

Minutes of the Village of Williamsville Zoning Board of Appeals meeting held via Zoom on Wednesday, June 17, 2020 at 6:00 p.m.

*This meeting was held virtually due to the NYS Covid-19 lockdown regulations.

Present: Richard Andrews, Chairman
Joseph Frese, Member
James Celeste, Member
Patricia Fulwiler, Member
William Tuyn, Member

Also present: Deborah A. Habes, P/T Clerk
Charles Grieco, Village Attorney
Timothy Master, CEO

Excused: Basil Piazza, Trustee
Matthew Etu, Trustee Liaison to ZBA

ON MOTION by Mr. Celeste, seconded by Ms. Fulwiler, it was moved to approve the minutes of the last ZBA meeting held in October 2019, as submitted.

Unanimously carried. 5 – 0.

Chairman Andrews announced the board would first entertain the applications under New Business and entertain the application under Old Business last.

New Business

ZBA Log #2020-ZBA-2
Area variance

88 Resist St. (R-2)
Owner wishes to add second curb cut onto Resist St. where one is allowed and max. width of 18" is also allowed.

Chairman Andrews opened the public hearing at 6:04 p.m.

Property owner John Baron was in attendance to represent his application.

Mr. Andrews read aloud the items in the file. Notice of the public hearing was published in the Amherst Bee on 2/6/2020 and 6/10/2020.

The applicant addressed the criteria as follows:

Indicated he had recently purchased the property and now realizes how busy a street Reist St. is. He has back/neck problems and recently had surgery. He now has trouble turning his neck left and right as he backs out of his driveway. For safety reasons he is asking for the added curb cut to install a circular driveway so he does not have to back out of his driveway on Reist St. His physical problems cause him great pain and difficulty while trying to look out for oncoming traffic in both directions upon backing out onto the public street. Cited several other nearby properties that have circular driveways. He sees it as a safety issue. Does not believe it is a substantial request. Would replace grass and sidewalk that is removed due to curb cut if granted. A small street tree would have to be removed and offered to pay for a replacement.

There were no comments from the public.

Comments from the Board (*applicant's comments in italics*):

Mr. Frese – Reported he had driven down Reist to see about the traffic issue and failed to see the amount of traffic that the applicant reported. Asked if there was any other way to alleviate his problem without adding another curb cut. Perhaps a parking pad on the front lawn would help. Has a hard time imagining a circular driveway in this small front yard. *There is a phone pole at the end of his driveway which also impedes his vision backing out. There is also a lot of traffic generated by the Comprehensive Care facility across the street from him.* He is concerned about the amount of concrete a circular driveway would create in the front yard. He could add a small parking pad that would be far less concrete than the circular driveway. *Cited advice from several concrete companies and all suggested the circular driveway over a concrete parking pad.*

Ms. Fulwiler – Removing 2 trees? *No, it would be a smaller footprint.*

Mr. Masters – Added that with minimum width he is just under the max. front yard coverage of 25% allowed by code.

Mr. Andrews - Leaning towards a parking pad which would allow applicant to turn around and not have to back out into traffic.

Mr. Tuyn - Asked if applicant has a backup camera in his car. *Yes. Lot is 54' wide. He has to do a three-point turn into Reist and it is a nightmare.* He could back into his driveway. He could add a pad in the front yard. Would be less permanent. Saves pedestrians safety-wise from crossing two driveway cuts. The other circular driveways in the neighborhood are on much wider properties.

Mr. Celeste – No comments.

Mr. Frese - Asked applicant to think about a parking pad on front lawn. Would look good. He could line it with low shrubs to shield it from view. Could be more attractive than the massive amount of concrete that a circular driveway would entail.

Mr. Master – Applicant would not need a variance if he wanted to add a parking pad on his front lawn as long as the overall percentage of front yard covered does not exceed 25% as per the code.

With no other questions or comments, Chairman Andrews closed the public hearing at 6:20 p.m.

ON MOTION by Mr. Frese, seconded by Mr. Tuyn, it was moved to approve the area variance as submitted.

Roll call:	Mr. Andrews	No
	Mr. Frese	No
	Ms. Fulwiler	No
	Mr. Tuyn	No
	Mr. Celeste	No

Motion failed. Area variance denied.

Mr. Andrews advised the applicant to discuss a parking pad with Mr. Master.

ZBA Log #2020-ZBA-3

Area variance

19 Aero Drive (M-1)

Owner wishes to construct a new commercial building at a side yard setback of 5' where a 10' side yard is required.

Mr. Andrews opened this public hearing at 6:22 p.m.

