

TOWN OF EAST BLOOMFIELD

Zoning Board of Appeals Minutes

November 20, 2014

Zoning Board of Appeals Members Present, Don Rimlinger, Art Babcock, Mark Thorn. And Sonja Torpey

Absent: Mike Long

Others Present: Andy Hall (CEO), Kim Rayburn (Secretary) Kip Jugle, Karl W. Smith and Brad Bennett

Rimlinger opened the meeting at 8:20 and the public hearing was read and opened.

- I. #TV3-14 Area Variance Review All Brite Signs (Agent), Dollar General) tenant has applied for an Area Variance** to erect a second commercial sign where one is allowed, Appeal of Town Code Article XIII 135-104 B subsection (c) Lands owned by Midwest XX, LLC LLC located at 7463 Rts 5&20 Bloomfield, NY 14469 tax map # 80.00-1-9.200

Rimlinger asked Rayburn if the neighbor notifications were available, Rayburn stated that she did not have the notifications from the applicant as he could not be present at the meeting tonight due to weather as previously discussed at the Planning Board meeting. However, this meeting was rescheduled from the original meeting on November 6th, and the second set of letters that was mailed still had the date of Nov 6th on them so Rayburn personally mailed out new letters with the correct date and her and Hall made phone calls informing the neighbors within 200 ft of the parcel of the meeting on the 20th. Rimlinger asked Art Babcock to conduct the meeting due to his speech. Babcock asked why the applicant could not be present Bennett stated a representative was in route from the southern tier but the State Police shut down Route 390. Babcock asked Hall to present a brief description of what the applicant is asking for, Hall stated that in the Town Code section 135-104 it states that one (1) building mounted sign is allowed or as an alternative to a building mounted sign one (1) two sided ground mounted sign of a total of 64 sq. ft. would be allowed. The applicants wanted two signs, so they submitted a site plan application for the building mounted sign that was just passed by the Planning Board and they also submitted a Variance application for a ground mounted sign. The applicants were informed that they should submit a Site plan for the sign they want the most as that one would be allowed, and submit a Variance application for a second sign that they may or may not get approval for.

Torpey asked if the lighting above the sign is included in the height of the sign, Jugle stated that the Planning Board did not consider the lights as part of the height of the sign. Babcock asked if the sign was intended to be backlit, Rayburn stated the pictures provided are showing downward lighting on the sign. Babcock opened the public hearing so that Jugle and Bennett could speak as residents of the community. Jugle stated that although the location is a commercial piece of property it is also located in a residential area and that should be considered. He does not feel that this type of business requires a second sign; the residents will know it's there and he does not feel it would hurt their business of traffic on 5&20.

Hall stated that the Tyler's (residents to the West of the business) asked him to speak on their behalf as they were unable to attend the meeting due to the weather as well. They will be able to see the building mounted sign looking out their back windows and looking out their side windows they will see a lighted ground mounted sign, they are not in favor of the signs and they do not approve of allowing a second sign. When they bought the property they felt it would remain the same due to its close proximity to the historical district so they would like to see minimal changes made. Babcock closed the public hearing.

Torpey stated that the letter of intent states that the reason they are requesting the second sign is because of a visibility issue and that could be detrimental to the sales potential. She also stated that on the variance application they stated that it could be a concern of the neighbors that potential customers would be using their driveways to turn around because they missed the Dollar General's driveway; she asked if anyone had gone to the location to see if there is a visibility issue. Hall stated that coming from the West there is a visibility issue, when you see the building you are passed the house to the West before the store. Babcock asked about the privacy fence that is on the property west of the business that would be blocking the visibility of the business, Hall stated that the fence will remain and more fencing is being erected by the Dollar General as requested by the homeowner. Hall stated that he had mentioned to the property owner that the ground sign would make more sense than a building sign.

Thorn stated that the Board has the option to tailor the sign to fit the community if they chose to; however there is no applicant here to discuss any future options with so they have to review the sign as proposed without the option to minimize the sign or change the look of the sign and lighting if the Board felt that a second sign should be granted. Torpey stated that it would set a questionable precedence if it was made clear to the applicants, and contractor that they were allowed one sign and a ground mounted sign would take care of the visibility concern but chose to have the building mounted sign and ask for a variance for the ground mounted sign assuming it would be granted. Babcock wanted to review the sign against the required criteria. Thorn started the process and gave his opinion based on the criteria below.

1. **Undesirable for the neighborhood** – He stated he feels that is true as it is a residential area even though this is a Commercial property
2. **Alternative method** –he feels there would not be another method
3. **Substantial**- he feels that a 4 x 8 sign is substantial for this proposal
4. **Adverse effect either physical or environmental** – no
5. **Self -created-** yes, all parties involved knew one sign is allowed, they chose the building mounted sign, and went forward with a variance for the second sign.

