

**MINUTES**  
**MUNICIPAL BUILDING**  
**ZONING BOARD OF APPEALS**

September 24, 2024

5:00 P.M.

**PRESENT:** Kevin Foltz, Chairman, Sam Marotta, Meghan Lutz, Shelia Tracy, Andrew Rosenberg, Nancy Babis, Kevin McDonough, Kathleen Kugler, Deputy Corporation Counsel, Jason Dool, Chief Building Inspector

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. 2332. Appeal of Nicholas Pasceri to utilize a portion of the existing building as retail space to include the sale of gifts, novelties, home décor and apparel and to erect a 40” x 26” projecting sign located at 755 Market Street, Lockport, New York situated in an R-2 Zone.

Mr. Pasceri was present with Ms. Radwanski and Ms. Pattie Jordan, owners of Willow and Layne.

Mr. Pasceri stated that he would like to touch base on a few points from the prior meeting. He said that it would be difficult to achieve a reasonable return with the variance. He said that this was evident when they presented their case to install a third unit. He said that the current use as garage space could only be used as tenant storage or Fleet Wash. He said that since Fleet Wash is out of business, that leaves them with only one option. He said that they already have a three car garage.

Mr. Pasceri said that because they already have a three car garage for the tenants to use, there is little to no addition income derived from the space. He said that as it is, it will cost him \$15,000 to renovate the space for the proposed use. He said that by leaving the space unoccupied, it causes him an economic hardship based on utility bills and taxes on something that is useless to him.

Mr. Pasceri stated that the property is unique in the sense that it was zoned commercial and then residential units were added. He said that over time variances have been granted for boat sales and service and an electrical shop. He said that theses uses have more of an impact than retail.

Mr. Pasceri said that they have enough parking spaces. He said that the park is across the street and Wide Waters is down the street. He said that there will be no impact on traffic.

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

Mr. Pasceri said no.

Ms. Radwanski, 838 Willow Street, stated that the sign is 40" x 26" and will not be lit.

Ms. Jordan, 5536 Twilight Lane, stated that the sign will goose neck.

Ms. Radwanski stated that they amended the application to let you know that the retail space is for apparel, novelties and crafts. She said that she knows there are concerns about traffic. She said that they went down there about a week ago and something was going on. She said that cars where line up and down the street from one bridge to the other. She said that they don't anticipate that kind of traffic at their store. She said that there would be one or two cars at a time.

Ms. Lutz asked if they are proposing just the one sign attached to the building.

Ms. Radwanski said yes.

Mr. Foltz asked what their hours of operation would be.

Ms. Radwanski said that it is negotiable. She said that it would more than likely be 12 pm to 7 pm.

Ms. Jordan said maybe earlier on the weekends.

Mr. Foltz asked if this is mostly by appointment with the occasional walk in.

Ms. Radwanski said they hopo to have a few walk ins. She said that right now they do all of their ordering online. She said that they have the DeSales contract. She said that they have a problem with sizing. She said that people just order what they think will fit, they would like to have somewhere available for people to try on.

Ms. Radwanski said they just finished up four fundraisers.

Mr. Foltz asked how many parking spots are available.

Mr. Pasceri said six or seven.

Mr. Foltz asked if that included the tenants.

Mr. Pasceri said that they park in the garage.

The meeting was opened to the public.

Ms. Patricia Quast, 715 Market Street, stated that she did write a letter to the board. She said that she can restate what is in the letter. She stated that she is opposed to the retail request. She said that she believes that her property value will decrease do to the specific location of this retail business. She said that this business can be seen from neighborhood driveways and porches. She said when this property was a business prior there was a row of Arborvitaes that ran east to west that hid the property from view. She said that they are not there any longer. She said that she doesn't want to see signage or clearly visible roadside feather or other temporary signs.

