

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

January 28, 2014

Present: Chairman Frank Thiel, Ruth Fisher McCarthy, Susan Fontaine, Kris West, Jay McKendrick, Alternate Jody Allen

Absent:

Guests: Blaine Westervelt, Hemant Patel, Wayne Kennedy, Brian Polmenteer, Rita McCarthy

Call to Order:

At 7:00 PM, Chairman Frank Thiel 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.

Minutes of the December 17, 2013 were approved by unanimous consent.

- 1. Request from Painted Post Lodging LLC for an Area Variance at 9775 Victory Highway to allow a rear wall sign and total wall signage of 79 sq. ft. where no rear sign and 38 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 8 adjacent property owners. A legal notice of this action printed in the Town's official newspaper, the Star Gazette, and in The Leader on January 19, 2014.

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.

Although the legal notice and agenda state that this is a variance to exceed total wall signage allowed, there is currently 39 sq ft of wall signage on the building. The total permitted wall signage is 150 sq ft. This request is to place an additional 39 sq ft of wall signage for a total of 78 sq ft. This is within the permitted square footage, and therefore no variance for square footage is required.

Since the legal notice was for a greater variance than is actually being sought, there is no requirement to reprint the notice.

The applicant seeks to place a 39 sq ft wall sign on the rear of the building.

Section 130-81.B.14.a requires the sign to be oriented toward the local road, i.e. Route 415.

Hemant Patel represented the application.

As a hotel, the current business has NYS Department of Transportation Tourist Destination Signs (TOD blue signs on the highway) and “trailblazers” at the end of the ramp pointing to the hotel.

Mr. Patel explained that he recently made a significant investment in the property, and the sign facing the highway makes the business identifiable to I-86 travelers, allowing more guests to spend money in the community. Mr. Patel expressed his opinion that travelers pass the TOD sign too fast and having this additional sign gives them a second chance to get off the highway and patronize the business.

Kris West asked Mr. Patel how much of his business is spontaneous, i.e. people who did not make a reservation. Mr. Patel stated that it is shrinking, representing approximately 30%, but that it is critical during the peak periods.

Ruth McCarthy noted that the property is unique because it is set back from Victory Highway, patrons must cross Denny’s property to access the hotel, and there is no room for the hotel to have a monument sign on Route 417.

It was noted that even if the sign does attract “walk-ins” it is not visible from the east. Mr. Patel noted that the sign was designed to be proportional to the space, would be backlit, and will not flash.

The Chairman opened the Public Hearing at 7:15 pm.

Wayne Kennedy, 202 Forest Drive, pointed out that the exit is short, and you would pass the exit before you recognized you missed it.

All members from the public wishing to be heard, the Chairman closed the hearing at 7:16 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:

A majority of the Board finds that the requested variance will not produce an undesirable change in the character of the neighborhood and cited the uniqueness of the property. One member finds that the requested variance will produce an undesirable change in the character of the neighborhood as envisioned by the Comprehensive Plan and the enacted zoning law.

(2). The requested variance will not create a detriment to nearby properties.

A majority of the Board finds that the requested variance will not create a detriment to nearby properties. The property is unique in that it does not have direct access to the local arterial, Victory Highway, is not visible from Victory Highway, and does not have a sign where the only access to the property, a pri-

vate right of way, intersects the local arterial. Two Board members find that it will create a detriment by setting a precedent and encouraging others to seek a non-compliant, rear-facing sign.

(3). There is no other feasible method available for the Applicant to pursue to achieve the benefit the Applicant seeks other than the requested variance.

A majority of the Board finds that there is a feasible, alternative method to achieve the benefit sought by the applicant. The benefit sought is to reach the estimated 30% of travelers who make a spontaneous decision to stay at the hotel without an advance reservation. The Board finds that the NYSDOT blue tourist destination sign (TOD) is the first sign the traveler will see, and that sign will be the tool that will attract that customer. One Board member finds that a rear facing sign on the building at the highway exit is the feasible method to attract such travelers.

(4). The requested area variance is not substantial.

The Board unanimously finds that the requested variance is substantial in that it would allow a sign where no sign is allowed by the Town's statute.

(5). The variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The Board finds unanimously that the requested variance will not have an adverse effect or impact on the physical or environmental conditions. The sign does not flash and poses no environmental threat.

(6). The alleged difficulty was not self-created (this consideration shall be relevant but shall not necessarily preclude the grant of the area variance).

A majority of the Board finds that the difficulty was self-created in that the applicant desires to have a sign that is not permitted by the Town's statute. Two Board members find that the statute changed after the hotel was established, and the applicant only found it acceptable to establish his business in the present location where there is no visibility or designation of the entrance to the property from the local arterial under the previous statute, which allowed a rear-facing sign.

RESOLUTION to deny the application to allow a rear facing sign where no rear sign is allowed on the basis that there is another feasible method to achieve the benefit sought by the applicant, the requested variance is substantial, and the difficulty is self created as supported by the findings of the Board.

Moved by: Frank Thiel

Motion failed for lack of a second.

RESOLUTION to approve application 2014-01 to allow a 3 ft 1 inch by 18 ft 7 inch rear-facing sign where no rear-facing sign is allowed on the basis of the uniqueness of the property which has no visibility from the local arterial and no designation of the entrance on the local arterial; and the findings of the Board that the requested variance is not a detriment to nearby properties, does not create an undesirable change in the neighborhood, and has no negative impact on the physical or environmental conditions.

Moved by: Ruth Fisher-McCarthy seconded by: Jay Mckendrick

Frank Thiel offered the amendment that such approval shall apply solely to the Holiday Inn Express business and that any change in the business or the franchise shall nullify the variance approval.

Ruth Fisher-McCarthy and Jay McKendrick each accepted the amendment.

The amended resolution was approved by vote of 4 in favor, 1 opposed (Thiel).

2. Request from Polmanteer Sales and Service d/b/a T & R Towing for an Area Variance at 691 Addison Road to allow a wall sign 18' high where 15' is allowed. Variance of §130-81.B.3.d and Table 130-81-1 is requested. With Public Hearing.

Notification of this action was sent to 12 adjacent property owners. A legal notice of this action printed in the Town's official newspaper, the Star Gazette, and in The Leader on January 19, 2014.

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 a B-3 Neighborhood Services zone.

The applicant is seeking to place a wall sign at a height of 18 ft where only 15 ft is allowed. The applicant is seeking a variance of 3 ft.

The application was represented by Brian Polmanteer. The building is 25 ft high; the sign would be 18 ft high. Mr. Polmanteer indicated he was making site changes, and wanted to get rid of the junkyard look. He stated that the former owner's hold of the lease will expire in 6 months. Mr. Polmanteer did not have a specific depiction of the sign nor an explanation as to why the sign could not be erected over the door at the permitted height. Mr. Polmanteer indicated that placing the sign over the door was something the franchiser wanted him to pursue.

By unanimous consent, the Board tabled the application until more detailed drawings were produced depicting the dimension of the sign in relation to specific dimensions of the building. The Board requires additional information before the application can be considered.

Meeting was adjourned by unanimous consent at 7:55 pm.

Minutes Submitted by Acting Zoning Board Secretary

Rita Y. McCarthy