

**TOWN OF VIRGIL ZONING BOARD OF APPEALS**  
**Minutes of Public Hearings/Decision Meetings - Monday, 28 July 2014 – 6 PM**  
**Town Hall Meeting Room - Virgil, Cortland County, NY**

**Board Members**

Mary Beth Wright, Chair  
Jeannine Sprague  
Linda Edwards  
John Coulter  
Sheila Morse  
Niels Schulz, Alternate

(\*absent)

**Others Present**

Joan E. Fitch, Board Secretary  
Craig Umbehauer, Town CEO  
Town Attorney Patrick Snyder

**Public Present**

Sandra Price, Applicant; Steve Terwilliger & Attorney Meira Hertzberg for Empress Devmt., Applicant; Mark Gleason, Dick & Rose Bottoff, Kathleen Cole, Carole Lathrop.

**At 6:02 p.m., Board Secretary Fitch read aloud the Public Hearing notice as published in the Cortland Standard. Proof of Publication has been placed on file for the record.**

**PUBLIC HEARING #1**

**Stephanie Brown & Sandra Price, Applicants/Reputed Owners – 1192 West State Road – TM #126.14-02-06.000 – Parcel Smaller than Allowed**

Chairperson Mary Beth Wright recognized Mrs. Price who was seeking a variance to subdivide the subject .54±-acre parcel into two parcels of .22± A. and .32± A. as shown on the sketch accompanying the application. It was proposed to combine the smaller parcel with the adjacent TM #126.14-02-14.000 so there would be no “landlocked” parcel. Both parcels were already non-conforming and were “grandfathered in.” Mrs. Price’s son would own the house on the subject parcel. Stephanie Brown is Mrs. Price’s daughter.

Chair Wright asked if there was anyone who wished to speak regarding the variance request; there was no one.

**With everyone wishing to be heard having been heard, Chair Wright closed the Public Hearing at 6:08 p.m.**

**DISCUSSION/DECISION**

Chair Wright acknowledged a 11 July 2014 memo received from the Cortland County Department of Planning who had reviewed the application. The County Department recommended consolidation, as stated, but otherwise affirmed that the proposed action had no State- or County-wide impact and, thus, was being returned to the Town for local determination.

Town Attorney Patrick Snyder stated that a SEQRA review was not required for this appeal.

The Board then proceeded with the required questions (balancing test), with the responses being given by the ZBA members, as follows:

1. Will the proposed action produce an undesirable change in the character of the neighborhood, or a detriment to nearby properties be created?  
Finding: No. All Board members present agreed.
2. Can the applicant achieve his goals via a reasonable alternative which does not involve the necessity of an area variance?

Finding: Yes from Chair Wright, Members Sprague and Edwards; no from Members Morse and Coulter.

3. Is the variance substantial?

Finding: Yes from Chair Wright and Members Coulter, Morse, Edwards; no from Member Sprague.

4. Will the variance have an adverse impact on physical or environmental conditions in the neighborhood or district?

Finding: No. All Board members present agreed.

5. Has there been any self-created difficulty?

Finding: Yes from Chair Wright & Members Coulter, Sprague and Edwards; no from Member Morse

**At the conclusion of a brief discussion, a motion was made by Member Linda Edwards to grant the requested area variance for a smaller lot than allowed, incorporating those recommendations contained in the Cortland County Planning Department’s memo dated 11 July 2014. The motion was seconded by Member Sheila Morse, with the vote recorded as follows:**

**Ayes: Chair Wright  
Member Sprague  
Member Coulter  
Member Edwards  
Member Morse**

**Nays: None**

**Motion carried.**

**This becomes Action #12 of 2014.**

**PUBLIC HEARING #2**

**Empress Development Corp., Applicant/Steven Terwilliger, Reputed Owner – 2964 Webb Road – TM #105.00-09-09.000 – Sign Larger than Allowed**

Chairperson Mary Beth Wright once again recognized the applicant’s attorney, Meira Hertzberg who had provided an undated narrative she had prepared for the Board; she reviewed the “balancing test” items contained in her narrative. The newly modified sign still requires a variance.

