



Present: Chairman Dax
Charles Gerald
Tony Murad
Phyllis Stoller
Jeannine Tonetti

Absent: Jeff Hattat
Ted Krolikowski

Others Present: William Hoffman, J Lord, Tyler Sterling, Bruce Baldwin, J.J. Johnson-Smith and Robert Smith

I. Call to Order:

Chairman Dax called the regular meeting of the Town of New Lebanon Zoning Board of Appeals to order at 7:35 pm.

II. Minutes Review:

Upon Review of the November 2, 2010 minutes, a motion was made by Tony Murad , seconded by Phyllis Stoller to approve them as submitted. The motion carried upon the following vote:

Chairman Dax	Aye
Charles Gerald	Abstained
Jeff Hattat	Absent
Ted Krolikowski	Absent
Tony Murad	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Aye

III. Application Review:

Mr. Hoffman explained that Hannaford has applied for three variances as follows:

Case No.: ZBA-2010-049a- Hannaford Bros. Co. TM#19.2-1-58.2

Request for Area Variance: Front Yard Setback
Project Title: SUPERMARKET & PHARMACY
Plans Dated: July 2010, Rev. 3: date 11.29.10
Agent: William G. Hoffman, PE of Deluca-Hoffman Associates, Inc.

The application reads:

For lots that have frontage on two streets, the Ordinance states:

Section 7.2.2: On a corner lot in any district where a front setback is required, a setback shall be provided on each street equal in depth to the required front setback on such streets. One rear setback shall be provided on each corner lot and the owner shall designate the rear setback on the application for a zoning permit. In no case shall the designated rear lot width be so interpreted as to reduce the building width of a corner lot facing an intersecting street, and of record at the time of the passage of this local law to less than twenty-four (24) feet.

The front lot dimension in the Commercial Zone is 75 feet from the middle of the travel way. The first front yard is on Route 20 where the 75-foot setback is met. The second is on County Route 5A (West Street) where the back rear corner of the building will encroach up to 32.92 feet into this yard area.

The site parcel is unusual in that it is rare for property in the Commercial Zone of the Town to have two front yards. Five other lots in the Commercial Zone at this intersection have the condition of two front yards. Three of these lots currently encroach into the front yard of County Route 5A. Drawing C2.1, and an aerial map depict the current and proposed conditions and the front yard setbacks along Route 20 and County Route 5A. As shown, there are six of the nine other lots in the Commercial Zone that do not meet the setback requirements.

The criteria under which the appeal is evaluated and the applicant's statement concerning each criteria are as follows:

12.3.3.2.1. 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 area variance;

The granting of the variance is along County Route 5A where the current buildings from the intersection of Route 22 to the County Public Works garage all have portions of the buildings within 75 feet of the center of the road. The homes on the opposite side of the road (four structures) sit between 32 and 38 feet of the roadway centerline with the florist and antique dealer on the corner being even closer to the street. The Town's fire station is also positioned with the side of the building within the front setback of Route 5A. Therefore, the building placement is actually consistent with the building setbacks that exist on the adjacent lot or those on the opposite side of the street.

This project will also involve the razing of the OTB and Gallup Inn building. This building is slightly within the front yard setback of Route 20. Upon completion of the project the current nonconformance to the Route 20 setback which exists for the OTB building will be eliminated.

This layout benefits abutters on County Route 5A since it allows for added green space and the "quietest" side of the building will face the residential neighborhood.

12.3.3.2.2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

The building location has been set with the other side of the supermarket just meeting the 20 foot side yard setback to permit tractor trailer trucks to maneuver in and out of the proposed loading dock. A copy of the turning movement for a tractor trailer truck is depicted in the enclosed Figure E-2. Shifting the building in an easterly direction would result in a side yard violation, adversely impacting the drive-in service for the Bank of America branch bank, adversely affecting the loading operations, and will exacerbate the turning movements near the side of the Valley Plaza Mall building.

