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Minutes and Decision
Village of Schoharie Zoning Board of Appeals
Meeting and Hearing held December 18, 2018, 7:00 PM
At Village Hall, 300 Main Street
Schoharie, NY

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Village of Schoharie

Roll Call - the following members were present:

Leonard Berdan, Chair

Peter Johnson

Eugene Amedio

Absent: Ben Cooper and Imants Schrederis

The hearing and meeting was duly given public notice by publication in the Times Journal newspaper. A quorum was present and the meeting was called to order at 7:00 PM. The members present chose Leonard Berdan to take the minutes.

The minutes of the November 6, 2018, ZBA meeting were discussed and a motion to approve those minutes as presented was made by Peter Johnson and seconded by Gene Amedio and passed with all three board members voting affirmatively.

The public hearing for the Elbially sign size variance for a proposed sign at 229 Main Street was opened by the chair. Also present were Hazem Elbially; Patty Manchester, neighbor; Scott Parks and Sidney Parks, village residents.

The only hearing item was a referral by the Village Planning Board, on behalf of Hazem Elbially, owner, for a sign area variance for a proposed sign situated at 229 Main Street, Village of Schoharie, tax map number 72.17-1-6. The property is owned by Hazem Elbially and consists of a 1.05 acre corner lot improved with a single family dwelling being converted to a dentist office. The variance request was forwarded to the ZBA by a referral from the Planning Board Chair, Dusty Putnam, after the Planning Board had held a public hearing on September 25. That public hearing had been advertised and certified letters were sent to contiguous neighbors about the hearing. The Planning Board indicated the proposed signage "... is attractive and well placed and there were no objections from the community at the public hearing." A copy of the proposed sign design was accompanied by the referral letter. The referral letter states the proposed sign is "... larger than our LUL permits..." and the Planning Board minutes of the hearing state the proposed sign size "... is not in accordance with Land Use Law dimensions." There is no indication in the Planning Board's minutes or in the referral letter under what authority the Planning Board had to hold to its hearing and subsequent referral of the sign size to the ZBA. Section 3-1 H of the Land Use Code, signs, has no provision for Planning Board review prior to the issuance of a sign permit by the Code Enforcement Officer.

The ZBA is required by section 10-5.4 F to hold a hearing on matters referred to it. The same section states that the petitioner shall notify all landowners within 500 feet about the hearing directly through a mailed notice. The sign size referral was considered at the ZBA meeting of November 6, and a hearing date of December 4 was duly set.

The hearing was to consider a request to build a 14+/- square foot sign. A review of the Land Use Code sign size requirements indicates that a sign size of 11 to 12 square feet is the largest size allowed by the Code. The ZBA determined this area variance fits the general requirements for a Type II action for SEQR and requires no further environmental review. The proposed action was referred to the County Planning Commission. The County Planning Commission determined that this action does not have countywide significance. The Commission referred the action to the New York State Department of Transportation due to the property's location on a state highway. The NYSDOT's only comment was that the sign is not to be placed within the State right-of-way.

The November 6 hearing was duly advertised and given public notice. On November 6 the ZBA met at 300 Main Street with two members present, Leonard Berdan and Peter Johnson. Absent were Imants Schrederis, Ben Cooper and Gene Amedio. Also present were the applicant Hazem Elbially and a neighbor, Patty Manchester. A quorum was not present and the hearing was rescheduled for December 18, 7:00 PM.

This rescheduled hearing was duly advertised and public notice given.

At the December 18 hearing the chair received mailed return receipts for hearing notices duly sent to property owners within five hundred feet of 229 Main Street by the petitioner. Hazem Elbially presented a detailed sketch of the proposed sign.

The only public comment was from Patty Manchester who was in favor of the proposed sign.

The ZBA discussed the petition and the proposed sign and found that no undesirable change will be produced in the character of the neighborhood and there is no apparent detriment to nearby properties. The board found that the requested area variance is not substantial and will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The board found that the benefit of this sign can only be achieved by having a sign of this size to passing persons the ability to read the sign and identify the services offered on this property. The board found that the alleged difficulty was self created, and the three board members present determined that that factor would not preclude the granting of the area variance.

A motion was made by Peter Johnson to approve the variance and the motion was seconded by Gene Amedio. With no further discussion, the three ZBA members voted unanimously to approve the variance to allow the construction of the proposed sign as shown on the attached sign diagram. With this variance duly approved for this sign by the ZBA and with no known Planning Board site plan review in progress, there does not appear to be any further impediment to the issuance of a sign permit by the code enforcement officer.

A motion was made and seconded to adjourn the hearing and the hearing was closed.

Leonard Berdan indicated that he would prepare the minutes and findings of the hearing and forward them to the applicants, the village Code Enforcement Officer, the Village Clerk and notify the County Planning Commission of the hearing results.

A motion was made and seconded to adjourn the meeting and the meeting was adjourned at 7:25 PM.



Sign Diagram attached:

