

TOWN OF LOCKPORT
ZONING BOARD OF APPEALS
November 22, 2011

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

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

ABSENT: Kevin Roth, Alternate

The November 22, 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 that Alternate Member Roth is absent.

MOTION made by Member Loiars, seconded by Member Dahlquist to approve the October 25, 2011 minutes. 5 Ayes, 0 Nays, Carried.

CASE #1 **5285 Upper Mountain Road – SBL #108.00-1-44.1 – Thomas Dickey –**
Requesting a use variance to construct a 50 x 60' metal building for storage as an accessory use to the residential home. Thomas Dickey presenting.

Chairman Lederhaus opened the Public Hearing.

Mr. Dickey stated he has 13+ acres and would like to put a pre-manufactured building quite a distance from any border on the property, which is located in a B1 district.

Attorney Seaman noted this is a pre-existing residential use in a B1 district and that the application is for a residential use accessory structure without intent to use for business purposes.

Chairman Lederhaus asked if the building will have plumbing and electric. Mr. Dickey stated electric and plumbing for water.

Member Dahlquist asked if there will be a concrete floor and Mr. Dickey stated yes.

Member Loiars asked what the building will be used for. Mr. Dickey stated cars, a trailer and things sitting outside on his property. Member Loiars asked what the

other storage buildings on the property are used for and Mr. Dickey stated his workshop and kids toys.

Member Loiars asked if anything is grown there and Mr. Dickey stated no, there used to be a farmer who leased some of the property, but he no longer does.

Member Jablonski asked how Mr. Dickey will access the building. Mr. Dickey stated he will extend his existing driveway.

Member Loiars asked if the neighbors had been notified and Senior Building Inspector Belson stated yes.

Member Dahlquist asked how high the building will be and Mr. Dickey stated 14' high with about 21' at the center.

Attorney Seaman asked what the distance of the building is from the lot lines and Mr. Dickey stated that the distances are shown as part of the application.

Member Loiars asked about the doors. Mr. Dickey stated there would be a 12' wide overhead door and 2 man doors.

Attorney Seaman asked if there will be outside lighting and Mr. Dickey stated one security light on outside that would probably be on a motion sensor and not more than 250 watts.

Member Loiars asked how far back the building will be from the existing driveway and Mr. Dickey stated approximately 150'.

Chairman Lederhaus asked what color the building will be and Mr. Dickey said he is considering burgundy or possibly tan, nothing bright and probably split block up 4'.

Member Loiars asked if there will be gutters and Mr. Dickey stated yes.

Chairman Lederhaus asked for Public Comment.

Chris Kneoppel of 5293 Upper Mountain Road stated he does not believe Mr. Dickey meets the requirements for a use variance in that no hardship has been shown and other conditions for a use variance are not demonstrated by the applicant. Mr. Kneoppel stated he lives on the east side of Mr. Dickey. He asked that if the board grants a variance that conditions be established that no animals may be kept in the building.

Attorney Seaman asked Mr. Kneepel what his objection is to the project. Mr. Kneepel stated he doesn't believe the building will be used for the purpose Mr. Dickey is presenting and believes Mr. Dickey is currently keeping animals on his property, but agreed that he only suspects this and has no proof of it. Attorney Seaman stated if Mr. Dickey decides to construct the building for a commercial use, he won't need a variance. Mr. Kneepel stated he understands that and has no other objection except that he does not want farm animals on the property.

Attorney Seaman asked Mr. Dickey about how far from Mr. Kneepel's property line the building will be and Mr. Dickey stated about 150 - 200'. Attorney Seaman asked Mr. Kneepel how far his house is from the property line and Mr. Kneepel stated about 75' and it sits back about the same as Mr. Dickey's.

Member Loiars asked Mr. Kneepel if he has seen animals in Mr. Dickey's current garage and Mr. Kneepel stated he has never been in it, and has not seen animals.

Attorney Seaman noted that in 2003 the applicant had livestock and Mr. Kneepel appeared to complain, and the livestock were removed. Member Bartus asked if these are the same owners and Attorney Seaman stated yes.

Member Loiars noted this is a very large building and asked which way the doors will face. Mr. Dickey stated Upper Mountain Road.

Chairman Lederhaus asked for any additional comments. Hearing none, Chairman Lederhaus closed the Public Hearing.

Attorney Seaman suggested reserving decision to go into executive session later for attorney consultation regarding various legal issues. Mr. Dickey was told he would have his decision at the 12-7-11, 11:30 am meeting.

CASE #2 4060 Lake Avenue – SBL #81.00-3-6.2 JR2 Enterprises, LLC – Returning to request an area variance to install an additional free-standing sign exceeding the permitted square footage. Keith Hetrick, President of JR2 Enterprises presenting.

Chairman Lederhaus stated the Public Hearing remains open.

Mr. Hetrick stated he went to New Holland and proposed an attached sign and they denied him and sent him the information on why he can't, it's in his dealer agreement. Received as Exhibits "A", "B" and "C", paperwork from New Holland noting that New Holland owns the sign and pole and no other signs can

be attached. Mr. Hetrick stated this is a hardship for him as he needs the sign to do business.

Member Jablonski asked if the KIOTE agreement reads the same way. Mr. Hetrick stated it is the same type of agreement where you get a percentage off of your dealer costs depending on certain conditions including signage. Member Loiars questioned how the discount works. Mr. Hetrick stated if you meet dealer standards, you get a discount, so it is important for him to meet the standards to be able to stay in business. Mr. Hetrick stated he paid \$9,000 for the sign, but it is still only leased.

Member Jablonski asked Mr. Hetrick when he purchased the business and he stated it will be 7 years next month and the New Holland sign was put up in 2009 and he made a big investment at that time.

Attorney Seaman asked if New Holland and KIOTE are competitors and Mr. Hetrick stated yes. Attorney Seaman asked if they have to approve him offering competing products. Mr. Hetrick stated no, but they won't let him attach the KIOTE sign. Mr. Hetrick stated to meet highest dealer discount he needs 100 points and the sign is about 15 points, so it would cost him not to have it.

Attorney Seaman asked Mr. Hetrick what differentiates him from other businesses in the Town with multiple lines. Mr. Hetrick stated there is nothing unique to his business that he knows of.

Chairman Lederhaus asked if co-locating the sign would be possible and Mr. Hetrick stated he could incorporate the signs into one free standing sign, but that would cost him substantially.

Mr. Hetrick stated he has avadavats from all his neighbors stating they have no objections. Member Loiars noted that other businesses may come to the Board requesting multiple free standing signs if he is approved. Member Jablonski agreed that other businesses will also want an exception.

Hearing no further comment, Chairman Lederhaus closed the Public Hearing.

MOTION made by Member Jablonski, seconded by Member Dahlquist to reserve decision until 12-7-11 meeting. 5 Ayes, 0 Nays, Carried.

MOTION made by Member Jablonski, seconded by Member Bartus to go into executive session for the purpose of consulting with legal counsel on various legal issues. 5 Ayes, 0 Nays, Carried.

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MOTION made by Member Jablonski, seconded by Member Dahlquist to come out of executive session. 5 Ayes, 0 Nays, Carried.

MOTION made by Member Jablonski, seconded by Member Bartus to hold the next Zoning Board of Appeals meeting on December 7, 2011 at 11:30 pm. 5 Ayes, 0 Nays, Carried.

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

BY ORDER OF THE TOWN OF LOCKPORT

ZONING BOARD OF APPEALS