

TOWN OF ERWIN

Zoning Board of Appeals

MINUTES 03/22/16 MEETING

PRESENT: Chairman Frank Thiel, Ruth Fisher McCarthy, Jay McKendrick, Angela Narasimhan, Bridget Ackerman
ABSENT: Kris West
GUESTS: Jerry Picarazzi, Maria Marzo Brown, Gary Brooks, Rita McCarthy, Barbara Lucas

CALL TO ORDER:

At 7:00 PM, Chairman Thiel called the meeting to order in the meeting room of the Erwin Town Hall, 310 Town Center Road, Painted Post, NY, 14870.

MINUTES:

The Minutes of October 27, 2015 meeting were approved by a vote of 5-0.

The minutes of the December 15, 2015 meeting were approved, as corrected, by a vote of 3-0.

2016-01

Request from Dr. Maria Marzo for an Area Variance at 275 South Hamilton St. to allow 65% lot coverage where 60% maximum is permitted. Variance of §130-14 and Appendix B - Density Control Schedule is requested. With Public Hearing

Notification of this action was sent to 14 adjacent property owners. A legal notice of this action printed in the Town's official newspaper, the Star Gazette on March 13, 2016, and in The Leader.

The application is the subject of a Planning Board action. The Planning Board will declare itself Lead Agency under the State Environmental Quality Review Act. *No SEQRA action by the Zoning Board of Appeals is required.*

The property is located in B-1 Business Commercial Zone.

The lot with the existing building is currently 73% covered. The Density Control Schedule allows 60% coverage. The applicant will be demolishing the existing structure and building new. Therefore, the applicant would have the opportunity to cure the current, pre-existing non-conforming condition.

Based on the proposed site plan design, the applicant is requesting to allow 65% coverage where 60% is permitted, seeking a 5% relief.

The application was presented by Jerry Picarazzi. The applicant was in attendance. Dr. Marzo noted that a variance of lot coverage had been granted previously for the same project. The variance had expired due to unforeseen complications. Since that time, the building design had changed and she seeks a smaller variance.

The Zoning Board Members reviewed the findings of the previously granted variance.

There being no written comments submitted and no persons present to comment from the floor, the Chairman did not open a public hearing.

The ZBA considers the Area Variance application and the public comment and makes findings on each of the Area Variance criteria:

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

All members agree the variance will not produce an undesirable change. The proposed coverage is less than preexisting.

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

All members agree the variance will not be a detriment. The change would be an improvement.

(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.

All members agree there is no other feasible method available. The applicant stated that the size of the building footprint is the minimum necessary to accommodate her business use and required parking.

(4) The requested area variance is not substantial.

All members agreed that it is not substantial.

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

All members agree the variance will not have an adverse effect or impact. Possible impact on drainage is being addressed by Fagan Engineers.

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

All members agree the alleged difficulty was self-created but irrelevant.

RESOLUTION TO APPROVE APPLICATION 2016-01 FROM DR. MARIA MARZO TO ALLOW 65% LOT COVERAGE WHERE 60% IS PERMITTED

MOTION: RUTH FISHER McCARTHY

SECONDED: BRIDGET ACKERMAN

DISPOSITION: 5-0

2016-02

Request from Dr. Maria Marzo for an Area Variance at 275 South Hamilton St. for an area variance to allow a variable front yard setback of 0-26 ft where a zero front yard setback is required. Variance of §130-89.D, §130-89.D.A.i and Appendix B - Density Control Schedule is requested. With Public Hearing

Notification of this action was sent to 14 adjacent property owners. A legal notice of this action printed in the Town's official newspaper, the Star Gazette on March 13, 2016, and in The Leader.

The application is the subject of a Planning Board action. The Planning Board will declare itself Lead Agency under the State Environmental Quality Review Act. *No SEQR action by the Zoning Board of Appeals is required.*

The property is located in B-1 Business Commercial Zone.

