

**Town of Sand Lake
Zoning Board of Appeals (ZBA)
August 18, 2016**

The minutes, as follows, are intended to provide a general summary of the Agenda items and Public Hearings. Quotes presented are not verbatim, nor is all discussion which occurred presented herein. This document should not be relied upon as a transcript or the actual proceedings. The transcript of this meeting is on a digital voice recorder and available at the Town Hall.

CALL TO ORDER: Chairwoman Judy Breselor called meeting to order at 7:00 PM.

MEMBERS PRESENT: Chairwoman Judy Breselor
Geraldine Burger
Scott Bendett
Jeb Bond

MEMBERS ABSENT: Melissa Toni
Lawrence Howard, Esq., ZBA Attorney

OTHERS PRESENT: Lawrence Dickinson, David Ernst and Monica Ryan

RECORDING CLERK: Karol O'Sullivan, Clerk for the Planning Board and Zoning Board of Appeals

Use Variance Application and Public Hearing

Lawrence Dickinson/Park Restaurant Corp.
2835 NY 43
Averill Park, NY 12018
R-1 Zoning District/C-1 Zoning District

Tax Map #148.3-3-8*
(*Reflects updated tax map information.
Tax Map #148.3-3-15 combined with
#148.3-3-8)

A Use Variance Application to create a parking lot for the Towne Tavern.

Lawrence Dickinson (LD) presented to the ZBA as owner of the Park Restaurant Corp. Judith Breselor (JB) asked LD to explain his plan. LD stated he was seeking approval for a parking lot in an R-1 Zone. He explained that he purchased the property in a foreclosure. The building on the property had not been lived in since Hurricane Irene damaged it and he tore it down.

JB explained the difference between an Area Variance and a Use Variance stating that a Use Variance is more difficult and four criteria items must be met to gain approval. JB opened the Public Hearing at 7:03 PM. One resident, Dave Ernst, spoke in favor of the parking lot. He stated he lived next to the Sand Lake Town Hall at #8448 and was present at the meeting to

support Larry Dickinson. With no other comments from the public the Public Hearing was closed at 7:04 PM.

JB stated she would run through the four criteria items but invited ZBA members to ask questions. Scott Bendett (SB) asked if there were any plans for lighting in the parking lot. Safety of the public was his concern. LD stated yes there would be lighting and referenced the Sketch Plan maps he provided. Those maps were disseminated to the ZBA members. LD proposed four poles for cut off lighting projecting straight down. SB asked how close to the road was the proposed lighting. LD answered the poles were approximately 40' from the road and centered in the parking lot. SB explained his concern for safety. LD stated he felt the new parking lot will make it safer for his customers. SB acknowledged the 40 mph speed limit in the restaurant vicinity and that people don't always abide by the speed limit. SB stated that additional lighting closer to the road would be needed to insure someone standing on the edge of the parking lot near the road could be seen. It was agreed that LD's lighting need to stay within his property line per DOT requirements, but he was agreeable to such lighting near the road. SB brought up snow bank concerns in the parking lot during winter months. High snow banks could hinder line of sight for pedestrians/vehicles. LD offered that if there was a lot of snow he would have to remove it as he does with the parking lot adjacent to the restaurant. JB returned the ZBA discussion to the Use Variance Application stating LD would be returning to the Planning Board for Site Plan Review and such concerns for lighting and safety would be addressed at that time.

JB began addressing the Use Variance Criteria. To allow a use not otherwise allowed in zoning, an applicant must demonstrate to the Board unnecessary hardship. Such demonstration includes the following:

1. **Cannot realize a reasonable return – substantial as shown by competent financial evidence.** JB asked LD if he had contemplated any other use for the lot. LD and ZBA discussed the ½ acre size of lot in an R-1 Residential Zone adjacent to a commercial area placed right on a highway. LD stated he is in the building business and feels building a home on a deficient sized lot is out of the question. The Lot is 76', so a 50' house would not meet set back requirements and the home owner would have to back out of the driveway onto the highway which would be prohibited on a State road. The ZBA agreed that since the lot size is deficient, a home could not be built on the property because it wouldn't meet the setback requirements and the adjacent creek on the property ties LD's hands for another use of the property.
2. **Alleged hardship is unique and does not apply to substantial portion of district or neighborhood.** LD and ZBA discussed the fact that the lot is surrounded by commercially zoned properties and will not impact the neighborhood because it is not in the middle of a residential area. The property has commercial behind it, in front of it and across the street. LD discussed that he followed the Town's proposed zoning changes when purchasing the property and believed the property would be zoned commercial at future public meetings. The ZBA was satisfied with the answers and agreed the criteria had been met.

