

TOWN OF VIRGIL ZONING BOARD OF APPEALS
Minutes of Public Hearings/Decision Meetings - Monday, 23 June 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

Public Present

Ruvim Bushmich, Applicant; Steve Terwilliger for Empress Devmt., Applicant; Attorney Meira Hertzberg; Mark Gleason, Tom & Peg Williams, Mary McGee, Rose Bottoff, Kathleen Cole.

At 6 p.m., Board Secretary Fitch read aloud the Public Hearing notice as published in the Cortland Standard on 14 June 2014. Proof of Publication has been placed on file for the record.

PUBLIC HEARING #1

Ruvim Bushmich, Applicant/Reputed Owner - 1919 Owego Hill Road - TM #136.00-01-13.000 - Proposed Garage Closer to Line than Allowed

Chairperson Mary Beth Wright recognized the applicant who was a variance to construct a garage too close to the property line (10 feet). He stated that the neighbors had no problem with his request.

Chair Wright mentioned that the applicant had requested and been granted a variance for a side yard setback less than allowed a little over a year ago.

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 6:10 p.m.

DISCUSSION/DECISION

Chair Wright acknowledged a 5/22/14 memo received from the Cortland County Department of Planning who had reviewed the application. The letter affirmed that the proposed action had no State- or County-wide impact and, thus, was being returned to the Town for local determination.

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: No. All Board members present agreed.

3. Is the variance substantial?

Finding: No. All Board members present agreed.

- 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 (4 votes); No (1 vote).

At the conclusion of a brief discussion, a motion was made by Member Jeannine Sprague to grant the requested area variance to allow a garage closer to the lot line than allowed. The motion was seconded by Member Linda Edwards, with the vote recorded as follows:

**Ayes: Member Sprague
Member Edwards**

**Nays: Chair Wright
Member Coulter
Member Morse**

Motion failed. Variance denied.

This becomes Action #9 of 2013.

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 recognized the applicant’s attorney, Meira Hertzberg distributed a letter she had prepared for the Board. The modified sign still requires a variance, but is lower to the ground and not quite as large as the one denied by this Board on 27 January 2014. It has been reduced to ten (10) feet in height so a variance is only needed for the area which is 16 SF larger than allowed. She stated that it was smaller than the standard Sunoco sign.

Member Coulter stated he had an issue with the proposed sign; he had obtained other alternatives via Google. Member Sprague asked if Sunoco had smaller signs, and Attorney Hertzberg responded that it could be made any size.

Location of the proposed sign was discussed. Member Coulter suggested putting the sign farther away from Webb Road as he was concerned about the nearby residents.

Alternate Board Member Niels Schulz stated he has attended the meetings regarding the proposed variances requested, and the consistent message has been the negative impact on the neighbors in the area from the lighted sign.

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

Mark Gleason – 2945 Webb Road – A ballpark is going to be constructed across the road on Route 13. This will slow traffic down. Mr. Terwilliger needs to follow the ordinance. “I’ve lived there 28 years, and I’m not going to deal with it.” All he has to do is obey the zoning. If not, he should have gone somewhere else. Spoke against granting of the requested variance.

Rose Bottoff – 2943 Webb Road – Driveway has blind spots. She cannot see in her rear view mirror if someone is coming out of there; it’s directly across from her driveway. Spoke against granting of the requested variance

Kathy Cole – 2941 Webb Road – Mr. Terwilliger agreed to limitations, initially, and he keeps returning. She’s tired of this and enough is enough. Everyone else seems to understand the concept of no. Town Planning Board “sold us down the road” when

they agreed to this gas station. Frustrated and sick of it. The lights are to be on when they are open and that's another problem. Thought it was agreed to that they would be on only until 9 p.m. Spoke against grating of the requested variance.

Ruvim Bushmich – 1919 Owego Hill Road – There are many ways to soften the brightness of the sign's lights that could solve the problem.

Mary McGee – NYS Route 13 – Advertising on the sign will create more light into people's homes. Maybe put some shrubbery there to block light from the residences. She also explained the proposed property exchange between Gutches and the Town of Cortlandville which will result in the construction of a ballpark nearby.

With everyone wishing to be heard having been heard, Chair Wright closed the Public Hearing at 6:43 p.m.

DISCUSSION/DECISION

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. All Board members present agreed.
3. Is the variance substantial?
Finding: Yes. All Board members present agreed.
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. All Board members present agreed.

A motion was then made by Member Sprague that, based on public testimony, supporting documentation, and ZBA findings, the requested variance to allow for a sign with a greater area than allowed is denied. The motion was seconded by Member Coulter, with the vote recorded as follows:

**Ayes: Member Sprague
Member Edwards
Member Coulter**

**Nays: Chair Wright
Member Morse**

Motion carried.

This becomes Action #10 of 2013.

APPROVAL OF MINUTES – 28 APRIL 2014

A motion was made by Member Linda Edwards to approve the Minutes of the 22 April 2013 Town of Virgil ZBA meeting, as submitted. The motion was seconded by Member Sprague, with the vote recorded as follows:

Ayes:	Chair Wright	Nays:	None
	Member Sprague		
	Member Edwards		
	Member Coulter		
	Member Morse		

Motion carried.

This becomes Action #11 of 2014.

ADJOURNMENT

A motion was made at 6:43 p.m. by Member Morse to adjourn the meeting, seconded by Member Sprague, with all members present voting in the affirmative.



Joan E. Fitch, Board Secretary

Submitted via e-mail to Town Supv., Town Clerk,
Town Attorney, CEO, Co. Planning & ZBA Members on 7/28/14.