

**ZONING BOARD OF APPEALS MEETING**  
**Alden Automotive 1/22/2014**

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

**PRESENT:** Chairman DeWitt, Members: Dumke, Schumacher, and Gaffney, Attorney Trapp, Mike Rataczyk, Joseph Jarnot, Sue and Jim Lorenzi and Charles Airey

**ABSENT:** Tom Kirszenstein, CEO Czechowski,

The purpose of this public hearing was to act on 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;
- 3.) erect a LED/EVM sign with 41.18 square feet of area, in contradiction of the code requirements that the maximum size of any LED/EVM sign is 40 square feet; and
- 4.) erect a sign which will make a total of 238.6 square feet of signage on the premises, in contradiction of the code requirements that a maximum of 102 square feet of signage is allowed on the premises. A total of 156 square feet of signage is currently on the building, but Village Code section 210-33A only allows a total of 102 square feet of signage. A prior variance was granted in 2006 permitting the owner to exceed the total set forth in the local law.

At this point, Chairman DeWitt opened the Public Hearing to the audience. Joseph Jarnot, Custom Sign Company, representing Alden Automotive, first addressed the variance to erect the message sign. The sign would be a pole sign at the property line, on private property, not in the right of way, which he felt would be an ordinary placement for this type of sign. He provided photographs reflecting the placement of the sign Rusher Ford had in the 70's which he felt was similar to what he was seeking. He felt that if he placed it away from the front of the property, the sign would be blocked by the building if you are traveling east on Broadway. Currently, there are three signs permitted on the property pursuant to the granting of a prior variance in 2006. None of those signs are freestanding and all are located either on the front of the building or on the eastern side of the building. Furthermore, none of those signs are illuminated.

Chairman DeWitt questioned the amount of signage versus what the code allows. Alden Automotive would like to keep the existing 156 square feet of signage, and add the 80 sq. ft. of pole signage. Mike Rataczyk, owner, stated that they have been there for 9

years, and people don't know they are there because he believes that the sign on the front of the building is not sufficiently visible. He stated that the signs on the side of the building are necessary to advertise extra services they provide, and that they need the additional pole sign to advertise and to stay in business.

Robert Dumke: will the sign be double sided? Yes

Brian Schumacher: will the sign be where the old sign was? Jarnot: yes, feels placement is proper.

Rataczyk: that's our parking lot; there is not a lot of room there to do a lot with.

Sue Lorenzi: comparing the old photo of Rusher Ford, the sign is behind the sidewalk, and according to a picture she obtained from the town tax site, street light pole is where you should place the sign. Should be moved over and back of where driveway cut is, or else it makes the driveway too narrow. People are getting stuck in driveway approach and have damaged her guardrail. Sign up 10 ft. putting it right in line with Lorenzi's bay window, not opposed if bring it up to 20 ft.

Rataczyk/Jarnot: height restrictions? Would want to make the sign bigger, if it was raised higher because it would be too small to be visible.

Sue Lorenzi: may be a safety issue, due to cross walk proximity. People will be reading sign instead of people being cautious.

Rataczyk: LED sign, but not flashing per code. The graphics and messages would be static.

Rataczyk: we will conform to all sign codes and regulations. Spending \$21,000 on a 20 sq. ft. sign. Overhang not encroaching on right of way.

Attorney Trapp; CEO Czechowski apologizes for his absence, he had another obligation. Counsel questioned whether any portion of the sign would be over the sidewalk to which Jarnot replied that it would not. Sign base will be entirely on property, including overhang. Counsel then asked that he thought that in their initial presentation to the Zoning Board, Jarnot indicated that the pole sign would be in addition to the signs that were currently on the property. Jarnot indicated that they would like to keep all existing signs along with new pole sign. Counsel then reminded the Board and the applicant that their previous letter requesting the pole sign which was sent to the CEO indicated that the owner would be removing other signage to bring it within the limits set under the code.

Jarnot: indicated that they would like to keep all existing signs along with new pole sign. Trapp: have been granted a Variance in 2006, 240 sq. ft. signage is more than double allowed in Village. Asking for a Variance on a Variance. Need basis for requesting Variance under the law, other than wanting a sign for more business. All other properties have maintained business and met the code restrictions. They have to give a basis

recognized under the code setting forth a reason for the variance not that they just want to advertise more. Properties along Broadway such as Alden Medical have lighted signs flush on the front of their buildings already and they are visible.

Rataczyk/Jarnot: a lot of businesses have excessive signage, John & Mary's has signs on all 3 sides, and 2 signs at the street, Advanced Auto has a big sign at the street and the building, and Dok's Liquor.

Trapp: when were they granted? They may have been grandfathered under the old code. The rules do not run with the property. When a business is gone, and the codes change, you need to comply with the new codes. It is the same with the building codes after a building is vacant. The next owner cannot say that the old rules apply because that is what existed years ago, they have to comply with the new codes.

Rataczyk: would you rather have us go out of business? We are trying to support 5 families and increase customer base, and the way to do that is advertise. We need it to advertise.

Trapp: There are other ways to advertise than simply putting up more signs. You must have legal standing and some basis to grant a variance. There simply is no legal basis that has been presented to essentially grant a Variance on top of a Variance. They did not give a reason for the variance with regard to the sizes or placement of the signs on the property line or anything else other than it would be more advertising which is not a basis under the current law to grant a variance.

Rataczyk stated that other signs can be removed if needed.

Jarnot: we would not be adding more signage, but adding the 80 sq. ft. from the pole sign, by removing the 80 sq. ft. sign on front of building.

Trapp: still over the 102 sq. ft. code. Variances already exist for particular signs. You cannot take 80 ft. down in one area with one type of sign to replace with 80 ft. in another area with a different sign. Once the sign is down which was granted under the original variance, you have to apply for another variance for the new sign which is not only a different type of sign, but also in a different location.

Chuck Airey: by erecting the sign, does it take away any parking spaces? The owner stated that it would not.

Jim Lorenzi: no problem with the sign, but would like it higher, so that they don't have to look at it out the window. Decrease value of property.

**MOTION** by Charles Gaffney, seconded by Robert Dumke, to close the public hearing. Carried

At this time Chairman DeWitt proceeded to review the six criteria for the requested variance.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the requested area variance? **Yes, neighbors have issues with it.**

2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue other than an area variance? **No. Have existing Variances.**

3. Whether the requested area variance is substantial? **Yes, it is.**

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? **Yes, neighbors come up as issues.**

5. Whether the alleged difficulty was self-created; which consideration shall Be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance? **Yes, could size sign to meet code.**

6. Whether it will create a hazard to health, safety or general welfare? **No, don't believe so.**

**Four of six criteria posed for the issuance of a variance have not been met by the applicant.**

**MOTION** by Brian Schumacher, seconded by Charles Gaffney, to deny requested variance. Unanimous, Carried.

**MOTION** by Charles Gaffney, seconded by Robert Dumke, to adjourn the hearing at 6:55 PM. Carried.

I respectfully submit,

Sue Galbraith, Clerk  
Zoning Board of Appeals