

TOWN OF ERWIN

Zoning Board of Appeals

MINUTES 05/26/15 MEETING

PRESENT: Chairman Frank Thiel, Bridget Ackerman, Jay McKendrick, Kris West,
Angela Narasimhan
ABSENT: Ruth Fisher McCarthy
GUESTS: Tiffany Treadwell, Jeff Treadwell, Douglas Wicks, Barbara Lucas

CALL TO ORDER:

At 7:01 PM, Chairman Frank Thiel called the meeting to order in the 2nd floor meeting room of the Erwin Town Hall, 310 Town Center Road, Painted Post, NY 14870.

MINUTES:

Minutes of the 2/24/15 meeting were approved.
Minutes of the 4/28/15 meeting were approved.

2015-02

REQUEST FROM THE LIQUOR FACTORY FOR AN AREA VARIANCE AT 285 S HAMILTON STREET TO ALLOW TWO WALL SIGNS WHERE ONE IS ALLOWED. VARIANCE OF §130-81.B.3.a, §130-71.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 on May 17, 2015, and in The Leader.

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-1 Business Commercial Zone.

The Applicant seeks to establish two wall mounted signs where only one wall mounted sign is allowed.

Therefore, the Applicant is requesting a variance of one additional wall sign.

The Applicant completed an area variance application for the 9-23-14 ZBA meeting, to allow three wall signs where one is permitted. As no one appeared for the Applicant at that meeting, the application was deemed to be withdrawn without prejudice.

The 9/3/14 Planning Board approval of the Site Plan Application, as a condition of approval, limited the number of signs to two signs.

The Applicant has indicated there is no intent to erect a monument sign. If a monument sign were to be erected, an additional area variance would be required to erect three signs where 2 are permitted.

At the April 28, 2015 Zoning Board of Appeals meeting, there was an Area Variance Application to allow two wall signs. There was some uncertainty as to whether the applicant intended the sign be oriented to the back of the property. The application was tabled pending clarification by the applicant.

The present application states that the one sign will be placed on the façade facing S. Hamilton Street. The request for the second wall sign is to be placed on the west (south) façade, facing the direction of the adjacent Street of Shops, where the current Liquor Factory is located.

The application was presented by Jeff and Tiffany Treadwell. The Treadwells are requesting a second wall sign in place of the allowed monument sign in order to provide better visibility from the southeast approach on South Hamilton Street.

Member Kris West asked if there are any unique conditions which make compliance difficult.

The Treadwells noted that the design and orientation of the building, combined with the curvature of the roadway, results in poor visibility of the front façade wall sign from the southeast direction. A monument sign would not be clearly visible from the southeast direction because of the clutter created by numerous signs, utility poles, mailboxes and large trucks which park in the neighboring lot. A second wall sign facing toward the southeast would provide better visibility.

The Treadwells questioned why several neighboring businesses had multiple wall signs in addition to monument signs.

It was noted that in some cases the signs predate the existing code and are therefore allowed. In other cases, the signs are not allowed and are subject to action by the Code Enforcement Officer.

Member Kris West noted that the “factory” shape and design of the building achieves good visibility without a sign.

The Treadwells noted that the actual product being sold is not defined by the shape of the building.

CHAIRMAN THIEL OPENED THE PUBLIC HEARING AT 7:25 PM.

The following email comment, from Suzi McKendrick, RN, Behavioral Science Unit/Alcohol Rehab Unit, Arnot Health/St. Joseph's Hospital was read into the record:

It is my opinion that a second sign for The Liquor Factory is unnecessary and potentially unsightly. The business is doing well as evidenced by the new, larger building and the structure is enough of a monstrosity that it will attract plenty of attention. Erwin is a pleasant town with few problems and a low crime rate. Further more, as a psych and addiction Nurse, it is my educated opinion that to attract a larger sampling of people to this area in the midst of an uncontrollable drug and alcohol epidemic across Steuben, Chemung, and Schuyler counties is an invitation for more crime and an undoubtedly larger number of impaired and/or drunk drivers; both of which present safety issues to family's living in this community. To become known as a destination for a liquor store is not what Erwin needs to be or should be known for.

In closing I hope the board will consider three facts when making their decision: that this business is already well established, it does not need to stand out more than it already does amongst the other businesses in Erwin or in the scheme of the town plan, and the impact to the quality and standards of life that are possible.

CHAIRMAN THIEL CLOSED THE PUBLIC HEARING AT 7:27 PM.

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 agreed that the variance would produce an undesirable change with respect to compliant properties. It was noted that the code was designed to reduce the visual clutter.

(2) THE REQUESTED VARIANCE WILL NOT CREATE A DETRIMENT TO NEARBY PROPERTIES.

Three members agreed that the variance would not create a detriment while two members felt that if one variance were granted that many others would want the same variance which would be detrimental.

(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 agreed that a monument sign is an alternative which would not require a variance.

(4) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL.

After a change in vote, three members decided that the variance was not substantial because the total signage area of two wall signs would be similar to, actually slightly less than, the allowed area for a wall sign and monument sign. Two members decided that the variance represented a 100% increase in the number of wall signs and was therefore 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 agreed that there would be no adverse effects.

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 agreed that the difficulty was self-created.

MOTION TO DENY THE VARIANCE REQUEST BASED ON THE FINDINGS ON THE AREA VARIANCE CRITERIA.

MOVED: JAY McKENDRICK

SECONDED: BRIDGET ACKERMAN

VOTE: 5-0

THE MEETING WAS ADJOURNED BY UNANIMOUS CONSENT AT 7:45 PM.