**Village of Liberty ZBA Meeting**

**Thursday, September 13, 2018**

**Present:** **Absent:**

Dominick Fontana, Chairman Charlie Tyler

George Stang

Robert Nussbaum

**Also Present**:

Gary Silver, Village Attorney

Pam Winters, Code Enforcement Officer

Lee & Mary Abplanalp

Dough Abplanalp

Steve Green

Fred Kahn

Alan Roscoe, Core Group for McDonald’s

Matt & Tina Johnstone

Mrs. Dan Buschmann & children

Chairman Fontana opens the meeting at 6:00 p.m.

**Public Hearing # 02-1028 Abplanalp**

**6 Cross Street**

**ON A MOTION BY GEORGE, SECONDED BY BOB AND UNANIMOUSLY CARRIED, THE PUBLIC HEARING IS OPEN FOR COMMENT**.

Pam advises everyone that ten (10) certified mailings were sent out, seven (7) were received and three (3) were returned unclaimed. A copy of the legal notice is attached in the file and the invoice for the mailings has already been paid for in full.

Doug speaks on behalf of his parents and explains that the application submitted for consideration is a use variance. Their request to allow two sheds to be removed and replaced with one metal “sea container” Present zoning prohibits such a use.

Doug goes on to explain that his parents have owned their property for more than 50 years and it’s always been well-maintained. His parents are now retired and the purchase of a used sea box is more in line with their fixed income.

Chairman Fontana asks if anyone is here in the public with questions regarding this application.

Steve Green identifies himself:

“I’m here because I live across the street from where this proposed unit will be located. I have no problem with the box being placed but, having read the local zoning law regarding this, I believe the law itself needs to be re-written. It’s very vague and leaves much to interpretation. Other than that, I have no other comments or concerns.”

**ON A MOTION BY GEORGE, SECONDED BY BOB AND UNANIMOUSLY CARRIED, THE PUBLIC HEARING IS CLOSED AT 6:08 P.M.**

Attorney Silver reads the five (5) points of proof with considering the granting of any variance so each member clearly understands the concept. He reminds the board that they already declared themselves lead agency at the last meeting so all that’s left to do at this point is to complete Part 2 of the EAF and then vote on the matter.

Attorney Silver reads the questions from Part 2 of the EAF, allowing the board to respond and mark their answers accordingly.

**ON A MOTION BY GEORGE, SECONDED BY BOB AND UNANIMOUSLY CARRIED, THE BOARD VOTES FOR A NEGATIVE DECLARATION IN THIS MATTER.**

Chairman Fontana signs the EAF and Pam will e-mail a signed copy to Gary for his records.

**ON A MTION BY GEORGE, SECONDED BY BOB AND UNANIMOUSLY CARRIED, THE BOARD VOTES TO GRANT THE ABPLANALP’S USE VARIANCE REQUEST**.

**PUBLIC HEARING # 03-2018 Pam Winters**

**10 Jordan Avenue**

Regarding this application, fifteen (15) certified notices were mailed out, ten (10) were delivered, three (3) were returned unclaimed and two (2) were unknown. The invoice for the legal notice and mailings has been paid in full by the applicant.

**ON A MOTION BY BOB, SECONDED BY GEORGE AND UNANIMOUSLY CARRIED, THE PUBLIC HEARING IS OPENED UP AT 6:17 P.M.**

There is no one here from the public on this matter.

**ON A MOTION BY BOB, SECONDED BY GEORGE AND UNANIMOUSLY CARRIED, THE PUBLIC HEARING IS CLOSED AT 6:18 P.M.**

Pam briefly explains that the rear yard setback in an R2 zone is thirty feet (30’). She has only 30’ between her back door and her rear property line, allowing no room for any size deck or patio. Her request tonight is to ask for the 30’ rear yard to be reduced to 14’, which would allow her the ability to construct a 16’ X 20’ deck onto the back of her house. In her application to the board, she points out that many other decks, porches and patios as well accessory sheds that are closer to the property line than what she’s requesting and, as such, doesn’t take away from the character of the neighborhood.

