

ZONING BOARD OF APPEALS
October 25, 2011

PRESENT: Charles Dahlquist
Donald Jablonski
Michael Bartus
Frank Loiars
Tim Lederhaus, Chairman
Kevin Roth, Alternate

ALSO PRESENT: Brian Belson, Senior Building Inspector
Jane Trombley, Secretary
Daniel Seaman, Town Attorney

The October 25, 2011 Zoning Board of Appeals meeting was called to order at 7:00 pm by Chairman Lederhaus, who then led the Pledge of Allegiance.

Chairman Lederhaus noted all members are present.

MOTION made by Member Jablonski, seconded by Member Bartus to approve the September 27, 2011 minutes as presented. 5 Ayes, 0 Nays, Carried.

CASE #1 **4060 Lake Avenue – SBL #81.00-3-6.2 – RJ2 Enterprises, LLC** – Returning to request an area variance to install an additional free-standing sign exceeding the permitted square footage.

Chairman Lederhaus opened the Public Hearing.

Chris McCaffney of Ulrich Sign Company presenting with Keith Hetrick, President of RJ2 Enterprises. Mr. McCaffney stated a second free standing sign is necessary as this was primarily a New Holland Company business but has expanded to other lines due to the economy and it is required by the dealers to have signage displayed. Mr. McCaffney stated they would like to put the second sign as close as possible to the New Holland sign, but cannot add another dealer to the existing New Holland sign. Mr. McCaffney stated Mr. Hetrick has a letter from New Holland stating they cannot tie into the New Holland sign and five letters from neighbors stating they have no opposition to the second sign.

Member Roth asked if the sign will be lit and Mr. McCaffney stated yes, internally.

Member Jablonski asked about the square footage. Mr. Hetrick stated about 108 square foot combined, the New Holland sign is about 52 square foot. Senior Building Inspector Belson stated 72 square foot is allowed. Mr. Hetrick stated a sign is very important to his business and feels this has been designed very well.

Member Loiars asked what would be a breach of paragraph 16 that is referred to in the letter from New Holland. Mr. Hetrick stated tying into the New Holland sign that is part of his dealer agreement that he renews yearly with New Holland.

Attorney Seaman asked how his business is different than other businesses as many businesses request a second sign and cannot recall in recent history, any being approved. Mr. Hetrick stated he realizes there are regulations and he feels he has a serious need.

Attorney Seaman advised the Board that if the ZBA gives a variance to one business and deny others which are similar situated for this sign and denies similar requests for more than one free standing sign, the courts may hold that the ZBA is arbitrary in its decisions.

Mr. Hetrick claimed that he sells more than one line of equipment, so he is different. Attorney Seaman questioned what made the applicant's situation different from numerous other businesses that sell products made by different manufacturers. Mr. Hetrick stated he feels his issue is unique as he is selling multiple lines.

Member Jablonski asked what happens with the KIOTE dealership if the second sign is not approved. Mr. Hetrick stated it is part of the dealership agreement and he will have to go back to the dealership to see what they have to say.

Member Bartus asked if the New Holland sign could be added to the KIOTE sign and Mr. Hetrick stated he had recently paid \$14,000 for the New Holland sign, even though the company owns it, he has to pay for it, and he could put the name on the building, but not the logo and the building is over 100' from the road and very high up.

Member Loiars asked what would happened if he attached to the New Holland sign and Mr. Hetrick stated he didn't know, but he has the letter saying he can't and he is sure there would be repercussions.

Member Bartus stated he feels New Holland should be contacted to see what options they will allow.

Chairman Lederhaus asked for Public Comment. Hearing none, Chairman Lederhaus closed the Public Hearing.

