**Zoning Board of Appeals Meeting**

**Wetzl Development, LLC**

**12901 Broadway and 4 vacant parcels**

**SBL #119.06-2-4; 119.06-2-6.1; 119.06-6-2-10 and 119.06-2-8**

**November 15, 2022**

The Zoning Board meeting was called to order by Member Brian Schumacher at 6:55 pm.

**Present**: Brian Schumacher, Herb Schmidt, Charlie Gaffney, Tom Kirszenstein, Joe Trapp, Esq., CEO Czechowski, Dave Metz, Mayor Prucnal and Peter Sorgi, Esq.

**Absent:** Chairman Michael DeWitt,

The purpose of this public hearing: 14 variances that do not meet the minimum requirement, consisting of front yard setback, parking spaces and length of building.

**MOTION** by Herb Schmidt, seconded by Charlie Gaffney, to enter into the Public Hearing. Carried.

At this point Member Schumacher opened the Public Hearing to the audience

Peter Sorgi addressed the board. The developers have been working with the village for a year on this project. It has ben subdivided in 7 parcels and zone properly. Sorgi explained the details of the project; mixed use, residential, public road, residential; day programs for adults with disabilities, farming community (no animals), farm to table, farmer market, enclosed field house open to community, senior housing, self-storage and more. It is funded by a foundation and ARC of Erie County.

Variances for parking spots.

Parking spaces based on business, but it is more like a campus and most of the users will not be driving.

Self-storage – based on square feet – providing 50 spaces as opposed to the 522 the code requires. Code does not really address this type of business.

Variances for front yard setback:

Village atmosphere/walkable community/campus feel. Could be put in front but follows Master Plan.

Variance for length of building:

Self-storage- 250’ in length, will not be visible from Broadway.

Wetzl will operate the self-storage units and senior housing.

Slade Drive will be a public road dedicated to the village, but other streets will be private. Will take 2-3 years to complete the project. It will be called Black Water Subdivision in honor of the village’s history.

The Planning Board has approved this project and sent a letter to the ZBA, and Erie County Planning has no recommendations.

Sorgi – realize this is self-created and can do it without the granting of these variances. We could also be incompliance with the frontage, but this is a more attractive, walkable option

**MOTION** by Tom Kirszenstein, seconded by Charlie Gaffney to close the Public Hearing. 7:13 pm Carried.

At this time Member Schumacher proceeded to review the six criteria for the requested area Variance for the required number of parking spaces, 522 to 50.

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 area variance;

NO - Wetzl owns the adjoining property to the south & east, vacant farmland to the west, commercial development to the north. Fewer parking spaces would actually be more attractive than a sea of parking spaces that would otherwise remain unused. Additional blacktop for parking spaces could also cause other drainage/stormwater issues (stormwater regulations typically call for LESS impervious surfaces).

1. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

NO - Village Code does not account for parking requirements for self-storage units, the actual projected necessary parking for the apartments is only one per dwelling unit because of their size/garage. Other nearby parking for the commercial structures are provided within walking distance to allow for the campus atmosphere the developer is going for.

1. whether the requested area variance is substantial;

NO - The only substantial request is the variance for the self-storage parking requirements, due to the lack of a reference in Village Code.

1. whether the proposed variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district; and

NO - Parking for these types of uses are typical throughout the Village.

1. 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; and

To some extent yes, self-created, but again with respect to the self-storage facility, there is a lack of definition in Village Code that has led to the need for that variance.

1. whether it will create a hazard to health, safety or general welfare. Such language shall be liberally construed to effectuate the best interests of the residents of the Village of Alden and to implement the zoning ordinances and master plan.

NO - The proposed uses of the property are within the guidelines of Village Code and the Master Plan.

At this time Member Schumacher proceeded to review the six criteria for the requested area Variance for the required minimum required front yard setback.

(a) 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 area variance;

NO – There is in fact a specific zoning district within the Village (B-1) where buildings are required to be close to the front property line to promote a walkable community feel. This is exactly the type of development Wetzl is proposing, a campus-like setting that is primarily pedestrian-friendly.

(b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

NO – Again while the applicant could set the building further back from the property lines, it contradicts the walkability that they are trying to achieve with the development.

(c) whether the requested area variance is substantial;

While some of the setback distances are significant from a measurement standpoint, they are not out of line with the requirements of the B-1 District requirements.

(d) whether the proposed variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district; and

NO – It would actually enhance the walkability of the community.

(e) 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; and

YES – It is self-created, but again the purpose is to promote a walkable community with a campus-like atmosphere.

(f) whether it will create a hazard to health, safety or general welfare. Such language shall be liberally construed to effectuate the best interests of the residents of the Village of Alden and to implement the zoning ordinances and master plan.

NO - The buildings are still set back from the roadway enough to provide for adequate pedestrian access via sidewalks.

At this time Member Schumacher proceeded to review the six criteria for the requested area Variance for the required length of the self-storage buildings.

(a) 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 area variance;

NO – Allowing the buildings to be longer makes the development more efficient and decreases the impervious paved surfaces on the site.

(b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

The applicant could break up the buildings, but it serves no beneficial purpose to doing so.

(c) whether the requested area variance is substantial;

While some of the building lengths are significant from a measurement standpoint, there is no measurable significance to their increased length.

(d) whether the proposed variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district; and

NO – It would actually reduce the impervious paving required. Additional blacktop for parking spaces could also cause other drainage/stormwater issues (stormwater regulations typically call for LESS impervious surfaces).

(e) 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; and

YES – It is self-created, but again the purpose is to promote a more efficient layout and reduce the detriment to stormwater concerns.

(f) whether it will create a hazard to health, safety or general welfare. Such language shall be liberally construed to effectuate the best interests of the residents of the Village of Alden and to implement the zoning ordinances and master plan.

NO - The buildings are still set back the proper distances and will have screening as required. The only issue at hand is the actual length of the buildings – overall square footage would be the same in either scenario.

Member Schumacher stated that it appears from the testimony and deliberation that the benefit to the applicant as weighed against any detriment to the health, safety and welfare of the community is not unreasonable. Further, the variances requested are the minimum variances necessary while preserving the character of the neighborhood and the health, safety and welfare of the community.

**MOTION** by Tom Kirszenstein and seconded by Herb Schmidt, to grant the requested variances,

**Roll call vote:** Member Schmidt – aye

Member Kirszenstein – aye

 Member Gaffney- aye

Member Schumacher – aye

Member DeWitt – absent, 4 ayes, 1 nay

Carried. 7:30 pm.

Motion by Charlie Gaffney and seconded by Tom Kirszenstein, to adjourn the meeting 7:35 pm.

Respectfully submitted,

Sue Galbraith, ZBA Secretary