

ZONING BOARD OF APPEALS MEETINGS

July 15, 2014

The Zoning Board meeting was called to order by Chairman Mike DeWitt at 6:30 PM.

PRESENT: Chairman DeWitt, Members: Dumke, Schumacher, Kirszenstein and Gaffney, Attorney Trapp, CEO Czechowski, Stenographer Rhoda Collins from Edith Forbes Court Reporting, Mr. & Mrs. Mike Ratajczyk, Mr. and Mrs. Jeremy Ratajczyk, Sue Lorenzi, Nathan Neill, Frank DiChristina, Richard Kegler, Bill Fish, Adam and Katie Bakos, Ken Kohl, Mathew Will, John and Jen Zucarello, Bill and Laura Elliott, Joe & Dee Jarnot and Charles Airey

Alden Automotive, 13151 Broadway 6:30 pm

The purpose of this public hearing was to evaluate a variance request from Alden Automotive for signage. Alden Automotive has filed a sign application to locate a LED/EVM sign on the premises, which was denied by the Code Enforcement Officer, based on their desire to:

- 1.) Erect a sign 11.5 feet from street pavement, in contradiction of the code requirements that a sign must be a minimum of 15 feet from street pavement;
- 2.) erect a sign zero feet from a front property line, in contradiction of the code requirements that a sign must be a minimum of 10 feet from a front property line;

At this point, Chairman DeWitt explained the procedures

- 1.) public hearing, allows the applicant to state their case
- 2.) the public forum is then open for the general audience to make comments
- 3.) the board then closes the public forum to discuss the matter at hand, the audience is welcome to stay, but no further comments will be accepted.

And the orders of the public hearings, as two are scheduled for the same date.

- 1.) Alden Automotive
- 2.) LaPaloma

At this point, Chairman DeWitt opened the Public Hearing to the audience for Alden Automotive.

Michael Ratajczyk, Alden Automotive, 13151 Broadway lead the conversation.

Michael explained he is here for 2 variances. The first is to erect a pole sign with 0 set back. People go past the building and can't find us; it creates a safety hazard with the crosswalk. There would be no reason for us to put a sign up 15' back, senseless to put a sign up. When Rusher Ford was there, they had a sign in the same place.

Chairman DeWitt – if sign were on building, wouldn't it be better in terms of ability to get it?

Michael Ratajczyk – trees on either side block the view. Until you are right on top of the building you can't see the sign.

Jeremy Ratajczyk – owner, Alden Automotive, the Village of Alden, spent an extensive amount of money on this issue. We support a lot of area businesses, have a good reputation and support 4 families with our business, which does not matter to the ZBA.

Susan Lorenzi, 13163 Broadway, and neighbor to Alden Automotive. Have objections to the placement of the sign, too close to her property line, winter plowing an issue, very little clearance, especially with placement of concrete pole- she requested it be moved over. Only one sign is ever lit, don't want sign in my window, if people don't know where the business is, in my opinion, people do know where they are, I don't feel a sign will make a difference one way or another.

Nathan Neill, business owner, 13166 West Main St., Alden. Owns property across park. Had sign in same place for years by previous owners, difficult to see road sign, needs to be more visible, ZBA should help to make businesses successful.

Matt Will, business owner, 13269 Broadway, Alden. I am here in support of business owners, in support of signs being perpendicular. Sad to see pole was erected before the permit was issued. Not necessarily in favor of set back, if it helps business it helps everyone.

Katie Bakos, Alden Automotive client, 13330 Park St., Alden. I have referred numerous customers, all have gone past the business, have to go to her house to help them find the business.

Adam Bakos, Alden Automotive client, 13330 Park St., Alden. Going west around the bend, concerns about crosswalks, not looking for business. Not opposed to having it hang over building over sidewalk on side of the building. Going east cannot see sign, I support everyone in Alden.

Jen Zucarello, Alden Automotive client, 311 Stolle Rd., Elma. I was supposed to meet my husband at Alden Automotive, but went by it twice, need better signage. I am all for family run business.

Tom Kirszenstein – will the sign be on for 24 hours?

Michael Ratajczyk – yes, it will be illuminated all night.

CEO Czechowski – nothing in the code concerning the hours it can be lit.

Michael Ratajczyk- Street light near sign proposal site puts out more light.

CEO Czechowski explained that it had been referred to the Erie County Planning Board on 6/2/2014 and was returned 6/9/2014 answering it is under local jurisdiction.

Attorney Trapp pointed out several issues for the board's consideration:

Whenever there is a variance, you must consider any alternatives. Have a black sign on a black building, different color for building, would stand out, sign not illuminated and is black on black.

What issues have the owners taken?

Have they presented plans or ideas of moving sign before granting variance?
Already had a Variance allowing more signage than village allows.
Village removed trees from village streetscape to make business more visible.
Have families to support, hours of operation, and other competitors – open weekends
Moving sign back or changing height, pole is already up before hearing
No other pole signs near Village Park
Streetscape effect? Other requests affect streetscape.
Over hang with current sign with sidewalk?
These are all for the ZBA to consider.

Jeremy Ratajczyk – not here for a lecture on how to run my business successfully. We are open Mon. – Fri to 6. Logo on sign is white, would rather not have a bright pink building, and would rather have a sign. Been here for 10 years, I know what works and what doesn't. Have heard from customers, signs not working.

MOTION by Robert Dumke, seconded by Brian Schumacher, to close the public hearing. Carried

Chairman DeWitt – considering there is pending litigations, we will discuss the issue of pros and cons among the board members. There may or may not be a decision, have 30 days after hearing to make a decision. Before granting variance, must look at alternatives available.

