AREA VARIANCE GRANTED

The next case to be called was Case No. 2251, Appeal of Ulrich Sign Company to erect a 5' x 7' double sided pole sign with a 2.5' x 7' LED message sign located at 500 Ohio Street situated in an I-3 Zone.

Andrew Warne was present from Ulrich Sign Company.

Mr. Warne stated that he is trying to obtain a variance for a double-sided pole sign with a digital unit. He said that it would be the same as the rest of the LED signs that they install. He said that it will have an auto dimming feature so that it isn't its brightest at night. He said that this area is not residential. He said that Clark Rigging wants to sign to advertise what services they offer. He said that they also want to advertise that they are looking for laborers. He said that the sign will help them.

Mr. Foltz asked if the sign is going to flash.

Mr. Warne said that they will follow the sign regulations regarding the sign movement.

Mr. Foltz stated that the sign edge needs to remain 5' from the city right-of-way.

Mr. Warne said that he spoke to Building Inspection and he has measured the right-of-way 13.5' from the curb.

The meeting was opened to the public.

The meeting was closed to the public.

There being nothing further Nancy Babis made a motion to approve the request to erect a double-sided pole 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 Andy Rosenberg.

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

USE VARIANCE GRANTED

Meghan Lutz made a motion to approve the request to install a LED message 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 Nancy Babis.

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

USE VARIANCE GRANTED

The next case to be called was Case No. 2252, Appeal of Ulrich Sign Company to erect a 6' x 10' wall sign on the east side of the building located at 1149 Lincoln Avenue, Lockport, New York situated in a B-1 Zone.

Mr. Andrew Warne was present from Ulrich Sign Company.

Mr. Warne said that they are looking for an area variance of 22.41 s.f. to install a single sided wall sign. He said that Dr. Beney would like the wall sign to show what medical providers are in the building. He said he will be able to change the names in the sign.

Mr. Warne said that this is a large building and Dr. Beney has put a lot of money into renovating it. He said that the sign is consistent with the rest of the neighborhood. He said that the sign will be illuminated but not be a nuisance.

Ms. Lutz asked if the sign will be back lit.

Mr. Warne said yes.

The meeting was opened to the public.

The meeting was closed to the public.

There being nothing further Nancy Babis made a motion to approve the request to erect a 6' x 10' wall sign on the east side of the building 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
Nancy Babis-yes

USE VARIANCE GRANTED

Mr. Dana Barish, 227 Church Street, sent a written appeal for a snow violation that was sent to him on January 24, 2022.

The Board was shown pictures taken by Dan Wojewoda, Building Inspector on January 25, 2022 showing the condition of the sidewalks.

Mr. Barish stated that he got a notice from the city for not maintaining the sidewalks that are in the city right-of-way. He said that he is not sure if this Board can regulate the law. He said that he is not sure if the sidewalk is on his property or the City's.

Ms. McGrath explained the city right-of-way and how the sidewalks in front of the house must remain clear. She asked if Mr. Barish has a copy of his property survey. She said that most city sidewalks are on private property.

Mr. Barish said that he has his lot number and dimension but not a survey. He said that the sidewalks are on city property.

Ms. McGrath said that without seeing a property survey she wouldn't be able to determine where they are. She said that the right-of-way is different than ownership.

Mr. Barish said that the Code says that there is 60' from one right-of-way to the other.

Ms. McGrath says that the Code states that the homeowner is responsible for maintaining the city sidewalks.

Mr. Barish said that he has brought maps to Council meetings regarding this issue before.

Ms. McGrath said that the City Code is clear that the property owner is responsible for snow removal. She said that Mr. Barish is here because he was cited for failing to clear the sidewalk.

Mr. Barish said that he received the warning yesterday.

Ms. McGrath said that the ZBA has limited jurisdiction regarding these matters. She explained that they are here to make a determination whether or not a person is in violation of the code.

Mr. Barish asked if this Board has jurisdiction over City property. He said that this is unconstitutional and he has case law from New Hampshire to prove it.

Ms. McGrath read the section of City Code regarding snow removal aloud. She stated that Mr. Barish is responsible for removing the snow.

Mr. Barish said that the law is unconstitutional and the New Hampshire ruling says that he isn't responsible.

Mr. McGrath said that they are not here to determine the constitutionality of the Code. She said that the ZBA does not have that authority.

Mr. Barish requested that his appeal be withdrawn. He said that he doesn't want a determination from this Board.

Andy Rosenberg made a motion to approve the minutes of the November 23, 2021 meeting. Seconded by Nancy Babis. yes-4 Noes-0

Meghan Lutz made a motion to adjourn; Motion seconded by Nancy Babis Ayes-4 Noes-0

MEETING ADJOURNED

The next regularly scheduled meeting will be Tuesday, February 22, 2022 at 6:00 p.m.