

**Town of Erwin
Zoning Board of Appeals Meeting
And
Public Hearing**

October 22, 2013

Present: Ruth Fisher McCarthy Acting Chairman, Susan Fontaine, Kris West, Jody Allen

Absent: Frank Thiel, Jay McKendrick

Guests: Kurt Charland, Wayne Kennedy, David Smith, Dan Lapp, Rita McCarthy

Call to Order:

At 7:00 PM, Vice Chairman Ruth McCarthy called the meeting to order in the meeting room of the Erwin Town Hall, 310 Town Center Road, Painted Post, NY 14870. As is their usual practice, the Zoning Board of Appeals will consider applications up until 9:00 PM, and will continue any unfinished business to the next regular scheduled meeting.

- 1. Request from Shaashwat, LLC for an Area Variance at 3133 Silverback Lane to allow a rear wall sign and total wall signage of 55.8 sq. ft. where no rear sign and 28 sq ft is allowed. Variance of §130-81.B.1.j, §130-81.B.3.d, §130-81.B.14.b, and Table 130-81-1 is requested. With Public Hearing.**

Notification of this action was sent to 7 adjacent property owners. A legal notice of this action printed in the Town's official newspaper, The Leader, and in the Star Gazette on October 14, 2013.

The sign variance is a Type II action under the State Environmental Quality Review Act. ***No SEQR action is required.***

The property is located in R-S Regional Service District.

The proposed total wall sign square footage of 56 sq ft where 28 sq ft maximum is allowed.

The applicant seeks to place a 28 sq ft wall sign on the rear of the building.

The proposed signage requires a variance of 2 different criteria within §130-81.

- §130-81.B.1.j prohibits any sign not specifically listed. A rear sign is not listed and therefore is not a permitted sign. Also for signs within a shopping mall, §130-81.B.14.b requires the sign to be oriented toward the interior access road and visible from the parking lot. All the buildings in the ALDIs Plaza face toward ALDIs.
- §130-81.B.3.d requires signs to be in accordance with Table 130-81-1 which allows a total of 28 sq ft of wall signage.

The applicant is seeking a rear sign and relief of 28 sq ft, which is double the allowed sq footage.

This request is for the Tenant space in the Taco Bell building. The Tenant space is half the Taco Bell building.

On April 23, 2013, the ZBA approved a variance for Taco Bell to permit a total of 268 sq ft of wall signage where 150 sq ft was allowed and permitted a rear sign of 25 sq ft.

The application was represented by Kurt Charland of Bergmann Associates. The applicant stated that the front sign complies with the 28 sq ft requirements, and that the requested sign is consistent with the rest of the signage in the area and with the Taco Bell sign. The applicant indicated that the property was unique since the buildings face the interior of their separate plaza, ALDIs, but that traffic entering on Silverback Lane, even with the monument sign at the corner of Silverback and S. Hamilton, would not know where the tenant business is located. The business address is Silverback Lane.

Board member Kris West pointed out that the depiction only represented the tenant signage, not all the signs on the building.

Asked if the sign could be smaller, the applicant indicated that the sign was the standard size that complied with the 28 sq ft requirement. Another size would represent a significant expense.

The sign is internally lit and would stay lit 24 hours/day.

The Chairman opened the Public Hearing at 7:30 pm.

Dan Lapp, 50 Canada Rd, initially was concerned because he believed there were 3 signs. He does not object to 2 signs, with one being on the rear of the building, because of the unique characteristics of the property.

All members from the public wishing to be heard, the Chairman closed the hearing at 7:35 pm.

The Zoning Board of Appeals considered whether the benefit to the applicant if the area variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant. The Zoning Board of Appeals also considered whether:

(1). The requested variance will not produce an undesirable change in the character of the neighborhood:

The Board unanimously finds that the requested variance will not produce an undesirable change in the character of the neighborhood especially if the Verizon sign lines up with the rear Taco Bell wall sign on the other half of the building.

The sign variance is a Type II action under the State Environmental Quality Review Act. ***No SEQR action is required.***

The property is located in R-S Regional Service District.

The applicant is seeking to erect one additional wall sign of 15.8 sq ft. This would bring the total sq ft of wall signage to 488.8 where 150 sq ft is allowed.

On August 28, 2012, the ZBA granted a variance to permit 9 wall signs totaling 473 sq ft on the condition that there shall be no more than 9 wall signs not to exceed 473 sq ft on the basis that such approval would reduce the overall signage on Wal-Mart.

David Smith represented the application. He stated that Wal-Mart limited them to 20 sq ft maximum. Mr. Smith states that there is little or no visibility of Subway from the street. He stated that if a customer enters Wal-Mart on the pharmacy side, they are unaware that this Wal-Mart has a Subway in it.

Granting the requested variance would abrogate the 2012 variance and Wal-Mart would either have to seek a new variance to keep the signs that were permitted in 2012 or would have to reduce all its signage to 150 sq ft.

Mr. Smith was asked if he had talked to Wal-Mart about sharing some of their permitted sign square footage. He stated he just went with the corporate letter.

In order to add additional signage for Subway to the already permitted variance allowance granted to Wal-Mart, the variance application would have to be a joint Subway/Wal-Mart application.

Mr. Smith withdrew his application without prejudice.

Meeting was adjourned by unanimous consent at 8:10 pm.

Minutes Submitted by Acting Zoning Board Secretary

Rita Y. McCarthy