Tom Kirszenstein – possible changes can be made, not presented to the board.

Brian Schumacher – main objective is the welfare of village, want to work with small business. Need to review all possibilities.

Robert Dumke – where is lighting source?

Michael Ratajczyk – more light from street light.

Tom Kirszenstein – illumination of the sign?

Michael DeWitt – neighbor has objections, not sole reason to reject the application, must take into consideration path for least impact.

Michael Ratajczyk – neighbor is living in a business district, business should have precedence.

Charles Gaffney – we should review steps/criteria

Brian Schumacher – we should delay decision

Michael DeWitt – if we need to discuss any issues has to be now, in public.

Accommodations? Village put trees up and then down at their request.

Robert Dumke – I remember a sign that was previously there.

Michael Ratajczyk produced a photo of the sign previously referenced for the board to review.

Brian Schumacher – Loreni's have valid issues, they live in business district, should have equal say.

Susan Lorenzi – isn't the zoning business/residential?

CEO Czechowski – it is zoned B-1, dwelling unit on ground floor is preexisting/non conforming grandfathered. B-1 currently allows residential dwelling units provided they are not located on the ground floor level of any structure.

Michael Ratajczyk – didn't we say nothing is grandfathered in?

Attorney Trapp – misreading, misinterpretations what was said.
Tom Kirszenstein – residential opposition adds weight to decision.
Chairman DeWitt now referred to Attorney Trapp.
Jeremy Ratajczyk – make a decision on what is best for the village.
Chairman DeWitt asked Attorney Trapp if he can draft two decisions, one in favor of the variance and one against the variance
Michael DeWitt – we are not normally so formal, but you chose to file litigation
Jeremy Ratajczyk – we had to file. Need to stay in business.

MOTION by Brian Schumacher, seconded by Tom Kirszenstein, to table the decision at 6:55 PM. Carried.

Nathan Neill – Will everyone be notified of return date?
Jeremy Ratajczyk – what is the fine for putting up the sign?
CEO Czechowski produced violation information from Code 210-60. Penalties for offenses. Offense punishable by a fine not to exceed \$350, or imprisonment for a period not to exceed 6 months, or both, for a conviction of a first offense. Each week violation occurs additional penalties apply.

MOTION by Tom Kirszenstein, seconded by Charles Gaffney, open the Public Hearing for LaPaloma 7:00 pm. Carried.

LaPaloma Restaurant 13268 Broadway 6:30 pm

The purpose of this public hearing was to evaluate a variance request from LaPaloma for signage. LaPaloma has filed a sign application to erect a new illuminated double-sided sign cabinet on an existing pole, which was denied by the Code Enforcement Officer, based on their desire to:

- 1.) Erect a sign 13.5 feet from street pavement, in contradiction of the code requirements that a sign must be a minimum of 15 feet from street pavement;
- 2.) erect a sign 3.8 feet from a front property line, in contradiction of the code requirements that a sign must be a minimum of 10 feet from a front property line;

Frank DiChristina, owner LaPaloma –one year ago moved to Broadway, want to use existing sign. DiChristina then passed out pictures of the proposed sign and location. He then explained the sign would be lit until 9 pm, when they closed for the evening. That would only be 5-6 month of the year, depending on the season. Trying to improve his business, there is no opposition from neighbors or area businesses. The sign has been there, would like to clean it up, replace the box on top of pre-existing pole. Would like a variance, sign would be same size as it is now. Wanted to re-use existing cabinet, but sign company said it was shot.

CEO Czechowski had referred it to the Erie County Dept. of Planning in June, but has not received anything back at this time. Board cannot render a decision until they receive this information; have 30 days to make a decision.

Robert Dumke – so we cannot make a decision tonight.

Richard Kegler – 1426 Mechanic St., Alden. What is the reasoning that Frank had to file for a hearing? Change strictly in box, not changing location, cannot be position, is not doing anything different, and was ok for previous owners.

CEO Czechowski – the cabinet is being removed, so a new cabinet would need a variance because of setback. Changing only the face of an existing sign in an existing sign cabinet would not require a setback variance.

Richard Kegler – is that in your code?

CEO Czechowski – it is how the code is interpreted

Jeremy Ratajczyk – maybe you should revamp the code that supports business

Mathew Will – I have been across the street from this location since 1987. The sign is in the worse condition, I am in support, don't understand the need for a hearing, need to revisit code.

MOITON by Charles Gaffney and seconded by Robert Dumke to close the Public Hearing portion of the meeting. Carried.

Michael DeWitt – cannot act tonight. This is a setback variance as with Alden Automotive, but with no neighbor objections, and relates to an existing sign.

Tom Kirszenstein – no neighboring objections

Robert Dumke – if comes back from the county, with objections, our hands are tied.

Chairman DeWitt asked Attorney Trapp if he can draft two decisions, as with Alden Automotive, one in favor of the variance and one against the variance

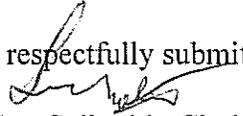
MOTION by Robert Dumke and seconded by Tom Kirszenstein to table the matter pending Dept. of Planning determination and drafts from Attorney Trapp. Carried.

CEO Czechowski will work with ZBA Secretary on contacting everyone with the new dates for the hearings.

Michael Ratajczyk – mentioned current litigations, wanted to work it out for ourselves, no attorneys, Mayor Manicki and we have spent a lot of money fighting this.

MOTION by Robert Dumke, seconded by Charles Gaffney to adjourn. 7:15 pm.
Carried.

I respectfully submit,


Sue Galbraith, Clerk
Zoning Board of Appeals