3. **Requested variance will not alter essential character of the neighborhood.** LD stated the parking lot is better looking than the building that once stood there. The building was unoccupied, run down, windows out and the porch was falling off. LD stated the parking lot was already an improvement to the neighborhood. Jeb Bond (JB) stated the parking lot makes the property consistent with the commercial areas around it. The ZBA agreed that the criteria had been met.
4. **Alleged hardship has not been self-created.** LD stated every business needs to be able to expand and grow. The Towne Tavern needs to be able to expand and the additional parking to stay in business. He receives complaints from patrons every week that they can't find a parking spot. Some patrons leave, while others park at other locations such as the Town Hall parking lot, Arts Center and Cumberland Farms. LD stated that safety has been a hardship for his patrons and they are safer with his proposed parking lot. The ZBA acknowledged they were satisfied the criteria had been met.

JB returned to the Site Plan Review discussion. SB stated he felt strongly about proper lighting for the Towne Tavern and the parking lot. He asked LD to consider nice lighting not only on the parking lot side of the road, but also in front of the restaurant to illuminate the area nicely and safely. LD stated he has proven to do things nicely for the Towne Tavern and would continue to do so. SB reiterated his concern about safety in the parking lot and said strong lighting and snow removal policies must be adhered to.

JB brought up the handicapped parking spots on the new parking lot sketch plan. LD stated that was discussed with the Planning Board at the August 17 meeting. Monica Ryan advised that she discussed the required number of handicapped spots with Mike Wager, Zoning Officer, and the number of spots is based upon occupancy. It was agreed that three handicapped spots in total are required. LD confirmed he would add one additional handicapped spot and all would be located on the restaurant side of the street.

SB cited research of pedestrian accidents in parking lots and the fact that the Towne Tavern is a family restaurant for a good number of the hours of operation. There was discussion about making the restaurant's existing parking one way. He acknowledged how tight the current parking lot is. Lighting was brought up again and LD stated full cut-off lighting, facing down would be installed and that he was also taking the neighbors surrounding the area into consideration. Jeb Bond asked how many neighbor houses were in this area and the total was three residential houses. JB asked ZBA Clerk, Karol O'Sullivan (KOS), if those neighbors had been notified of the Public Hearing and whether there had been any communication from the neighbors. The neighbors were notified and there was no return communication from them.

Jeb Bond asked LD about his plans for an entrance to the parking lot because right now it is wide open which could lead to parking too close to the road. LD advised the same concerns and discussion happened at the Planning Board meeting the evening before. Split rail fencing, low shrubs and landscaping were all discussed. It was agreed between LD, MR and the ZBA that low shrubs and landscaping would be best. The Planning Board would have responsibility for this subject as part of the Site Plan Review Application. LD acknowledged that safety of

pedestrians; snow bank control and line of vision were all his responsibility. JB stated the ZBA would convey their safety issues to the Planning Board for their consideration of the Site Plan Review.

Gerry Burger (GB) asked how many parking spots currently exist in the restaurant parking lot which LD advised was 31-32 spots. GB asked LD about maintaining the new parking lot with gravel. LD stated he had no plans for “impervious” blacktopping for the lot and all agreed that gravel was better for drainage and to protect the pedestrians from ice and the adjacent creek from run off. GB stated that safety had been fully addressed by SB and current lighting of the vicinity was discussed. A crosswalk from the new parking lot to the restaurant was discussed. LD stated he contacted DOT and was advised that a mid-section crosswalk would not be allowed by the State. That same information was confirmed by MR and ZBA member, Melissa Toni. GB asked about DOT signage to protect pedestrians. LD and MR stated that a patron not comfortable crossing the road from the parking lot would have the option of walking to the stop light at the intersection of Rts. 43 and 66. MR stated the potential for sidewalks in this hamlet area in the future which would make walking in the area safer. The design for these sidewalks starts in 2017. GB revisited the maintenance of the gravel parking lot for proper drainage. LD said his engineer told him the removal of tree stumps/roots will help with drainage.

JB stated that if the ZBA feels the Use Variance Application questions have been fully answered and if they approve the Use Variance, she asked KOS to clearly identify the ZBA’s safety issues to the Planning Board in preparation for their Site Plan Review of the Towne Tavern’s parking lot. JB then asked the ZBA if they were ready to take a vote on the environmental impact of the plan. SB motioned a Type 2 SEQR, Jeb Bond seconded the motion and all approved. JB addressed the Application stating she felt all four criteria questions were answered with sufficient verbal evidence to demonstrate all four issues were beyond LD’s control. JB motioned to approve the Application, GB seconded the motion and all approved.

JB suggested to LD that he petition the Town of Sand Lake to request the speed limit be reduced approximately 200 feet before the restaurant location. The Town would submit the request to the County Legislature. The County Legislature then would pass a Resolution telling the State of New York why it is important for the speed limit reduction. JB stated this scenario has happened in other Rensselaer towns. LD stated he would do so.

MINUTES

Jeb Bond motioned to approve the June 16, 2016 meeting minutes. SB seconded and all approved.

ADJOURNMENT

SB motioned to adjourn the meeting at 7:30 PM. The motion was seconded and all approved.