**Village of Liberty Regular ZBA Meeting**

**Monday, November 28, 2016 6:00 p.m.**

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

Gene Barbanti, Chairman Robert Nussbaum

Dominick Fontana George Stange

Charlie Tyler

**Also Present:**

Gary Silver, Village Attorney

Pam Winters, Code Enforcement Officer

Frank Nutt, Jr.

Tim Gottlieb, P.E.

Chairman Barbanti calls the meeting to order at 6:00 p.m.

**ON A MOTION BY CHARLIE, SECONDED BY DOMINICK AND UNANIMOUSLY CARRIED, THE MINUTES OF THE OCTOBER MEETING ARE APPROVED AS SUBMITTED.**

**PUBLIC HEARING 6:00 P.M.**

**ENISA SRDONOVIC**

**40 LAKE STREET**

The first item on the agenda is the public hearing # 01-2016 for Enisa Srdonovic, 40 Lake Street. Her application request is for an area variance to reduce the rear setback line from ten (10) feet to two (2) feet.

Pam advises the board members that Enisa had a last minute family emergency and called to say she’d be unable to attend this meeting and extended her apologies to the board. She also informs the board that 21 certified notices were mailed out, 17 were received, 3 were returned unclaimed and 1 is left unknown.

Chairman Barbanti opens the public hearing and there’s no one present to comment on this particular application.

**ON A MOTION BY DOMINICK, SECONDED BY CHARLIE AND UNANIMOUSLY CARRIED, THE PUBLIC HEARING IS CLOSED.**

Attorney Silver advises the board that this application is exempt from SEQR review. He also informs everyone that we received the 239-m review back from the County Division of Planning rendering an opinion that this is a matter for local determination. He reads to the members the five (5) criteria to be considered when granting a variance. Given this information, Chairman Barbanti asks the board what their pleasure is.

**ON A MOTION BY CHARLIE, SECONDED BY DOMINICK AND UNANIMOUSLY CARRIED, THE BOARD APPROVES ENISA’S SRDONOVIC’S REQUEST FOR AN AREA VARIANCE ALLOWING HER TO KEEP HER STORAGE SHED WHERE IT IS, 2’ AWAY FROM THE PROPERTY LINE.**

**PUBLIC HEARING 6:10 P.M.**

**S & N REAL ESTATE HOLDING CO. L.L.C.**

**CHESTNUT STREET**

Chairman Barbanti opens the public hearing at 6:12 p.m. Frank Nutt is present in this matter. Frank explains to the board the history of his project which initially began in 2004 as five two-story buildings with 83 apartments and has, over time, now evolved into two three-story buildings consisting of 73 apartments. The apartments will be market rate units with 60 one-bedroom units and 12 two-bedroom units, one of which will be occupied by the on-site caretaker. There will be 36 units in one building and 37 in the other; both buildings will have elevators.

The change in the initial design is primarily due to coming up with a more useable, cost-efficient design that’s fully supported by his new investors. Ken Kearney will be involved in this project now; he was the steering force behind Liberty Commons located on Barton Road.

Frank is requesting two (2) variances tonight. The variances requested are as follows:

Per 87-29F of the Zoning Code, a maximum of 6 dwelling units per acre are permitted within the R-2 zoning district. The project proposes 73 units in 7.4+/-acres, providing a 9.9 unit per acre density, and per 87-29I of the Zoning Code, a maximum of 10 dwelling units per building are permitted within the R-2 zoning district. The project proposes 36 units in one building and 37 units in the other building.

The need for these variances is due to the fact that while his application lied dormant, the Village of Liberty modified its zoning in 2008 and, while the application was in compliance originally, it was no longer in compliance with current zoning standards.

There is no one from the public present to comment on this application. Pam reports that 21 certified notices were mailed out, 17 were received, 3 were returned unclaimed and 1 remains unknown. The fee for the notices and legal notice has been paid in full.

**ON A MOTION BY CHARLIE, SECONDED BY DOMINICK AND UNANIMOUSLY CARRIED, THE PUBLIC HEARING IS CLOSED.**

Attorney Silver advises the board that we received the 239-m review back from the County Division of Planning who are of the opinion that this is a matter for local determination. The additional comments offered by the NYSDOT are more in line for review and comment from the Planning Board and not this board.

Attorney Silver reads the long form EAF into the minutes, asking questions and entering the board’s responses accordingly. In summary, the action is determined to be unlisted with no significant impact on the community.

**ON A MOTION BY CHARLIE, SECONDED BY DOMINICK AND UNANIMOUSLY CARRIED, THE VARIANCES REFERENCED ABOVE TO INCREASE THE UNIT DENSITY FROM 6 PER ACRE TO 9.9 PER ACRE AND TO INCREASE THE NUMBER OF UNITS PER BUILDING FROM 10 TO 36 AND 37 RESPECTFULLY AS REQUESTED BY S & N REAL ESTATE HOLDING CO. ARE APPROVED.**

**PUBLIC HEARING 6:20 P.M.**

**MEDICINE SHOPPE**

**ROUTE 52**

Chairman Barbanti opens the public hearing up to the public. Tim Gottlieb is here on behalf of his client, Dev, L.L.C. He again explains to the board that Medicine Shoppe will be constructing a stand-alone 4,000 square foot building with a drive-thru. Due to the location of the building, an area variance is needed because they’re unable to comply with the 20’ planting/parking area required by the Village’s zoning. They’d also like to plantings in the State right-of-way if they will allow it.

The only person is present, the General Manager of Burger King, who has no questions but was curious to see what the application is about.

**ON A MOTION BY DOMINICK, SECONDED BY CHARLIE AND UNANIMOUSLY CARRIED, THE PUBLIC HEARING FOR THIS APPLICATION IS CLOSED.**

**ON A MOTION BY CHARLIE, SECONDED BY DOMINICK AND UNANIMOUSLY CARRIED, THE BOARD DELCARES ITSELF LEAD AGENCY IN THIS MATTER.**

Attorney Silver reads Part 2 of the Short Form EAF with board answers into the minutes.

**ON A MOTION BY DOMINCK, SECONDED BY CHARLIE AND UNANIMOUSLY CARRIED, THE BOARD DECLARES A NEGATIVE DECLARATION IN THIS MATTER.**

**ON A MOTION BY CHARLIE, SECONDED BY DOMINICK AND UNANIMOUSLY CARRIED, THE VARIANCE APPLICATION REQUEST MADE BY TIME GOTTLIEB ON BEHALF OF THE OWNERS OF THE MEDICINE SHOPPE IS APPROVED.**

**NEW BUSINESS**

**# 07-2016 AUTO ZONE**

**1985 NYS ROUTE 52E**

Laura from DePuy Engineering is here to present a request for an area variance, (much in the same way that was considered for the Medicine Shoppe and S & N Real Estate Holdings). She’s requesting a 10’ waiver on the 20’ required separation between parking and the public roadway. She shows the board members a site plan that has already been presented to the Planning Board and explains to this board why there is no other option but to request the variance.

The board is satisfied that this application can move forward to a public hearing. The public hearing will be scheduled for Thursday, December 8, 2016 at 6:00 p.m. Pam will hand-deliver the application with supporting paperwork to the County for 239-m review and ask for the review be expedited. Pam will also make arrangements to place the legal notice and mail out the certified mailings for the applicant.

**ON A MOTION BY DOMINICK, SECONDED BY CHARLIE AND UNANIMOUSLY CARRIED, THE MEETING IS ADJOURNED AT 6: 45 P.M.**

Respectfully submitted,

Pam Winters, Clerk Approved: Dec. 8, 2016