MOTION made by Member Loiars, seconded by Member Dahlquist to deny the area variance to JR2 Enterprises at 4060 Lake Avenue based on:

1. The sign will produce an undesirable change in the character of the neighborhood as no other business is allowed two free standing signs;
2. The benefit sought by the applicant can be achieved by another feasible method such as putting up a different sign;
3. The requested variance is substantial as it doubles the allowable signage;
4. The proposed variance will have an adverse effect on the physical and environmental conditions in the neighborhood as it will proliferate other requests for free standing signs; and
5. The difficulty was self-created as there is the ability to modify the existing sign.

2 Ayes, 3 Nays (Chairman Lederhaus, Member Jablonski and Member Bartus),
Defeated.

Member Jablonski stated he still feels there is an equitable solution somewhere as they are trying to better the business and would like Mr. Hetrick to come back with an alternative plan as we would like business to stay in the Town. Mr. Hetrick stated he will work on something and requested the Public Hearing be reopened so he can look at other options to be presented at the next meeting.

MOTION made by Member Jablonski, seconded by Member Bartus to reopen the Public Hearing to give Mr. Hetrick, President of RJ2, the opportunity to pursue other options. 5 Ayes, 0 Nays, Carried.

CASE #2 **6187 Raymond Road – SBL #152.00-13.122 – James Carney –** Requesting an area variance to construct a 24 x 38' detached garage located in front of the residence. Mark Glynn from Glynn Engineering presenting. Mr. Glynn apologized on Mr. Carney's behalf for his absence due to a friend passing away. Mr. Glynn showed a map of Mr. Carney's property which is in excess of 20 acres and stated he would like to construct a 3 car detached garage that would be 24' deep and 38' wide with the door open to the north.

Chairman Lederhaus opened the Public Hearing.

Mr. Glynn stated the current 1 car attached garage opens to the west, which is an issue with the wind. Mr. Glynn presented a packet of photos of other homes and garages within a half mile of Mr. Glynn's property showing one with an accessory building in front of the building, one with a two car garage with frontage for the garage the same as the house and one with the garage in front, demonstrating this will be keeping with the neighborhood. Mr. Glynn stated Mr. Carney purchased the home, he did not build it and he only maintains the grass around the property as there is 700' of frontage. Mr. Glynn stated the side facing the road will be brick and the other sides will be vinyl.

Chairman Lederhaus asked how high the garage will be and Mr. Glynn stated single story, about 16 to 17'.

Member Jablonski asked how large the existing house is and Mr. Glynn stated about 2000 square feet. Mr. Glynn stated the new garage will butt up to the existing garage with the back even with the house.

Member Loiars asked if there will be gutters and Mr. Glynn stated yes. Member Loiars asked if there will be anything combustible and Mr. Glynn stated he doesn't believe so.

Member Jablonski asked if there will be a business there and Mr. Glynn stated no, Mr. Carney is a retired gentleman.

Member Dahlquist asked if there will be electric and Mr. Glynn stated yes.

Member Loiars asked if there will be plumbing and Mr. Glynn stated no.

Chairman Lederhaus asked for Public Comment. Hearing none, he closed the Public Hearing.

MOTION made by Member Loiars, seconded by Member Jablonski to grant an area variance under Town Law 267b to Mark Glynn of Glynn Engineering on behalf of James Carney at 6187 Raymond Road to construct a 24 x 38' detached garage in front of the residence based on the following findings:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties;
2. The benefit sought by the applicant cannot be achieved by any other feasible method;
3. The requested area variance is not substantial;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and
5. The difficulty was not self-created.

5 Ayes, 0 Nays, Carried.

MOTION made by Member Bartus, seconded by Member Dahlquist to approve tonight's decisions. 5 Ayes, 0 Nays, Carried. The next Zoning Board of Appeals meeting will be November 22, 2011 at 7:00 pm.

MOTION made by Member Dahlquist, seconded by Member Bartus to adjourn. 5 Ayes, 0 Nays, Carried.

**BY ORDER OF THE TOWN OF LOCKPORT
ZONING BOARD OF APPEALS**