



Town of New Lebanon
Zoning Board of Appeals Minutes - Approved
February 8, 2011

Present: John Dax, Zoning Board of Appeals Chairman
Charles Geraldi, Zoning Board of Appeals Member
Jeff Hattat, Zoning Board of Appeals Member
Tony Murad, Zoning Board of Appeals Member
Phyllis Stoller, Zoning Board of Appeals Member
Jeannine Tonetti, Zoning Board of Appeals Member

Others Present: Bill Hoffman, Kent Pratt, J.J. Johnson-Smith, Bob Smith

I. Call to Order:

Chairman Dax called the regular meeting of the Town of New Lebanon Zoning Board of Appeals to order at 7:32 pm.

II. Minutes Review:

Upon Review of the January 4, 2011 minutes, Tony Murad wished to clarify that the Hannaford public Hearing was not officially opened at the January meeting and would like the minutes to be clarified. A motion was made by Tony Murad, seconded by Jeff Hattat to approve them as amended. The motion carried upon the following vote:

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

III. Application Review:

Hannaford Bros. Co.:

The Zoning Board of Appeals (ZBA) considered three (3) applications for variances filed on November 29, 2010 on behalf of Hannaford Bros. Co. (Applicant) by its engineering firm, DeLuca-Hoffman Associates, Inc.

By "Notice of Involved and Interested Agencies" dated November 17, 2010, the Town of New Lebanon Planning Board (Planning Board) announced that an application was pending before it for a planned Hannaford Supermarket and requested concurrence with the Planning Board's intention to assume the role of lead agency responsible for review of the project under the State Environmental Quality Review Act (SEQRA). By letter dated December 7, 2010, the ZBA concurred in the Planning Board's status as lead agency.

As described herein, the ZBA conditionally grants the applications, as modified by the Applicant. The grant is conditional in light of the fact that the lead agency under SEQRA has not completed its SEQRA findings. However, the ZBA acts now so as to communicate to the Applicant and the Planning Board that the modified variance requests are acceptable in the context of the Applicant's present plans.

In its filing with the ZBA, the Applicant explained that its variance requests had been reviewed by the Planning Board at three (3) Planning Board meetings. The requests for variances were described as follows:

1. **Case No. ZBA-2010-049a:** An area variance from the front yard setback requirement prescribed in Section 7.1 of the Zoning Law allowing a corner of the planned supermarket building to extend into the Route 5A "front yard" setback up to 34.92 feet beyond the 75 foot limit.
2. **Case No. ZBA-2010-049b:** A variance from the size limitation on signs prescribed by Section 3-E(a) of the Sign Law to allow placement of a building-mounted sign of 150 square feet, exceeding the size limitation by 126 square feet.
3. **Case No. ZBA-2010-049c:** An area variance from the limitation on the size of any contiguous, undivided parking lot prescribed by Section 9.1.7 of the Zoning Law, allowing for a parking lot, undivided by landscaping, of 34,145 feet, exceeding the limit of 12,000 square feet.

The ZBA set the applications for a public hearing, which was conducted and closed on February 8, 2011. One member of the public, Mr. Hayes, commented on the desirability of adding a fence to buffer Route 5A from the drive-through pharmacy. The ZBA noted that the comment did not address any of the requested variances and recommended that Mr. Hayes bring his concern to the attention of the Applicant and the Planning Board. No other comments were received.

At meetings held on December 7, 2010, January 12 and February 8, 2011, members of the ZBA discussed the variance requests with the Applicant and, among other things, stressed the need to minimize the extent of each variance requested and the desirability of adhering to both the letter and spirit of the Zoning Law, the latter as revealed by the Town's Comprehensive Plan.

In response to those concerns and other project changes the Applicant revised its originally requested variances as follows:

1. Front yard setback (Route 5A) variance – an area of approximately 1,366 square feet extending into the front yard setback area, at its farthest point approximately 34.92 feet from County Route 5A as shown on a Drawing # C-5.0.
2. Sign Variance – proposed building-mounted sign reduced from 150 square feet to 120 square feet, reducing the variance from 126 to 96 square feet, as shown on Drawing #A-1.
3. Parking lot size variance – conditioning the parking lot variance on the use of brick-impressed paving materials to create the appearance of separated, distinct parking areas not exceeding 12,000 square feet, as shown on Drawing #C-5.0.

By motion made, seconded and approved without additional discussion, the three (3) variances, as modified, were granted on a conditional basis in view of the fact that the lead agency on the following vote had not yet concluded the SEQRA review. Provided that the

Planning Board issues a negative or conditional negative declaration and approves the proposed site plan without causing changes affecting the matters subject to the three (3) variances described above, this order would become final and effective upon final Planning Board action.

Chairman Dax	Aye
Tony Murad	Aye
Jeff Hattat	Aye
Jeanine Tonetti	Aye
Chuck Gerald	Aye
Phyllis Stoller	Aye

2. Case No.: ZBA-2011-001: David & Estare Weiser [TM# 28.-1-76]

ZBA request for Recommendation: Request for 25' area variance to construct a one car garage located at 44 White Tail Trace

Agent: Tony Murad

The applicant seeks to erect a garage in a location that will not meet the 75-foot side yard setback requirement. As shown on a survey drawing dated January 15, 2011 and labeled Lands of David J. Weiser & Estare K. Weiser, approximately 132 square feet of the planned garage would extend within the setback area, at its closest, 65-feet from the adjoining parcel.

Following a public hearing, properly noticed to the public and abutting property owners, the Zoning Board of Appeals (ZBA) considered and granted the request for an area variance made on behalf of David and Estare Weiser concerning their property located at 44 White Tail Trace (tax parcel identification number 28.-1-76).

After reviewing the request and the applicants' reasons, the ZBA, determined that: granting the request would not create an undesirable change in the character of the neighborhood or detriment to nearby properties; due to the topography of the parcel no alternative to the requested variance appears feasible; the variance is not substantial; and no adverse impact on the physical or environmental conditions in the neighborhood would result. The ZBA granted the requested variance, not to exceed 132 square feet in area nor ten (10) feet into the prescribed setback area, all as shown on attached survey drawing, upon the following vote:

Chairman Dax	Aye
Tony Murad	Aye
Jeff Hattat	Aye
Jeanine Tonetti	Aye
Chuck Gerald	Aye
Phyllis Stoller	Aye

IV. Adjournment

The meeting adjourned at 8:07 pm

Respectfully submitted,
Cissy Hernandez
Planning/Zoning Clerk