

Zoning Board of Appeals Meeting

Owner: 13447 Broadway Property LLC,

Parcel: 13447 Broadway southeast corner of Rusher Dr.

SBL #119.08-2-7.1

6/21/2022

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

Present: Michael DeWitt, Herbert Schmidt III, Tom Kirszenstein, Charlie Gaffney, CEO Czechowski, Chris Trapp, Darrel Gasper (Zoladz Construction) and Jason Beuford (GPI Engineering)

Absent: Brian Schumacher

The purpose of this public hearing: There are two variances being addressed at this meeting.

#1) The proposed front yard setback for the north structure of 24.59 feet is 5.41 feet less than the minimum required setback of 30 feet, as per section 210-21D (1).

#2) The proposed front yard setback for the south structure of 15.53 feet is 14.47 feet less than the minimum required setback of 30 feet, as per section 210-21D (1).

At this point Chairman DeWitt opened the Public Hearing to the audience.

For the first variance, the north structure is over the front yard setback, due to the addition of a room for water meters, which was a request by Mark Pruitt, Superintendent of Public Works.

For the second variance, the south structure is over the front yard setback, due to bumping out the water room, which was a request by Mark Pruitt, Superintendent of Public Works. It is also due to shifting the building west and south to allow vehicular access to the southeast portion of the property to meet the parking requirements and widen the drive lanes to allow emergency vehicles to properly navigate the property (as pointed out by the Fire Chief).

The CEO also advised the board, that he is requesting an interpretation from the ZBA with respect to the designation of the two structures as they relate to allowable uses in the zoning district (see memorandum from CEO Czechowski to the ZBA dated June 16, 2022 for more information).

MOTION by Tom Kirszenstein, seconded by Charlie Gaffney, to close the Public Hearing. 6:42 pm. Carried.

At this time Chairman DeWitt proceeded to review the six criteria for the requested Area Variance for the required front yard setback for the north structure. #1) The proposed front yard setback for the north structure of 24.59 feet is 5.41 feet less than the minimum required setback of 30 feet, as per section 210-21D (1).

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? **No, it is a small piece of the entire structure that is encroaching.**
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, the DPW requested the bump out for the water room.**
3. Whether the requested area variance is substantial? **No, it will only encroach approximately 5.5 feet into the setback, along the street side of the property.**
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district? **No, water meter rooms appear in several other properties within the Village.**
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? **No, the DPW requested the bump out for the water room.**
6. Whether it will create a hazard to health, safety, or general welfare? **No, the structure is similar to others within the Village.**

MOTION by Tom Kirszenstein and seconded by Charlie Gaffney, to grant this variance, Unanimous, Carried.

At this time Chairman DeWitt proceeded to review the six criteria for the requested Area Variance for the required front yard setback of the south structure. #2) The proposed front yard setback for the south structure of 15.53 feet is 14.47 feet less than the minimum required setback of 30 feet, as per section 210-21D (1).

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? **No, only a portion of one structure encroaches into the street-side setback.**
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, the DPW requested the bump out for the water room, the applicant needed to access the southeast property to comply with parking requirements, and the Fire Chief indicated more drive area was necessary for emergency vehicles.**
3. Whether the requested area variance is substantial? **No, it will only encroach approximately halfway into the into the required setback, along the street side of the property, but will still be substantially distanced from the roadway.**
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district? **No, water meter rooms appear in several other properties within the Village.**

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? **No, the DPW requested the bump out for the water room and Fire Chief indicated a need for more drive space.**
6. Whether it will create a hazard to health, safety, or general welfare? **No, the structure is similar to others within the Village.**

MOTION by Herb Schmidt and seconded by Tom Kirszenstein, to grant this variance, Unanimous, Carried.

At this time, the zoning board proceeded to review the interpretation request concerning the labeling of the project, based on the information contained in the memorandum from CEO Czechowski to the ZBA dated June 16, 2022. After careful consideration, the ZBA took the following action:

MOTION by Charlie Gaffney and seconded by Tom Kirszenstein, to concur with CEO Czechowski's interpretation that while it is understood and agreed that the two structures proposed for this development are in fact multi-family dwellings, which are allowable uses in a C-1 District, the structures would be issued Certificates of Occupancy for single-family dwelling units to comply with the requirements of the New York State International Residential Code for the purposed of building construction only, as the structures would be classified as townhouses under the requirements of the New York State International Residential Code.

It is further understood that the interpretation of mutli-family dwellings using townhouse construction classifications for this specific property is synonymous with the classification of multi-family dwelling units as they are specifically proposed for this particular parcel and development.

The Village of Alden Zoning Board of Appeals, as a condition of this interpretation, further requires that the subject parcel shall remain in single ownership in perpetuity and that individual dwelling units shall not be sold or subdivided.

Unanimous, Carried.

MOTION by Tom Kirszenstein and seconded by Charlie Gaffney, to adjourn the meeting, Unanimous, Carried. 6:48 pm.

Respectfully submitted,

Sue Galbraith, ZBA Secretary