Town of Sand Lake
Zoning Board of Appeals (ZBA)
June 9, 2022

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: Melissa Toni opened the meeting at 7:02PM

MEMBERS PRESENT: Scott Bendett
Amy Lent
Sherwood Palitsch
Scott A. Blair
Craig Crist, Esq.

MEMBERS ABSENT:

OTHERS PRESENT: Dennis Tremont, Joshua Sidoti, Monica Ryan (Town Planner)

RECORDING CLERK: Laura Fedoreshenko, Clerk for Planning Board and ZBA

Use Variance Application and Public Hearing Continuation

Dennis Tremont – Ace Hardware (Applicant)
2897 NY 43
Averill Park, NY 12018
HMU – Hamlet Mixed-Use Zoning District

Tax Map #: 148.-6-2.12

Lot Size: 5.07 acres

A Use Variance Application related to the use of an electronic message center business sign.

This was the third presentation for this application which was initially discussed at the Zoning Board of Appeals (ZBA) meeting of February 10, 2022, a public hearing was held on March 10, 2022 that resulted in a request for additional information from the applicant related to the questions in the Use Variance Application. The public hearing remained open. Melissa Toni (MT) stated that the original Area Variance application had listed answers of "N/A" for Section 4a and 4b. She added that, at that time, the applicant had chosen to revise his original application to reflect list answers for those areas. With the application information revised, the criteria for Section 4 were then discussed individually.

Dennis Tremont stated that for Section 4a (which asks the applicant to provide financial evidence why a reasonable and substantial return cannot be realized by using the property for a use permitted in the Town Zoning Code), the current economy has resulted in constant pricing changes; thus, the electronic message board would make it efficient to advertise items at their current price. He stated for Section 4b (which asks the applicant to describe how the alleged hardship is unique to the property and does not apply to a substantial portion of the neighborhood or district), he did not have anything to add to his written answer. Scott Bendett (SB) then asked if it was fair to say that Ace Headquarters could take away the franchise if found not to conform. Mr. Tremont replied that Ace Headquarters would periodically provide a list of items they would like changed/updated at the store and if unable to conform, the franchise would need to respond in writing as to why the changes/updates could not be done. He added

that the electronic message board would make it easier, faster, more efficient, and safer. Sherwood Palitsch (SP) asked if the letters currently utilized for the manual message board were hard to purchase to which Mr. Tremont replied yes and they have had to make a few of their own. Mr. Tremont stated that for Section 4c (which asks the applicant to explain how the variance, if granted, would not alter the essential character of the neighborhood), a new updated message board would look better as letters/numbers would fall off the current manual message board with inclement weather resulting in staffing having to go out and fix them during such weather. He added that it would be safer for the staff as they would not be on a ladder in the winter. For Section 4d (which asks the applicant to show how the alleged hardship has not been self-created), Mr. Tremont stated that the current manual message board was inefficient and antiquated, whereas a new electronic message board would be modern, efficient, and uniform.

MT asked if there were any additional materials or information that the applicant wished to submit in support of his application to which Mr. Tremont responded no. MT then stated that as part of standard procedure, the ZBA would seek a Recommendation from the Planning Board (PB) for their input as the project would also involve a Sign Placement Application.

SB motioned to deem the application complete and to seek a Recommendation from the Planning Board; seconded by SP and all approved. Craig Crist (CC) noted that the Public Hearing was currently open and recommended it remain as such to which MT agreed. MT then asked the applicant if he would agree for the Town to paraphrase the discussion along with the written information for submission to the PB for the Recommendation. Mr. Tremont stated that was fine. SB asked the applicant if he would not be opposed to certain restrictions on the sign that the PB may place on the Recommendation to the ZBA to which Mr. Tremont responded no.

Monica Ryan explained for the applicant that the request for the Recommendation from the Planning Board would be placed on their July 6, 2022 agenda with the outcome provided to the ZBA for the July 14, 2022 meeting.