Ms. Quast said that she doesn't see an adequate amount of parking for customers, staff, safe product delivery and the current tenants especially if the business expands. She said that there could be trucks in the driveway or on the road which does not have a shoulder. She said that there are typically three cars in the driveway now with the current tenants. She said that with the staff and customers, she doesn't see any extra spots other than the canal for parking.

Ms. Quast stated that special event parking is seasonal, not constant and she feels that is a value to the community. She said that the people in the neighborhood don't want to see that kind of traffic daily. She said that as this business grows so will the cars coming and going. She said that she feels this business does not enhance the park like area. She said that she firmly believes retail belongs in the business district not by residents.

Ms. Quest said that the Wide Waters has been brought into question. She said that they have ample amount of room for product delivery and parking. She said that it is no open year round. She said that it is seasonal. She said that it provides a purpose for boater and visitors. She said that it is not visible from their homes. She said that it provides a service to the community.

Ms. Quest requested that the board take into consideration her concerns while voting.

Mr. Foltz asked Ms. Quest to define her concern with the business expanding.

Ms. Quest said that if they grow like D & T Graphics, when they had an event for Damar Hamlin and where giving out shirts. She said that people were just lined up everywhere. She said that if they are expanding, she can't see how three parking spaces is going to make it if you have employees there as well.

Mr. Paul Oates, 623 Market Street, stated that if you were an outsider looking in, it is easy to sympathize with everyone involved with this variance. He said that he can understand Mr. Pasceri's situation, he has space and wants to maximize that space. He said that he couldn't do it with another apartment so this is another option. He said that he can understand where the business owners are coming from, they need a bigger space why not try and incorporate retail into this building.

Mr. Oates said that he can understand residents in the City of Lockport who have nothing to say about this, live in a different part of the City and want to support a local business. He said that everyone wants that, increase the sales tax.

Mr. Oates said that the problem is he is not an outside looking in, he is a neighbor down the street. He said that he can't speak for everyone on the street, but he knows that there are some opposed to this variance being granted. He said that he is one of them. He said that it's not that he doesn't want this business succeed or Mr. Pasceri maximize this space. He said that it because residential is residential. He said that this looks like a spot variance to him. He said they if you live in a residential neighborhood, there is a reasonable expectation that it is going to stay residential.

Mr. Oates said that he is worried about creep. He said that if this variance is granted that if someone else wants to do the same thing, how do you say no then? He said that he is worried that if this business moves, Mr. Pasceri comes back to the board with a different tenant, how do you say no?

Mr. Oates said that he realized that Wide Waters snack bar is there and at the other end of the street, at the bottom of Vine Street there is an optical place. He said that the optical place, over 50 years ago was Schavetti's. He said that it was a mom and pop grocery store and they lived right next door.

Mr. Oates said that Wide Waters snack bar was built in the 60's and the Chapmans and Villas lived right next door. He said that everything in between has been residential with the exception of this property when this property was a business. He said that there is a reasonable expectation that it would remain residential. He said that he doesn't think this variance would be considered in some streets in Lockport. He said that it wouldn't see the light of day. He said there are only houses on one side of the street. He said that it is only lower town, but he thinks there are streets where this would never fly. He said that if someone asked to drop this variance in the middle of Lindhurst it wouldn't go, but it's Market Street and the park is close by and the restaurant is there.

Mr. Oates said that the board has difficult decisions to make all the time because regardless of how you vote there is always someone that is going to be happy and someone that is not.

Mr. Charles Morello, 643 Market Street stated that he has lived on Market Street for 80 plus years. He said that he started up on Villa hill and then moved his family to 653 Market Street. He said that then he built his house at 643 Market Street where he has lived for 56 years.

Mr. Morello said that when he built his house, his dad was a wonderful person who helped people either build new homes or remodel old homes on our street. He said that he spent half of his off time doing this. He said that talking to people, he hears this variance is being attributed to the size of a sign. He said that he doesn't believe this is a proper area for this type of business.

Mr. Morello said that up the street across from the boat place, there is all kinds of available space in that building and the traffic is not only for local people but people from out of town. He said that business would do well there.

Mr. Morello said that if you take the area where the tree garden is across from him, which was once a grape vineyard and then a sumac jungle that he and his dad cleaned out. He said that he doesn't believe that this type of business belongs in a residential area. He said that he asks the board to reconsider any efforts to change the zoning. He said that it is not a good location for a store. He said that in the winter time you can play baseball in the middle of the street because the traffic isn't there. He said that if this is the type of business that relies on traffic, this isn't the place.

Mr. Morello said that this would be a failed business to start.

Ms. Tara Johnson, 709 Market Street stated that she purchased her home last year, because of the location, the park like setting, the history and the because of the canal. She said that she seconds what someone else said. She said that they should preserve what they have. She said that it is residential, they should keep it that way. She said that there are places for business and places for residential and she would like to preserve them.

The meeting was closed to the public.

Ms. Babis asked how many deliveries are expected a week and how do they come. She asked how much this would affect the traffic.

Ms. Radwanski said that they get very few deliveries. She said that it is not that type of business like Walmart.

Ms. Jordan stated that their deliveries go to Krista's house because they don't know exactly when one of them will be there. She said they don't want it just dropped off at the store. She said that everything will be delivered to Krista's house and they will bring it to the store.

Ms. Radwanski said that they get maybe three boxes delivered at a time. She said that they buy all of their stuff locally, they are not housing thousands of dollars of product. She said that the most they have ordered at one time is maybe six boxes, there's no trucks coming in. She said that it is UPS or Amazon that is it.

Ms. Tracy asked if those trucks go to Ms. Radwanski's house.

Ms. Radwanski said yes.

Mr. Foltz said that his comment on this is and what would come after. He said that this variance can be restricted to what they say they do. He said that if they closed down they are not going to be able to put another business in there unless they come back to this

board. He said that they would have some control over it. He said that he knows that not knowing what the future can bring is scary. He said that this variance can be written strictly for this business basically unless someone comes in and wants to same thing. He said that it will not be able to expand beyond what is granted.

Mr. Rosenberg asked what the building is currently zoned.

Megan Brewer said R-2.

Mr. Rosenberg asked if the entire area is zoned R-2 not commercial.

Megan Brewer said yes.

There being nothing further Andy Rosenberg made a motion to grant the use of a portion of the existing building as retail space to include the sale of gifts, novelties, home décor and apparel 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-no  
Sam Marotta-no  
Andy Rosenberg-yes  
Kevin McDonough-no  
Sheila Tracy-yes  
Meghan Lutz-no  
Nancy Babis-no

**USE VARIANCE DEFEATED**

Meghan Lutz made a motion to deny the request to erect a 40” x 26” projecting sign. Seconded by Nancy Babis.

Kevin Foltz-yes  
Sam Marotta-yes  
Andy Rosenberg-no  
Kevin McDonough-yes  
Sheila Tracy-no  
Meghan Lutz-yes  
Nancy Babis-yes

**USE VARIANCE DENIED**

The next case to be called was Case No. 2333. Appeal of Ulrich Sign Company to erect an electronic message ground sign located at 215 East Avenue, Lockport, New York situated in a B-4 Zone.

Mr. Chris McCaffrey, Ulrich Sign Company was present.

Mr. McCaffrey stated that they would like a variance to install a ground sign. He said that Ms. Shaw received funding from a grant program since she purchased the building. He said that she has purchased new equipment for her business with some of it and would like to replace the 30 year old sign with a new one. He said that this sign will be similar to all of the other electronic signs that they have installed in the City. He said that the two churches down the street have them, the Credit Union and all of the schools. He said that he is unaware of any complaints regarding any of the signs that have been installed.

Mr. McCaffrey said that the signs are auto dimmed. He said that the top part of this sign will be a black background with a static illuminated sign and the lower portion will be a message center. He said that the message center will dim as it gets dark. He said that he only uses a product called Watch fire.

