

TOWN OF ERWIN

Zoning Board of Appeals

MINUTES 12/15/15 MEETING

PRESENT: Ruth Fisher McCarthy, Jay McKendrick, Angela Narasimhan, Kris West
ABSENT: Chairman Frank Thiel, Bridget Ackerman
GUESTS: David Dutcher, Andy Dutcher, Jennifer Rice, Peter Bierwiler, Rita McCarthy, Barbara Lucas

CALL TO ORDER:

At 7:03 PM, Vice Chairman McKendrick 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 have not been adopted.

2015-09

Request from Forest View Gang Mills Fire District for an Area Variance at 125 Forest Drive to allow a sign 6 ft 4 in by 5 ft 8 in, where 4 ft by 4 ft 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 **58** adjacent property owners. A legal notice of this action will print in the Town's official newspaper, the Star Gazette on December 6, 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 an R2.5 Residential Zone.

The applicant has submitted a revised plan and seeks to establish an LED sign which is 6' 3.4" high and 5' 7.2" wide. Per Table 130-81-1 Schedule of Signs, the maximum sign allowed in a residential district is 4 ft high by 4 ft wide.

Therefore, the applicant is seeking relief of an additional 2' 3.4" in height and 1' 7.2' in width.

The submittal does not indicate if the LED is a mobile message, nor its intensity. Section 130-81.B.11 states:

Illumination of signs shall not be intermittent/flashing or of varying intensity and may not produce glare beyond the limits of the property lines.

In 2005, when considering the Victory Highway Wesleyan Church sign, located in a Multi-Use District on State route 415, the Board allowed a 5' high by 12' wide where 8' high by 4' wide was allowed, and imposed the following conditions:

Required conditions to mitigate the effect of the variance: There will be no flashing, blinking or scrolling (i.e. traveling or rolling) aspect to the sign. The message will change no more frequently than every 30 minutes. The sign will be no higher than 5 feet.

Andy Dutcher, Commissioner of the Forest View Gang Mills Fire District, presented the application. Mr. Dutcher noted that the Fire Department is a community based organization and the sign would be used for communication of both community information and Fire Department information including: safety messages, voting place information, community events and announcements.

Fire Chief Peter Bierwiler noted that the fire station is also a Red Cross emergency center and the sign would be used to convey information during public emergency situations.

Commissioner Dutcher noted that, considering the substantial cost of the sign, the Fire District is concerned that placing restrictions on how the sign is used may force the District to save taxpayers \$25000 and eliminate the sign.

Vice Chairman McKendrick asked if the proposed size of the sign would provide adequate visibility from the road. Mr. Dutcher indicated that it would.

Member Kris West asked if there was information available concerning lighting details of the sign and the intensity.

Mr. Dutcher noted that he had no information available but could provide it if required.

It was determined that the proposed location of the sign would eliminate the possibility of glare reaching beyond property lines.

Member Kris West asked if the Fire District planned to have the sign on 24/7.

Mr. Dutcher responded that the Fire District intended to keep the sign on at all times.

Member Kris West noted that while she is sympathetic to the fact that the sign will be used as a public information board, she is concerned with the effect of a lighted sign in a residential area which is on 24/7.

Vice Chairman McKendrick opens the public hearing at 7:14 PM.

Jennifer Rice, 1 Jacob Drive, Painted Post, expressed concern that the sign might interfere with visibility along the road. She noted no objection after learning that the sign would be located 35 feet from the centerline of the road.

Vice Chairman McKendrick closes the public hearing at 7:20 PM.

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

Prior to completing the findings, further discussion of several issues resulted in a second polling of members. Results of the second polling are noted after the discussion.

Discussion of the criteria included consideration of the possibility of placing restrictions on the hours of having the sign lit and restrictions of the use of flashing, blinking, scrolling, traveling or rolling lights similar to restrictions imposed on the use of a sign by the Victory Highway Wesleyan Church. The definition of each term and the requirements of the code were discussed.

Chief Peter Bierwiler of the Fire District questioned whether the Fire Station, as a municipal building, was subject to the code.

Town Manager Rita McCarthy noted that the Town Attorney was consulted regarding the definition of a municipal building and whether the Fire Station would qualify as a municipal building. His opinion is that the Fire District is not a government entity. It has its own legislative body and is not governed by the Town. The Fire Station would not be considered a municipal building and is subject to code requirements.

Member Angela Narasimhan questioned whether the Board should be considering anything other than the requested size variance.

It was determined that the request before the Board is for a size variance. It is assumed that all other code requirements will be met. Use of the sign in a way that does not meet code would be a separate action.

A second polling of members concerning Area Variance criteria yielded the following results:

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

- Jay McKendrick - No, not an undesirable change.
- Ruth Fisher McCarthy - Yes, sign will produce an undesirable change where none currently exist.
- Angela Narasimhan - No, not an undesirable change if can be turned off.
- Kris West - No, not an undesirable change except if lit 24/7.

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

- Jay McKendrick - Will not create a detriment
- Ruth Fisher McCarthy - Will create a detriment
- Angela Narasimhan - Will not create a detriment
- Kris West - Will not create 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.

- Jay McKendrick - No other feasible method, especially during power outage.
- Ruth Fisher McCarthy - Yes, other feasible methods if considering size only
- Angela Narasimhan - No, cannot be achieved with a 4'x4' sign
- Kris West - Yes, other feasible methods, not same benefits

(4) The requested area variance is not substantial.

Jay McKendrick - No, the larger size is offset by the distance from the road.
Ruth Fisher McCarthy - Yes, the variance is substantial.
Angela Narasimhan - No, the variance is not substantial.
Kris West - Yes, the variance is 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.

(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 self-created.

RESOLUTION TO APPROVE APPLICATION 2015-09 FROM THE FOREST VIEW GANG MILLS FIRE DEPARTMENT FOR AN AREA VARIANCE AT 125 FOREST DRIVE TO ALLOW A SIGN 6' 4" BY 5' 8" WITH THE CONDITION THAT THERE WILL BE NO FLASHING, BLINKING OR SCROLLING (I.E TRAVELING OR ROLLING) ASPECT TO THE MESSAGE EXCEPT DURING PUBLIC EMERGENCY SITUATIONS.

MOTION: ANGELA NARASIMHAN

SECONDED: KRIS WEST

DISPOSITION: 4-0

THE MEETING WAS ADJOURNED BY UNANIMOUS CONSENT AT 7:50 PM.