12.3.3.2.3. whether the requested area variance is substantial;

The encroachment is similar to the encroachment of adjoining parcels or those across the street. The proposed building has a footprint of over 25,000 square feet. The encroachment into the front yard is about 1,366 square feet, representing a small percentage of the building area (between five and six percent) located within the front yard setback.

It is the opinion of the Applicant that the area variance is not substantial when compared to the properties located near the site and their existing encroachments into the front yard setback.

12.3.3.2.4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

The encroachment aids the Applicant in locating the building on the site to minimize adverse impacts in the district by allowing the smaller scale drive of the pharmacy to face the street, locating loading and other potential noise generators distant from nearby residential uses, and allows the inclusion of other beneficial elements such as the proposed landscaping shown on Drawing C-5. The location of this corner of the building does not affect the ability of the Applicant to design proper water quality treatment for the corner of the building within the setback. This area will be infiltrated through underground galleries.

As noted previously, the encroachment of buildings into the front yard setback in the vicinity of the project is common with eight other buildings in the immediate vicinity of the project projecting into this front yard.

12.3.3.2.5. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance;

The Applicant discovered the encroachment during the preparation of the site plans. The store is a new prototype where dimensions are very important to the Applicant. In the sense that the project is a proposed project, it would be self-created. In terms of being able to design the site to reduce or eliminate the encroachment, this is a condition of the parcel of land, the store is a new prototype which has been carefully designed for villages and hamlets of this size, and the language of the ordinance which defines front yards for the parcel on Route 20 as well as County Route 5A. (At the beginning of the project the Code Enforcement Office recommended the language be rechecked since other local zoning ordinances frequently allow the Owner to select one front yard, being that which the principal building faces.) In New Lebanon, the definition of front yard is very specific and the ordinance language does not allow for interpretation of front yard.

12.3.3.2.6. such other additional or different considerations that may be prescribed by section 267-b of the Town Law, as it may be amended from time to time.

The Applicant is not aware of any additional considerations prescribed under this section and requests the Board grant the area variance based upon the recommendations of the Planning Board and the affirmation of the statements provided by the Applicant, and concluding such variance will not affect the health, safety, or welfare of the Town of New Lebanon.

Discussion:

Chairman Dax asked what business activity is conducted at this particular corner of the store. J Lord replied "Sales and Merchandise"

Case No.: ZBA-2010-049b- Hannaford Bros. Co. TM#19.2-1-58.2

Request for Area Variance: Building Mounted Signage

Project Title: SUPERMARKET & PHARMACY

Plans Dated: July 2010, Rev. 3: date 11.29.10

Agent: William G. Hoffman, PE of Deluca-Hoffman Associates, Inc.

The application reads:

The Applicant is requesting a variance for the size of the sign on the front of the building. The provisions of Local Law No. 4, *A Local Law Establishing Sign and Poster Control for the Town of New Lebanon*, include the following:

E. An exterior business sign located in a commercial, recreational commercial or industrial district shall be permitted in connection with any authorized business or industry located on the same premises and meeting the following requirements:

a. Two signs are permitted with any legally established business: one free standing, the other attached to the building, and neither to exceed 24 square feet.

b. The primary purpose of the sign shall be for identification and may state only the owner, trade names, trademarks, products sold and/or the business or activity conducted on the premises on which the sign is located.

c. Signs shall not extend above the roof or parapet of the building. The height of a free standing sign shall not exceed thirty (30) feet.

d. Illustrated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon or from within the sign itself.

e. Signs which are animated, flashing or with intermittent illumination are prohibited.

f. Signs shall not project over public rights-of-way or adjoining property lines.

g. Lettering or symbols on the exterior structure of a business shall be considered a sign, and shall be measured by connecting the extremities of the borders, lettering or symbols to be inscribed within a regular geometric form and, in addition, shall meet all the requirements of this ordinance.

