

## **EAST ROCHESTER ZONING BOARD MINUTES**

PLACE: 120 West Commercial Street, East Rochester Village Offices  
DATE: January 21, 2014  
TIME: 7:00pm

### **PRESENT:**

Frank Barbero, Chairman  
Christina Belles, Alternate Member  
Matthew Fox, Member  
Margot Gilhart, Member  
Eric Schoenhardt, Member

### **NOT PRESENT:**

Tony Gonzalez  
Gary Smith, Engineer

David Smith, Building Inspector  
LaMarr Jackson, Village Attorney  
Jennifer Raymond, Recording Secretary

Frank Barbero called the meeting to order at 7:00pm.

Christina Belles participated as a voting alternate member.

### **1st Item on the Agenda:**

106 Lincoln Parkway, parcel #139.70-1-81.31. Devin Hollands, commercial tenant at the property presented, seeking a Commercial Variance for a recycling container (next to the front west corner of the existing building) with an enclosure on the west property line, and for seven storage containers (presently in use on the property) with an 18 foot setback from residential property, rather than the required 25 foot setback.

Mr. Hollands reiterated the above mentioned items to review for approval.

Frank Barbero mentioned that he had visited the site the day before. He noted the brush by the fence and the seven containers; all looked fine to him.

Mr. Hollands explained the use of the seven containers to store seasonal merchandise (plastic pool toys, umbrellas etc.), no hazardous materials or chemicals being stored.

Eric Schoenhardt asked about paving up to the recycling dumpster. Mr. Hollands replied that it would be blacktop or pavement so that DPW could drive their truck up to it.

Margot Gilhart asked how long Mr. Hollands has been in business there. Mr. Hollands replied five years; he explained he had started out with two storage containers and then added more when he

needed more space. Mr. Schoenhardt asked what plans were there for the future when more storage would be needed again. Mr. Hollands said there isn't any more room for another container on site, so they would have to use an off-site storage. He is not able to build an addition or add a warehouse on the site because he doesn't own the property. He hasn't located any larger vacant property in the Town to purchase or rent for his business.

Christina Belles commented that the clarification that Mr. Hollands is leasing the property rather than the owner is beneficial for determining the hardship he has with storage space.

Mr. Clark Rittersbach, owner of the neighboring commercial property at 108 Lincoln Parkway, commented on several concerns he had with the items submitted the Planning and Zoning Boards for review:

When he wanted to put another building on his property, the Town told him he needed a permit. Meanwhile, these storage containers have accumulated on the site at 106 Lincoln Parkway over the years without any permits issued, no taxes being paid for them; they are an eyesore and cover up a good amount of green space.

Trash has accumulated on the property and is being tossed into his property; brush by the containers is over-grown.

He wasn't able to keep a closed trailer that had plates on it on his property, and yet Mr. Hollands has been able to keep these very large storage containers on the property he is renting.

Mr. Schoenhardt asked Mr. Smith about building codes for these containers. Mr. Smith replied that he has codes for accessory structures. Mr. Smith would consider these containers accessory structures.

In residential areas there are codes concerning the number of accessory structures, but not in Industrial zoned areas.

Ms. Belles asked if it would help if the seven containers were moved forward and asked if they would be in compliance then. Mr. Hollands commented that although they would be in compliance, he did not think it would help; it would provide an alley for kids to loiter.

Jennifer Raymond informed the Zoning Board of the caveat that the Planning Board Chairman, Herb Allen issued with their positive recommendation for the seven containers: OSHA official's approval of the current use of the containers (employees going in them/ using them as warehouses). Mr. Smith informed the board that he had reached out to an OSHA investigator and determined that there was no cause for concern for their current use. Mr. Hollands added that he had looked on OSHA's website and only found conditions for storage containers that involved explosives, chemicals and other hazardous materials.

Mr. Smith advised the board that when they vote, they should assert conditions for any decisions made.

Mr. Schoenhardt made a motion to allow the variances for the recycling container to be at the proposed location with a paved surface up to it and for the seven containers currently on the property with the following conditions:

- in an Industrial Zone
- maximum of seven storage containers
- the seven containers do not encroach any closer than they presently do (16.8 feet on the east side and 13.5 feet on the west side) to the property lines
- subject to any applicable building codes

Matthew Fox seconded the motion. Voting was 4-1 as follows:

Frank Barbero, Matthew Fox, Margot Gilhart and Eric Schoenhardt approved

Christina Belles opposed

Motion was approved.

**New Business:**

Frank Barbero read the three year re-appointment of the following members: Tony Gonzalez, Matthew Fox, Eric Schoenhardt and Christina Belles (alternate).

Mr. Barbero announced the newly appointed alternate members: Devin Vosburgh and Mike Russo.

The board voted for a Vice-Chairman. Frank Barbero made a motion to nominate Eric Schoenhardt. Matthew Fox seconded the motion. Voting was 4-0, all in favor.

Frank Barbero also reminded the board that they are required to have 4 credit hours of training for the year. Ms. Belles asked the recording secretary to remind the board what the procedure was for this. Mrs. Raymond explained that the members submit a completed application to the Town and the Town will pay up front. If the member isn't able to attend they must reimburse the Town.

Eric Schoenhardt made a motion to approve the December 17, 2013 meeting minutes and Margot Gilhart seconded the motion. Voting was 5-0, all in favor.

A motion to adjourn was made by Christina Belles and seconded by Matthew Fox. Voting was 5-0, all in favor. The meeting adjourned at 7:45 pm.

Respectfully submitted,

Jennifer Raymond  
Recording Secretary