Steve Terwilliger stated that he did not know who the gasoline supplier would be back when this project was approved. Member John Coulter brought up the signage he had obtained from the Sunoco website. Member Edwards asked when the facility would close at the end of the day, and Mr. Terwilliger responded it would close at 9 p.m. He also added that the neighbors are not happy that this Board required the gasoline storage tanks to be above-ground. He was not pleased with many of the things that he has been required to do. He would like to have the driveway closer to NYS Route 13 and have underground tanks. Mr. Terwilliger added that he will provide buffers and will “mound up” the earth on the Webb Road side. He stated he was only asking for 16 SF more than allowed. Member Sprague commented that the character of the neighborhood should be considered, and she thinks it will have an impact on it.

Chair Wright asked if there was anyone who wished to speak regarding the variance request; public comments were received as follows:

John Carroll – Nye Road – Passes by subject site every day. Feels that sign will be a distraction, especially at the point where turning into Webb Road. You don’t know

what's coming down Route 13, or at what speed. Do the right thing. Abide by the guidelines. Board should not be dictated to by outside influence regarding the sign.

Mark Gleason – 2945 Webb Road – Sign doesn't need to be big. It will be a big distraction. Let's end this!

Dick Bottoff – 2943 Webb Road – Has seen 15 accidents at that intersection. Bigger sign would be a distraction. The NYSDOT needs to put a light there but they have refused to do so. The neighbors all feel the same.

**With everyone wishing to be heard having been heard, Chair Wright closed the Public Hearing at 6:39 p.m.**

DISCUSSION/DECISION

Chair Wright informed those present that Mr. Terwilliger had called her regarding this appeal; perhaps other Board members received calls too. She asked that this be put in the record.

Other corridor signs were discussed. Member Morse thought that Mr. Terwilliger was trying to work with the Board by reducing the size of the sign.

The Board then proceeded with the required questions (balancing test), with the responses being given by the ZBA members, as follows:

- 1. Will the proposed action produce an undesirable change in the character of the neighborhood, or a detriment to nearby properties be created?

Finding: Yes. All Board members present agreed.

- 2. Can the applicant achieve his goals via a reasonable alternative which does not involve the necessity of an area variance?

Finding: Yes (2 – Edwards & Sprague); no (3 – Coulter, Morse, Wright).

- 3. Is the variance substantial?

Finding: Yes. All Board members present agreed that the height complies, but the area requested is 16 SF greater than allowed.

- 4. Will the variance have an adverse impact on physical or environmental conditions in the neighborhood or district?

Finding: Yes. All Board members present agreed.

- 5. Has there been any self-created difficulty?

Finding: Yes (4 – Coulter, Wright, Sprague, Edwards); no (1 – Morse).

**A motion was then made by Member Morse to grant the requested variance to allow for a sign with a greater area than allowed, as requested. The motion was seconded by Chair Wright, with the vote recorded as follows:**

**Ayes: Chair Wright  
Member Morse**

**Nays: Member Sprague  
Member Edwards**

**Abstain: Member Coulter**

**Motion neither approved or disapproved.**

**This becomes Action #13 of 2014.**

Upon the advice of Town Attorney Snyder, the Board decided to postpone the matter and take another vote at their 25 August 2014 meeting.

**A motion was then made by Member Morse that the variance request to allow a sign with a greater area than allowed is postponed until the 25 August 2014 meeting of the Town of Virgil Zoning Board of Appeals. The motion was seconded by Chair Wright, with the vote recorded as follows:**

<b>Ayes:</b>	<b>Chair Wright</b>	<b>Nays:</b>	<b>None</b>
	<b>Member Sprague</b>		
	<b>Member Coulter</b>		
	<b>Member Edwards</b>		
	<b>Member Morse</b>		

**Motion carried.**

**This becomes Action #14 of 2014.**

**APPROVAL OF MINUTES – 23 JUNE 2014**

**A motion was made by Member Sprague to approve the Minutes of the 23 June 2014 Town of Virgil ZBA meeting, as submitted. The motion was seconded by Member Morse, with the vote recorded as follows:**

<b>Ayes:</b>	<b>Chair Wright</b>	<b>Nays:</b>	<b>None</b>
	<b>Member Sprague</b>		
	<b>Member Edwards</b>		
	<b>Member Coulter</b>		
	<b>Member Morse</b>		

**Motion carried.**

**This becomes Action #15 of 2014.**

**ADJOURNMENT**

**A motion was made at 7 p.m. by Member Sprague to adjourn the meeting, seconded by Member Morse, with all members present voting in the affirmative.**

  
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Joan E. Fitch, Board Secretary

Submitted via e-mail to Town Supv., Town Clerk,  
Town Attorney, CEO, ZBA Members & Co. Planning on 8/22/14.