The Applicant will meet the provisions of the Sign Ordinance except for the size of the sign. DeLuca-Hoffman Associates, Inc. computes the allowable sign area for the proposed building as the sum of three geometric shapes totaling 150 square feet, as shown on Drawing A-1. If this should be considered as three signs or a single sign within a single geometric shape, either a variance for the number of signs or a larger sign area would be requested.

The supporting information provided by the Applicant includes the architectural façade of the building and its attendant signage, the compliant freestanding sign, two illustrations showing the proposed building mounted signage, and the same illustrations showing the signage reduced to be compliant with the 24 square feet permitted under the sign ordinance. The Applicant's appeal is warranted because the scale of the sign is appropriate for this size building. In fact, the proposed signage represents about 3 percent of the building wall face area. It is common for a wall sign area to be in the order of 8 to 10 percent of the wall area.

12.3.3.2.1. 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 area variance:

The Applicant does not believe the granting of the area variance for signage will be detrimental to the character of nearby properties. The supermarket and pharmacy are designed with earth tones and it is believed the signage also acts as an accent for the building to enhance the

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aesthetics and break up the façade of the building. The building is set back so as not to dominate the smaller scale buildings along Route 20.

12.3.3.2.2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

The Applicant is not aware of an alternate method by which the benefit could be secured. A compliant sign would be virtually unreadable to customers.

12.3.3.2.3. whether the requested area variance is substantial;

The numerical value of the variance is substantial. However, the Applicant believes the actual sign of the signage is well proportioned for the building. The area variance is sought for the atypical condition with a relatively large building façade in the zone.

12.3.3.2.4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

Granting of the variance has no impact on physical or environmental conditions in the neighborhood or Commercial District. If the variance is granted after consideration of the relative size of the sign to the building wall area, the Applicant does not anticipate this variance would set any precedent for a promulgation of non-compliant signage within the Commercial District

12.3.3.2.5. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance; and

The signage variance is a request of the Applicant. Beneficiaries of such a variance would be the customers of the proposed Hannaford Supermarket and Pharmacy.

12.3.3.2.6. such other additional or different considerations that may be prescribed by section 267-b of the Town Law, as it may be amended from time to time.

The Applicant is not aware of any additional considerations prescribed under this section and requests the Board grant the area variance based upon the recommendations of the Planning Board and the affirmation of the statements provided by the Applicant, and concluding such variance will not affect the health, safety, or welfare of the Town of New Lebanon. The Applicant notes that the Planning Board recommendation for the signage is for a variance up to 150 square feet, allowing the Planning Board to further review the actual area during subsequent deliberations.

Discussion:

Chairman Dax asked the size of the size at the East Greenbush location. J Lord stated that it was approximately 230 – 240 square feet. He also mentioned that they have not built a store as small as this proposal since the 1960's. Mr. Lord also commented that this prototype is half the size of the Valatie Hannaford store which is about 47,000 square feet.

Chairman Dax asked if the sign will be internally illuminated. J Lord replied "yes" but it is turned off at night. The timer runs with the parking lot lighting which turns off at one half hour after closing. Store hours have not been set for this store yet, but we can make an educated guess that closing will be 10:00 pm during the week and 9:00 pm on Sunday's.

Chairman Dax asked if they have considered externally lit signage because it is what the Comprehensive Plan promotes. Mr. Hoffman stated that they do not receive LEED points for externally lit signs because it is considered to be light polluting.

Chairman Dax stated that internally lit signs are more light polluting. J Lord disagreed.

Tony Murad stated that he thinks the sign and size of the sign provide an architectural element and he sees no problem with it.

Jeanine Tonetti stated that they have shown what 24 square feet looks like and what 150 square feet looks. Can you show us something in between?

Chuck Geraldi asked the size of the logo of the sign and wondered if they would consider removing the logo from the lettering in order to save on square footage. Mr. Hoffman stated that the logo was about 30 sq. ft. and that he didn't think that the Hannaford Company would go along with removing the logo but he would look into it.