Mr. Andrews read aloud the items in the file.

Property owner and applicant David Sutton was present.

He is asking for a variance of 5' from the code requirement. This property is located in the manufacturing district of the Village, just behind George's Produce. A single-family house currently sits on this property. Wants to demo it and construct a pole-barn building of 3,400 sf. Needs to reduce the eastern setback because the lot is very narrow. The adjacent property is used for industrial use, mostly trucking. Mr. Sutton has a prospective tenant for the new build. It is a specialty wood working shop that will give classes and make wooden items. There is no public sewer on the property so he must designate quite a bit of land to the installation and maintenance of a septic system. Without a variance, the project cannot move forward. Has done numerous analyses but cannot find an alternative option. It is not a substantial request. He would be cleaning up the property and adding a new building and its taxes to the tax roll. There is an existing, non-conforming side yard setback already in place. It will enhance the quality of the surrounding neighborhood.

There were no comments from the public.

Board members' comments (*applicant's comments in italics*):

Mr. Celeste - Are there any windows on the east side of the new building? *No. There will be storefront windows on the front of the building. Site appears underutilized. Yes, it has not been maintained. The tenant next door has no objection. Who is the intended tenant? A specialty wood shop. He has 6 parking spaces. No heavy truck traffic in or out.*

Mr. Tuyn – Asked if applicant had any plans to enlarge the property. *The costs did not work out. He has had no conversations with the owner of George's Produce. The Planning Board has already approved the design and the site plan. Any other lighting? Just wall packs on the walls and 0-foot candle.*

Ms. Fulwiler - Is he leaving the existing fence at the rear? *There are only remnants left. He will clean up the property.*

Mr. Frese – Asked if applicant had considered reducing the size of the building. *He thought of that but would lose his prospective tenant if he did so.*

Mr. Andrews – Asked what the side yard setback would be if the building to the east were demolished and a new building built. *NYS code is 5'.* Construction of his new building? *Wood frame pole barn, Type 5b.* Asked if he will fire rate it. *The building will be metal sided. He is not proposing fire rating for a 5' setback. Not creating an increased fire hazard. Instead, he is making the situation better than what is there now.*

Mr. Andrews closed the public hearing at 6:49 p.m.

ON MOTION by Ms. Fulwiler, seconded by Mr. Frese, it was moved to approve the area variance as submitted.

Roll call:	Mr. Andrews	Yes
	Mr. Frese	Yes
	Ms. Fulwiler	Yes
	Mr. Tuyn	Yes
	Mr. Celeste	Yes

Unanimously carried. 5 -0. Area variance granted.

Old Business

ZBA-Log#19-14

Area variance

135 Evans Street (NMU)

Owner requests relief from the Village design standards requirement of 1.5 parking spaces for every unit. Proposed parking for new project would be 110 spaces where 143 would be required. Requesting to allow for added green space at rear of project.

Mr. Andrews opened the public hearing at 6:50 p.m.

Project attorney Sean Hopkins was present.

Mr. Hopkins gave a brief overview of the project and its progress through the various required approval processes. Gave a Power Point presentation. There will be 95 units, 80 one-bedroom and 15 two-bedroom. They have reduced the number of units since they last appeared before the ZBA in October 2019. There will be no parking spaces along Evans Street side. Could provide 143 spaces but they would be in close proximity to the neighbors at the rear of the project on Village Point Lane. Having to install the required number of spaces would reduce the amount of green space and landscaping on the property. This will be of no detriment to the neighborhood. Several traffic studies have been performed, one performed of the Village's choosing at the applicant's expense. All traffic studies have come to the same conclusion that there will be no substantial increase in traffic. Both studies agreed that the number of spaces was adequate. It is not a substantial request. No harm will come as submitted. No adverse effect will be felt as it will be a positive impact as it avoids the need to install additional parking spaces. They are providing extensive landscaping. This is the minimum variance to achieve their goals.

There were no comments in favor of the variance.

The following comments were in opposition to the variance:

1. Eileen Torres, 109 N. Ellicott St. – Cited data regarding households and need for parking spaces and impact on nearby Village streets. Advocates preserving green spaces. Concerned that extra parking will end up on Village streets. Believes the project is too big for the lot and that the applicants should reduce the size of the buildings.
2. Nancy Bolden, Clarion Court – Greenspace should be preserved. Wants parking underground as per Village Code.

Board's comments (*applicant's comment in italics*):

Mr. Andrews – This is a compromise with the neighborhood? *Only place to put the required parking spaces would have to be at the rear of the buildings and that would affect the neighbors*

at the rear. Appears that they could actually add a few more spaces that would not affect the neighbors. If the ZBA wants them to they will add them, but the applicants would rather preserve green space and don't believe they are necessary.