Mr. McCaffrey said that Ms. Shaw will follow the City’s Code, the sign will not flutter or blink or have any animation. He said that Ms. Shaw would like to put different messages on the sign to keep in contact with her patients.

Mr. McCaffrey said that there is some extra space in between the sign, they can reduce the height by 6”. He said that the proposed sign is 90” and it looks tall on the rendering next to a person. He said that if the board would like he can reduce the sign 6” where it says “East Avenue Vision”.

Mr. Foltz asked if most signs in the area are that tall. He asked if the sign will turn off at night.

Mr. McCaffrey said that he can decrease the height. He said that they can be flexible with the hours the sign is on.

Mr. Foltz said that he believes they have restricted the time for these types of signs to be turned off by 9 p.m. in the past.

Ms. Tracy said that currently it is difficult to see the sign that is on the building. She said that she was driving down the street looking for the building and almost got hit by a truck. She said that if there was a more visible sign, there may be less accidents.

Mr. McCaffrey said that the new sign will be more visible. He said that it will be in a similar place. He said that it will be an improvement to the property.

The meeting was opened to the public.

The meeting was closed to the public.

Mr. Marotta asked how much the sign can be reduced.

Mr. McCaffrey said 6", the upper portion of the sign will be 30".

There being nothing further Sam Marotta made a motion to approve the request to install an LED message sign as follows:

AND IT APPEARING, the sign only be lit until 9 p.m.,

WHEREAS, the height of the sign be reduced 6" from the proposed sign,

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 Andy Rosenberg.

Kevin Foltz-yes  
Sam Marotta-yes  
Andy Rosenberg-yes

Kevin McDonough-yes  
Sheila Tracy-yes  
Meghan Lutz-yes  
Nancy Babis-yes

**USE VARIANCE GRANTED**

Nancy Babis made a motion to approve the request to install a ground sign greater than 32 square feet as follows:

AND IT APPEARING, the sign only be lit until 9 p.m.,

WHEREAS, the height of the sign be reduced 6” from the proposed sign,

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 Meghan Lutz.

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

**AREA VARIANCE GRANTED**

The next case to be called was Case No.2334. Appeal of Gregory Pope to subdivide a 28.5’ x 40’ rear section of the lot located at 22 Waterman Street, Lockport, New York situated in an R-3 Zone.

Mr. Pope was present with Pastor Kevin Wing to represent to case.

Mr. Pope stated that the property at 22 Waterman Street is a two-family home on a parcel that is 40' x 118'. He said that they would like to reduce the depth to 90'. He said that they are requesting the subdivision because the church would like to sell the property. He said that they have a buyer but they need the variance approval before they can close.

Mr. Pope said that the church bought the property 50 years ago when they expanded the church. He said that the expansion is on the 22 Waterman property. He said that it is been this way since the 80's. He said that they would like to reduce this SBL to 40' x 90'.

The meeting was opened to the public.

Steve & Stephanie Cod, 130 Pine Street came to the podium.

Ms. Cod stated that they bought their house four years ago. She said that they are in support of the church. She said that there is a lot of criminal activity in the area and they feel safe next to the church. She said that they do great things. She said that if they want to sell the house they should be allowed to.

The meeting was closed to the public.

There being nothing further Meghan Lutz made a motion to approve the request to subdivide the 28.5' x 40' rear section of the lot 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 Kevin McDonough.

Kevin Foltz-yes  
Sam Marotta-yes

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

**AREA VARIANCE GRANTED**

Andy Rosenberg made a motion to approve the minutes of the August 27, 2024 meeting.  
Seconded by Nancy Babis. Ayes-7 Noes-0

Meghan Lutz made a motion to adjourn; Motion seconded by Kevin McDonough. Ayes-7  
Noes-0

**MEETING ADJOURNED**

**The next regularly scheduled meeting will be Tuesday, October 22, 2024 at 5:00  
p.m.**