Torpey agrees with Thorn but added that she feels they had an alternative method of choosing the ground mounted sign over the building mounted sign if they felt visibility was a concern. She feels it goes along with self-creation.

Rimlinger agrees with all the statements above and added that the major concern is the sign is undesirable for the neighborhood due to the residential nature of that area. The neighbor's to the West should not have to be bothered by a second lighted sign and he does not agree that without the ground mounted sign there would be an impact on the business, and feels this is not a creditable argument. Rimlinger is not in favor of the Variance request. Thorn asked Rimlinger if he would have the same opinion if the sign was not lit. He stated he may change his opinion if the sign was not lit in any way.

Babcock agreed it would have a detrimental effect on the character of the neighborhood, he cannot ignore that the Village of Bloomfield line is less than five hundred (500) feet away and is zoned Residential and Restricted Business therefore residences are expected to be in the neighborhood of this Commercial Business. The neighbors to the West are opposed to the Variance and the Historic District is very close to this site. He also stated that the 5&20 corridor is used by a lot of tourist and it was recommended in the 5&20 corridor study that signage be limited by the Town along the corridor. He feels that the Town Board has maintained a one (1) sign limit in our Town Code and that needs to be taken into consideration. He also feels it is self-created, and the request is substantial as one (1) sign is allowed and they are doubling the request. he doesn't feel that the sign is necessary. Babcock also stated that they chose the building mounted sign knowing that may or may not get the Variance approved for the ground mounted sign. Babcock stated that it seems that all the Board members are in agreement.

Thorn asked the Board if they were able to make recommendations to the applicant what they would be. Torpey and Thorn agreed with Rimlinger and stated the sign should not be lit at all, Babcock asked if there were any directional signage, Bennett stated that it is marked on the pavement but there is nothing else on the site plan. Babcock stated that if they had applied for a ground mounted road sign that fit the character of the neighborhood and then a variance for something on the building that was not lit it may have been better? The backlighting and yellow glow from both the building and the road he feels is too much. Hall stated that even though the sign fits the Towns Code for size it is larger than the Welcome sign to the Village. Thorn also stated that the Village sign would fade away in comparison. Thorn understands that this is a Commercial business and he understands they would want two (2) signs; however the proposed sign and location is not appropriate. Rimlinger and Babcock stated that they are not in favor of dragging out the review, the Board agreed as they didn't see how they can review anything other than the proposed sign and it does not fit the character of the neighborhood as discussed. Bennett stated that the community would like something that blends in and fits the character of the neighborhood and the Dollar General wants something that jumps out at you. Thorn stated that if you took away the lighting, the style, and the size it may not be as big of an issue but the Board needs to review what has been proposed and presented to them and those changes would change the entire Variance application.

Babcock made a motion and Thorn seconded the motion to declare SEQR an unlisted action with a negative declaration, all Board members are in favor.

ZBA Decision:

Thorn made a motion and Torpey seconded the motion to Deny the Area Variance #TV3-14 for All Brite Signs (Agent), Dollar General (tenant) to erect a second commercial sign where one is allowed, Appeal of Town Code Article XIII 135-104 B subsection (c) Lands owned by Midwest XX, LLC LLC located at 7463 Rts 5&20 Bloomfield, NY 14469 tax map # 80.00-1-9.200

Whereas:

- 1. Undesirable for the neighborhood, Residential area even though this is a Commercial property, sign is not in harmony with neighborhood or with the Historic District**
- 2. Alternative method, applicant had the choice of either a building mounted or ground mounted they chose the building mounted sign as allowable sign.**
- 3. Substantial- size of sign is substantial for this area**
- 4. Self -created- all parties involved knew one sign is allowed, they chose the building mounted sign, and went forward with a variance for the ground mounted sign.**

- 5. Given negative public input**

6. Given Planning board recommendation of denial

Record of Vote:

Don Rimlinger Aye

Art Babcock Aye

Mike Long Aye

Mark Thorn Aye

All Board members present voted Aye. Vote was carried unanimously to deny the Area Variance # TV3-14.

II. Minutes of July 17, 2014

Thorn made a motion and Rimlinger seconded the motion to approve the minutes of July 17, 2014 as written. All Board members present voted Aye, with the exception of Torpey who was absent at the July 17, 2014 meeting. Vote was carried.

III. Meeting Adjourned

Rimlinger made a motion and Babcock seconded the motion to close the meeting @ 9:30 pm. All Board members present voted aye, Vote was carried unanimously.

Respectfully submitted,

Kim Rayburn

Planning & Zoning Board Secretary