Ms. Fulwiler – Concerned about limiting number of tenants' cars and how could they achieve that. *They cannot limit the number of cars but are working from the traffic studies' results that agreed that the number of parking spaces presented is adequate. If a parking problem should arise, they would welcome a condition be placed on any granted variance motion. The ZBA could do that.*

Mr. Andrews – Asked how many staff will be on site. Jocelyn Boz of Independent Living answered that there will be one on-site manager and one on-site maintenance person.

Mr. Frese – Asked why any developer would not meet the code when there is no reason not to. We need to listen to the Village residents' concerns not the concerns of non-village residents on Village Pointe Lane. *Has documentation from the traffic studies that says they do not need 143 spaces; Village Pointe Lane would prefer fewer spaces. He welcomes a condition added to any variance granted. If the variance is denied they will simply add the full 143 parking spaces as per code. However, the additional spaces will reduce green space and the property would lose its "campus" atmosphere.*

Mr. Tuyn – Asked what the parking need is on their other properties. *Ms. Boz answered that typically their other properties use about 49% of the provided spaces. About half of their tenants have vehicles. Based on normal usage, she thinks it would be wise for the Village to add a condition to any approval to be fair to Village residents if a recurring parking problem appears down the road. They would add the required spaces.*

Mr. Grieco – Interjected that the Planning Board issued a Negative Declaration at their meeting held on May 18, 2020, which is binding.

Mr. Celeste – Inquired about where the other People Inc. properties are located and what the parking situations were like there. Thinks this is a different situation. *Ms. Boz answered they have properties in Amherst, Cheektowaga, Lackawanna, Hamburg, Lockport and City of Buffalo. The largest number of vehicles is 31 cars at their property in Wheatfield which has 46 units. Asked if 17 spaces closest to Village Pointe Lane could be moved to the other side. Mr. Hopkins noted that the Planning Board had previously asked if 9 spaces closest to the south property line could be moved to provide more landscaping green space for the neighbors to the south. Mr. Hopkins stated he would be comfortable with a condition being placed on any motion that would require another parking study be done at the applicants' expense should a parking problem arise in the future.*

Richard Sinnott of 33 Arend Ave. – There will be traffic problems on Belmont Ave.

Mr. Andrews closed the public hearing at 7:40 p.m.

ON MOTION by Mr. Tuyn, seconded by Mr. Frese, it was moved to approve the area variance as submitted, *with the condition that should the Building Inspector determine that parking is inadequate, the applicant will do a traffic study at their own expense and submit the results to the Building Inspector.*

On the question:

Mr. Frese – Could Mr. Tuyn add some wording to the effect of “overflow parking on Village or Town of Amherst streets...” if parking appears to be inadequate, and a parking study concludes that the parking is inadequate.

Mr. Tuyn – Street parking is inherent in village settings. People should not be afraid of street parking. It slows the speed of vehicles.

Mr. Frese – Although he differs from Mr. Tuyn’s comments, he will stand fast with his second on Mr. Tuyn’s original motion.

Mr. Grieco noted that he wanted to clarify for the record if Mr. Tuyn’s meant “parking” study, as Mr. Tuyn said “traffic” study in his motion. Mr. Tuyn agreed that he meant to say “parking” study. The clerk made note of that for the record and clarified the motion to reflect that change:

****ON THE ORIGINAL MOTION, as corrected by Mr. Tuyn:**

****ON MOTION** by Mr. Tuyn, seconded by Mr. Frese, it was moved to approve the area variance as submitted, *with the condition that should the Building Inspector determine that parking is inadequate, the applicant will do a PARKING study at their own expense and submit the results to the Building Inspector.*

Roll call:	Mr. Andrews	Yes
	Mr. Frese	Yes
	Ms. Fulwiler	Yes
	Mr. Tuyn	Yes
	Mr. Celeste	Yes

Unanimously carried. 5 -0. Area variance granted.

Mr. Grieco expressed his congratulations to the ZBA members for successfully handling their first Zoom meeting.

It was decided to cancel the June 24, 2020 additional ZBA meeting. A date in July will be chosen to consider the other applications.

ON MOTION by Mr. Frese, seconded by Mr. Tuyn, it was moved to adjourn the meeting at 7:45 p.m.

Unanimously carried. 5 – 0.

Submitted by:

Deborah A. Habes
P/T Clerk

**Date of July 2020 ZBA meeting: To be determined.
Notice will be added to the Village website once a date is chosen.**