Mr. Hoffmann agreed to show renderings of an in between size at the next meeting.

Case No.: ZBA-2010-049c- Hannaford Bros. CO. TM#19.2-1-58.2

Request for Area Variance: size of a parking area not separated by landscaped areas

Project Title: SUPERMARKET & PHARMACY

Plans Dated: July 2010, Rev. 3: date 11.29.10

Agent: William G. Hoffman, PE of Deluca-Hoffman Associates, Inc.

The application reads:

The third variance is for the size of a parking area not separated by landscaped areas. The ordinance provisions are as follows:

Large uninterrupted areas of parking stalls that significantly reduce the continuity or quality of natural open space shall not be permitted. Off-street parking shall be developed as small (6,000 - 12,000 sq. ft.), well-distributed and landscaped areas, interconnected by driveways and walkways that provide visual relief.

The largest area between landscaping is 34,145 square feet.

The Applicant notes that the parking aisles are not very long such that landscaped end caps provide substantial landscaping. In fact, the proposed leased portion of the Valley Mall Plaza site to be redeveloped for the project will actually increase the landscaped area from current conditions and provide 22.8% of the parcel with landscaping. In front of the building the landscaped area is 16, 049 square feet and the parking area is 63,578 square feet. This provides 25% percent of green space within the parking lot, exceeding the 15% as required by Section 9.1.11 of the Ordinance.

The following figures and illustrations of the proposed site after redevelopment as a supermarket and pharmacy are enclosed:

1. Aerial Photograph (showing proposed site plan with adjacent areas)
2. Drawing C2.1 Supermarket Layout Plan
3. Figure I-2 Green Space
3. Figure I-3 Parking Area

4. Figure I -5 Landscape and Parking Area in Front of Building
5. Illustration 008 Proposed site and parking lot viewed from major entrance at Route 20.
6. Illustration 012 Proposed site viewed from southwest corner on northerly curb line of Route 20 (Rain garden is in foreground). The larger trees are existing trees the Applicant proposes to protect and preserve.
7. Illustration 014 Proposed site viewed from Route 20 centerline at southwest corner of the site looking northeasterly.
8. Illustration 016 Proposed site viewed from County Route 5A. Sidewalk is a good key to find the location along County Route 5A.
9. Illustration 026 Proposed bird's eye view of the site from the southwest corner of the site. From an aerial vantage, the parking is much more prominent; whereas ground level images show the effectiveness of the perimeter and end cap island landscaping.

12.3.3.2.1. 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 area variance;

The commercial areas are generally characterized by very little landscaping, as shown on the aerial photograph of the vicinity. The extensive landscaping on the site, while requiring a variance, is intended to meet the new ordinance by providing landscaping to break up the scale of the parking areas.

The variance allows the Applicant to construct a "pocket park" between and in front of the bank and the supermarket, allows additional landscape buffering of Route 5A abutters, and allows an important rain garden element to be constructed to reduce contaminants from non-point runoff.

12.3.3.2.2. whether the benefit sought by the Applicant can be achieved by some method, feasible for the Applicant to pursue, other than an area variance;

The Applicant could add dividers but these would interfere with plowing, drainage, customer convenience, and diminish the size of the adjacent buffers and pocket park.

12.3.3.2.3. whether the requested area variance is substantial;

The area seems substantial given the physical area, but considering the fact that the lot exceeds the minimum percent area, which is landscaped, diminishes the significance of the variance requested.

12.3.3.2.4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

Granting of the variance will not result in a negative effect on the physical conditions in the neighborhood. Unlike current development, the site has generous landscaping as shown on drawing C5.0. Maintaining the wider perimeter buffer as afforded by this variance allows a rain garden and snow storage area to be provided on the edge of the parking lot. The rain garden provides treatment for impervious surfaces and will, therefore, enhance environmental conditions.