Section 130-89 Design Standards for Selected Districts establishes a zero front yard setback for businesses in the B-1 Commercial District. The applicant's property line 68.24 feet from the former alignment of S. Hamilton Street. The former roadway is now an access easement to the adjacent property. The former roadway is another 25 feet from the Right of Way (ROW) to the current S. Hamilton Street. Therefore, the applicant's property line is 93.24 feet from the current road ROW at its closest distance. The current road is curved, while the property line is straight horizontal. The distance of the property line to the current road ROW varies from 93.24 feet to 180 feet.

The applicant seeks to build a new structure angled to mirror the curvature of the current road as compared to the property line. This would create a front yard setback that varies from 0 to 26 feet.

The applicant seeks relief of 0 to 26 ft.

Dr. Marzo, the applicant, noted that a similar variance had been granted previously for the same project.

Testimony indicated that the designated setbacks on the application ranging from 3.7 feet to 31 feet were not required, because the burial of utilities allowed the structure to be partially within the NYSEG easement. The ZBA therefore considered the request to be for setbacks ranging from zero to 26 feet.

There being no written comments submitted and no persons present to comment from the floor, the Chairman did not open a public hearing.

The ZBA considers the Area Variance application and the public comment and makes findings on each of the Area Variance criteria:

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

All members agree the variance will not produce an undesirable change. The change is desirable because the front of the structure would be aligned with S Hamilton Street.

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

All members agree the variance will not be a detriment.

(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.

All members agree there is no other feasible method available.

(4) The requested area variance is not substantial.

All members agreed that it is substantial, but irrelevant. .

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

All members agree the variance will not have an adverse effect or impact.

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

All members agree the alleged difficulty was self-created but irrelevant.

RESOLUTION TO APPROVE APPLICATION 2016-02 FROM DR. MARIA MARZO TO ALLOW A VARIABLE FRONT YARD SETBACK OF 0' TO 26'

**MOTION: BRIDGET ACKERMAN
SECONDED: ANGELA NARASIMHAN
DISPOSITION: 5-0**

2016-03

Request from Dr. Maria Marzo for an Area Variance at 275 South Hamilton St. to allow a wall sign 19 ft above grade where 15 ft is permitted. Variance of §130-81.B.3.d and Table 130-81-1 is requested. With Public Hearing

Notification of this action was sent to 14 adjacent property owners. A legal notice of this action printed in the Town's official newspaper, the Star Gazette on March 13, 2016, and in The Leader.

The application is the subject of a Planning Board action. The Planning Board will declare itself Lead Agency under the State Environmental Quality Review Act. *No SEQR action by the Zoning Board of Appeals is required.*

The property is located in B-1 Business Commercial Zone.

Table 130-81-1 states that no wall sign shall not be located higher than, nor exceed 15 feet or project above the first floor whichever is lower.

The applicant seeks to place a wall sign at 19 ft.

The applicant seeks relief of 4 ft.

Dr. Marzo, the applicant, explained that for aesthetic reasons, she would like to have the sign centered vertically on the marquee area of the building face. She noted that due to the difference in elevation between her property and neighboring properties, the sign would be higher than allowed with respect to the ground on her property but would be at a similar elevation to signs on neighboring businesses.

There being no written comments submitted and no persons present to comment from the floor, the Chairman did not open a public hearing.

The ZBA considers the Area Variance application and the public comment and makes findings on each of the Area Variance criteria:

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

All members agree the variance will not produce an undesirable change. Although there are no known, non-compliant signs, the unique, lower elevation of the property means that the higher sign would be at a similar elevation to neighboring compliant signs.

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

All members agree the variance will not be a detriment.

(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.

Four members agreed that there are feasible alternatives. One member voted that alternatives would not achieve the same benefit due to the unique conditions of the property.

(4) The requested area variance is not substantial.

All members agreed that it is substantial, but irrelevant. .

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

All members agree the variance will not have an adverse effect or impact.

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

All members agree the alleged difficulty was self-created but irrelevant.

RESOLUTION TO APPROVE APPLICATION 2016-03 FROM DR. MARIA MARZO TO ALLOW A WALL SIGN 19 FT ABOVE GRADE WHERE 15 FT IS PERMITTED

**MOTION: JAY McKENDRICK
SECONDED: RUTH FISHER McCARTHY
DISPOSITION: 5-0**

THE MEETING WAS ADJOURNED BY UNANIMOUS CONSENT.