

EAST ROCHESTER ZONING BOARD MINUTES

PLACE: 317 Main Street, East Rochester Village Offices

DATE: March 17, 2015

TIME: 7:00pm

PRESENT:

Frank Barbero, Chairman

Eric Schoenhardt, Member

Devin Vosburgh, Member

Margot Gilhart, Member

Brian Pyfrom, Member

Jason Steel, Alternate Member

NOT PRESENT:

John Belt, Alternate Member

Gary Smith, Parrone Engineering

David Smith, Building Inspector

David Mayer, Village Attorney

Jennifer Raymond, Recording Secretary

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

1st Item on the Agenda:

146 West Commercial Street, parcel #139.77-3-12 Luna's Lounge. Manager Alexander Santos is seeking a Commercial Area Variance for a Sign Permit for additional signage in excess of Village Code. He is proposing to replace the existing wall-mounted sign with a new sign measuring 24" H x 31' W which equals 62 square feet (exceeds the maximum allowable town code of 50 square feet, by 12 square feet).

The Planning and Architectural Review Board determined at the March 10, 2015 meeting that only the square footage of the lettering being replaced would be measured, rather than the square footage of the existing green back board being included. The actual size of the lettering is 10' x 12" (10 square feet). The back board for this project is part of the building's fascia rather than part of the sign. Therefore, the applicant does not need to seek a variance for additional square footage of a sign. The applicant has withdrawn his Zoning Board application.

2nd Item on the Agenda:

114 Pine Street, parcel # 139.70-1-43. Owner Joseph Welch and his wife Victoria Welch are seeking a Use Variance to store a commercial vehicle on a residential property located within the R1-48 zoning district from November 15th to April 15th.

Mrs. Welch explained to the Zoning Board that her husband owns and drives a dump truck for a living from April to November. The truck is a 1994 tri-axle Mac Dumpster Truck. It is privately registered; there is no DBA for a business. She passed around pictures of her neighborhood for the Board to look at, explained the conditions and demographics of the area that the truck is in and said the truck is parked in the back where it can't be seen. Joe Welch explained that the truck has a diesel engine, and therefore needs to be plugged in to warm up when it's cold. He explained that it would be a real financial hardship to pay for another location to store the truck and plug it in (since he doesn't usually work during the cold months).

Town resident Robert Scalia spoke during public comment. He confirmed that the truck cannot be seen unless you come upon it; it's tucked way back on the property. In his opinion, it is not an eyesore or an obstruction to anyone. He feels that if commercial vehicles need to be tucked away then recreational vehicles should follow the same rules.

Mrs. Welch said she would be willing to put a tarp over it or pay for a special use permit to be allowed to park it in their driveway from November 15th to April 15th.

Jason Steel asked where they store it the rest of the year. They both explained that Mr. Welch is using it at work and parks it on Despatch Drive for several hours while he is sleeping. Margot Gilhart asked why they don't park on Despatch Drive during the winter and Mr. Smith advised Mr. Welch that there are No Parking signs on North Lincoln. Ms. Gilhart asked whether Mr. Welch could leave the truck at the location where he is doing work. Mr. Welch explained that because it's privately owned he cannot leave the truck on site, plus he needs to have the facilities available to plug it in. Ms. Gilhart inquired about the location of the driveway where the truck is parked and how it's plugged in. Mrs. Welch said it's next to the brick and a power cord is run from an outside outlet at the house to the truck. Ms. Gilhart asked about the amount of noise while running the truck. Mr. and Mrs. Welch both stated that the truck is much quieter than most diesel pick-up trucks and quieter than many cars that are on Pine Street too. The truck is in very good condition. Ms. Gilhart asked if the applicants are seeking a temporary permit or permanent permit. Mrs. Welch said it's only for the cold months. Mr. Welch mentioned that he is looking at possibly buying some commercial property to store it.

Eric Schoenhardt asked David Smith to explain the Town Codes for commercial and recreational vehicles for everyone's clarification. David Smith stated that this truck is a commercial vehicle and must follow the requirements of Town Code 193-11H (see attached code). He further explained that recreational vehicles must follow the requirements of Town Code 193-11J (see attached code).

Mr. Schoenhardt asked David Mayer about options the Board can consider, given the two codes (commercial 193-11H vs recreational 193-11J). Discussion followed concerning conditional permits, special use permits, Zoning Board's jurisdiction for approval, and the role the Town Board has when it comes to changing and/or amending a Town Code.

Brian Pyfrom mentioned that he used to drive a snowplow and had to plug it in for approximately 20 minutes to half an hour to bring the diesel engine up to the proper temperature. He inquired whether a portable generator would be a viable solution in this situation. Mr. Welch replied that this truck takes 3 or 4 hours to bring up to temperature and he doesn't think a portable generator would have enough energy to run for that long.

Mrs. Welch inquired as to when the next Town Board meeting is, whether she can leave the truck where it is until the next Board meeting and said she has the right to appeal if she doesn't agree with the Zoning Board's decision. She said the truck only needs to be stored in her driveway until April 15th. David Mayer addressed her questions. He said if the Zoning Board turns down her request for a variance at this meeting, then the situation goes to Code Enforcement. He noted that the applicant has already received a Notice of Apparent Violation. He said the next step would be to receive a ticket which would result in a court appearance (which is about 30 days out). Mrs. Welch said by that time the work season will have started up and the truck will be moved. Mr. Schoenhardt said that the applicant would have to have other arrangements in place for next year and should start planning for that now. Mr. Welch said he is looking to purchase commercial property whereby he could store the vehicle inside (where it would be safe from vandalism).

Eric Schoenhardt made a motion to decline the application for a Use Variance to allow the truck to be kept in the driveway at this address. Brian Pyfrom seconded the motion. Voting was 5-0, all in favor to deny the application.

Old Business:

Brian Pyfrom asked for a status update on the application submitted by Morabito Law (117 West Commercial Street) for a commercial area variance for multiple signs. A discussion followed on the project. Jennifer Raymond said she had spoken to Collette Morabito the day before and agreed to call the applicant again at the end of next week to determine if they will be ready to present at the April meeting.

David Smith addressed David Mayer and requested a discussion concerning variances. David Mayer passed a handout of Village Law Article 7 Section 712 (b) concerning Permitted Action by the Board of Appeals, Use Variances (listing the four parameters of

unnecessary hardship that must be proven in order to have a variance granted) and Area Variances.

Frank Bello asked about the timeline and deadline for application submittals in order to be on the agenda for a board hearing. Jennifer Raymond explained it's approximately 3 weeks in order to meet Messenger Post's deadline to submit a legal notice.

New Business:

Frank Barbero informed the Board that Tony Gonzalez has submitted his resignation as a member. Brian Pyfrom has been appointed as a new member and John Belt has been appointed as a new alternate member.

Devin Vosburgh made a motion to approve the January 20, 2015 meeting minutes. Margot Gilhart seconded the motion. Voting was 5-0, all in favor.

Margot Gilhart made a motion to adjourn. Devin Vosburgh seconded the motion. Voting was 5-0, all in favor.

The meeting was adjourned at 7:50 pm.

Respectfully submitted,

Jennifer Raymond
Recording Secretary