12.3.3.2.5. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance; and

The Applicant filed the original sketch plan in early September prior to the adoption of this Ordinance. This decision was to allow many relevant items of the new Ordinance to be incorporated into the site plan. Technically, it may have been feasible for the Applicant to file

under the prior ordinance that does not have this standard. In addition, the Applicant believes this variance is warranted since it allows a better site plan for this particular site, including better screening and landscape buffering along the westerly side of the site. These factors could be considered as having self created the need for a variance, but the Applicant believes the better site plan warrants consideration of this variance request.

12.3.3.2.6. such other additional or different considerations that may be prescribed by section 267-b of the Town Law, as it may be amended from time to time.

The Applicant is not aware of any additional considerations prescribed under this section and requests the Board grant the area variance based upon the recommendations of the Planning Board and the affirmation of the statements provided by the Applicant and concluding such variance will not affect the health, safety, or welfare of the Town of New Lebanon.

Discussion:

Phyllis Stoller asked if they had considered turning the building a slight 25 degrees. Mr. Hoffman said that they had considered many other options and had rotated the structure quite a bit before they proposed this plan. The current lay out was the best option.

Tony Murad stated that the trees on the Route 20 side were planted three years ago to hide the over head power lines and it appears that the plan is to remove them. He wouldn't mind if they were removed if Hannaford would agree to bury the power lines. Mr. Hoffman stated that it is expensive but he would look into it and report back to the Board.

Chairman Dax asked what form of commitment has been proposed for the side walks. Mr. Hoffman stated that it was a corporate commitment.

Chairman Dax stated that he was concerned about the parking because both the Comprehensive Plan and the new Zoning Law are clear in that the parking should be away from the road or behind and/or behind buildings to avoid vast amounts of parking lots on Route 20.

Chairman Dax asked if they could do with fewer parking spaces and if they looked into shared parking with the Valley Plaza. Chairman Dax also stated that he does not think that that the required landscape dividers would cause much loss of parking at all and asked how much of a hardship of business would occur if a variance was not granted. Mr. Hoffman asked if this is mostly a visual concern? Chairman Dax said yes, but it's not just from the Route 20 perspective, it's also from the people within the center.

Mr. Hoffman stated that another approach to reduce large amounts of black pavement; it's called stamped pavement/cobblestone. J Lord stated that dividers do become a problem for plowing in the winter time. He is familiar with a Town that had many complaints about the dividers and three snow storms later the Town had asked that they be taken out.

Chairman Dax asked if they considered vegetation between the parking lot and the store. J Lord stated that they did not. They typically do not like to create a drive isle. However, they have proposed a considerable amount of vegetation around the perimeter of the lot.

Phyllis Stoller commented that she prefers the plantings as they are but what would be better is to make them wider.

Tony Murad commented that the proposed parking lot is smaller than the existing OTB/Gallup Inn parking lot.

Mr. Hoffman stated that for the next meeting he will show what the following would look like: Increased greenery at the northwest corner, wider landscaped islands and stamped concrete.

A motion was made by Tony Murad, seconded by Chairman Dax to refer the application to the Columbia County Planning Board for recommendations and to set the public hearing for January 4, 2011. The motion carried on the following vote:

Chairman Dax	Aye
Charles Geraldi	Aye
Jeff Hattat	Absent
Ted Krolikowski	Absent
Tony Murad	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Aye

IV. Other/New Business:

SEQR Lead Agency

The Board discussed the Planning Board's request to act as Lead Agency during SEQR review on the Hannaford Grocery Store/Pharmacy Project. The ZBA unanimously agreed to authorize Chairman Dax to sign the Lead Agency Consent Form granting Lead Agency status to the Planning Board. However, the ZBA would like to review the Planning Board's SEQR assessment and offer comments before the Planning Board close their SEQR hearings.

V. Adjournment

The meeting adjourned at 9:15 pm.

Respectfully submitted,

Cissy Hernandez
Planning/Zoning Clerk