Area Variance Application

Joshua Sidoti (Applicant/Property Owner)
12 Kodiak Drive
Averill Park, NY 12018
R – Residential Zoning District

Tax Map #: 170.-1-28.130

Lot Size: 1.24 acres

An Area Variance Application for insufficient front yards setback on a corner lot related to the construction of a 12’ x 24’ shed.

MT explained the Area Variance process for the applicant. Joshua Sidoti presented and stated that they wished to place a shed in the corner of the property which was irregular shaped as 2/3 of it was considered road frontage. Mr. Sidoti explained that the proposed location of the shed would be out of the way, not stick out and not be visible due to existing pine trees. He stated that the color of the shed would be earth-tone and added that the reason for the chosen location was that he could keep the other part of the yard open for his two children to have space to play.

MT noted that the applicant had two front setbacks and asked why the corner was chosen as opposed to the other side. Mr. Sidoti referred to a picture and replied that a shed currently existed in the other corner. He added that the location for the new shed would be tucked in with trees and vegetation and pointed out that there was not a neighbor nearby in that location. He explained that if the shed were to

be relocated, it would be more visible to the one neighbor and look odd in the yard due to the layout of the property.

Amy Lent (AL) commented that it seemed like a logical location for the shed. MT stated this was tough due to being a corner lot; thus, had double the frontage. MT explained that one of the criteria questions for an Area Variance was whether it was substantial. She stated the answer to that question would be yes as the proposed location was 100% in the setback and added that during her time with the ZBA, not one of such nature had been approved. She explained that if the request were to be approved, the reasoning would need to be clear that it was a corner lot which had two fronts. MT added that Board members should do a site visit to ensure that the chosen location was the best for the desired outcome. She explained to the applicant that it was the Board's role to first see if the desired outcome could be achieved in some other manner without the need for a variance. She added that if all alternatives were discussed and exhausted then the Board would look for a compromise in order not to have it be 100% substantial.

MT viewed the layout of the property and asked about the new shed being placed in the other corner to which Mr. Sidoti stated that a shed already existed in that location; thus, did not know how it would fit in. MT reiterated that the 100% substantial precedent concerned her. She then asked if, at the proposed location, the shed could be turned. Mr. Sidoti replied that he believed that scenario would make it visible to the one neighbor. MT asked Board members, upon doing a site visit, to ensure that her proposed scenario would not be something to consider. MT added that a variance at 50% substantial would be better and a setback variance for 25' versus the requested 10' was discussed as a possibility. Mr. Sidoti stated that the shed would be stick built by a builder. It was noted that the back of the shed was proposed at 10' from the property line which met the required setback. The applicant and Board members discussed the possibility of a shift of location to bring the needed variance to within 50% substantial.

MT asked Board members if they agreed to deem the application complete with the caveat that the location may shift requiring less of a substantial variance need. CC explained that would be fine within a reasonable degree of latitude in order that it may be described for the Public Hearing that the applicant is contemplating shifting the shed more into the yard. JP asked if the application could be deemed complete if a change was being contemplated. MT explained that while the application may be deemed complete, the applicant could amend/modify with a minor deviation.

MT motioned to deem the application as complete and scheduled with Public Hearing for July 14, 2022 with the caveat that the notice reflect that the location of the shed may shift further away resulting in less of a variance required. This motion was seconded by SB and all approved.

Area Variance for Paul Wehnau, Jr.
MT motioned to approve the Resolution in its entirety; seconded by SB and all approved.

Area Variance for Gordon & Joyce Hull
MT motioned to approve the Resolution in its entirety; seconded by SB and all approved.

DRAFT MINUTES FOR APPROVAL
MT motioned to accept the draft minutes for May 12, 2022 with the one edit discussed; seconded by SB and all approved.

ADJOURNMENT
MT motioned to adjourn the meeting at 7:32pm; seconded by SB and all approved.