And the construction of a new deck will add value to her home should she decide to sell in the future.

The board already declared itself lead agency at the last board meeting.

Attorney Silver reads the Part 2 questions of the EAF to the board and marks down their answers accordingly.

**ON A MOTION BY GEORGE, SECONDED BY BOB AND UNANIMOUSLY CARRIED, THE BOARD VOTES FOR A NEGATIVE DECLARATION IN THIS MATTER.**

Chairman Fontana signs the EAF and Pam will e-mail the signed copy to Gary for his records.

**ON A MOTION BY BOB, SECONDED BY GEORGE AND UNANIMOUSLY CARRIED THE AREA VARIANCE REQUEST FOR PAM WINTERS IS APPROVED.**

**NEW BUSINESS**:

**# 04-2018 Daniel Buschmann**

**281 West Lake Street**

Mrs. Buschmann is here to request an area variance for her property. She and her husband would like to construct a 24’ X 30’ detached storage/garage building behind her house. The side line set back requirements are ten feet (10’) and they’re asking for that distance to be reduced to one foot (1’) in order to maximize the best use possible of their back yard.

Attorney Silver points out that the Buschmann’s have already come before the ZBA a few years ago to request a variance for an addition to their home, the variance was granted and the addition has been completed.

The board members appear to be satisfied with the application and have no questions at this time. A public hearing on this matter will be scheduled for Thursday, October 18, 2018 at 6:00 p.m. The property doesn’t meet the criteria for 239-m review so there’s no need to send it to the County for review. Pam will place the legal notice and notify the adjacent and adjoining property owners accordingly. An invoice will be sent to the Buschmann’s with payment due before the next meeting.

**# 05-2018 McDonald’s Restaurant**

**58 Sullivan Avenue**

Alan Roscoe, the project engineer with Core States Engineering is back before the Board to request another variance.

The franchise owner has decided to add an additional ten feet (10’) onto the front of the existing building, a total size of 440 square feet. In doing so he alters the site plan and alters the required number of parking spaces. So the variance the board granted previously was to allow one (1) parking space for every 75 square feet. The variance he’s asking for now is for one (1) parking space for every 80 square feet. It’s not a huge change from before, but a change none the less. His site plan is showing 65 parking spaces. All of the zoning setbacks are being met.

There are no questions from the board at this time.

**ON A MOTION BY BOB, SECONDED BY GEORGE AND UNANIMOUSLY CARRIED, THE BOARD DECLARES ITSELF LEAD AGENCY IN THIS MATTER.**

**ON A MOTION BY GEORGE, SECONDED BY BOB AND UNANIMOUSLY CARRIED, THE BOARD HAS SCHEDULED A PUBLIC HEARING ON THIS MATTER FOR THURSDAY, OCTOBER 18, 2018 AT 6:05 P.M.**

**NEW BUSINESS:**

Matt and Tina Johnstone are present because they recently purchased the former CES storage building at 15 Oak Street with intentions of starting a doggie day care business there. The property is zoned C-Commercial but has not provision for such a use and, as such, Pam advised them that they would need a variance to move the project forward.

The completed the application, paid the fee, and were prepared to plead their case before the board. However, after discussing the matter with both the Planning Board Chairman Steve Green and Gary Silver, the Village Attorney, is was determined that if the Johnstone’s were to add retail sales to the business, it could be considered a retail use and therefore allowed as a special use permit due to the change of use of the building.

Once this was discussed with the applicants, their application before the ZBA was withdrawn, they completed a special use permit application to present at tonight’s Planning Board meeting and the fee paid will transfer with the application.

**ON A MOTION BY GEORGE, SECONDED BY BOB AND UNANIMOUSLY CARRIED, THE MEETING IS ADJOURNED AT 6:40 P.M.**

Respectfully submitted,

Pam Winters, Clerk to the ZBA Approved: October 18, 2018