

03/08/11 Zoning Board Minutes

ZONING BOARD OF APPEALS

The hearing on Tuesday, March 8, 2011 was called to order by Chairman Harrington at 7:05 PM.

Members present: Harry Kaczmarek also: Ray Balcerzak, Asst. Bldg Inspector
Greg Kalinowski Phyllis Todoro, Town Attorney
Michael Komorek
Robert Schafer
Donald Trzepakz
Alfred Harrington, Chairman

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #1188 for NAS Sign Company, 1628 Elmwood Avenue, Buffalo, who was granted a continuance at the meeting of January 11, 2011; Appeals Case #1189 for Elma United Methodist Church, 2991 Bowen Road, Elma, who is requesting a variance for 4x8 sign 144-45 A(4); and Appeals Case #1190 for K & R Day Trucking, Inc., 840 Bullis Road, Elma, who is requesting a variance to install an above ground fuel storage tank 144-152 A.

In the matter of Appeals Case #1188 Paul Fadale from NAS Sign Company spoke about how the sign is going to work at Cyber Creek. He mentioned that the changing law for the state is 1 every 6 seconds. Mr. Maloney visited all his neighbors in the area to discuss what the sign is going to do. Except for the neighbor across the street everyone was paid a visit and had no problems with the sign. Mr. Maloney would like to get two sayings out to a passing car.

Mr. Maloney spoke that if the rules change for Elma then he has no problem making a change and arguing for or against.

Harry Kaczmarek spoke about how at Alton's you have a traffic light and you may be stopped at the light and you would be able to read the sign. He also wanted to know how often the messages would change and how many messages there would be.

Chairman Harrington spoke about how it is in a C-2 area and how the business is on

Seneca Street and not on Transit Road.

Mr. Maloney spoke about the various businesses on Seneca Street. The business needs to be in a competitive business with other businesses in the area. It is a part of his revenue stream for his business.

Mr. Kaczmarek went over the restrictions that were submitted by NAS Sign Company & Cyber Creek. Marty has no problem with the sign being turned off at a specific time. By fading the sign there is no flash of a new message.

Mr. Komorek spoke about everything being commercial and how it is in a C-2 zone and that the commercial business is secondary.

Marty doesn't think the area is going to change and how Moog is a business right in the area. How they have invested in the business to clean it up.

No one spoke for or against this case.

Mr. Schafer made the motion: Upon review of Appeals Case #1188 for NAS Sign Company, 1628 Elmwood Avenue, Buffalo, I find that an outdoor L.E.D. advertising sign is not allowed in a C-2 zone which is a combination of small business and residential properties. Therefore in accordance with Elma town codes 144-102.1 A and 144-102.1 B (1) b, I move the variance be denied because the applicant has not demonstrated any hardship. Seconded by Mr. Komorek.

Poll vote – 3 ayes, 2 nays. Motion carried. Chairman Harrington mistakenly voted nay but corrected his vote to aye.

The gentleman from Cyber Creek asked if there is another route that can be taken to get approval. Marty asked what a hardship would be for his business. Mr. Komorek said a financial statement would prove that the business has a hardship.

In the matter of Appeals Case #1189 Bob Pierce, Deb Coatsworth & Jim Coatsworth were present. Bob Pierce spoke about how the sign is temporary and how various churches in Town have a number of signs in front of their church. One sign to identify the church and another for announcements. None of the signs are back lite sign. Noted how the church has been there for over 150 years and the guidelines would be taken into

consideration.

Chairman Harrington spoke about the sign being put more in line with the other sign on the property. Deb Coatsworth spoke about moving the permanent sign to a different spot so that it would not be a problem when you are pulling out of the driveway. Jim Coatsworth has no problem with the sign being put back 20 feet from the right-of-way.

Bob Pierce advised the Board that they would look to combine some of the signs on the property. Deb said the cost is very high but the goal of the church would be to combine the signs.

Mr. Pontillo of 2961 Bowen Road spoke for the case.

Mr. Trzepacz made the motion: In Appeals Case #1189 for Elma United Methodist Church at 2991 Bowen Road, Elma, who is requesting a variance to install a 4x8 sign in 144-45 A (4), I move the variance be granted with at least a set back of 20 feet from the right-of-way and provided all Elma Town Codes and Ordinances are met. Second by Mr. Kaczmarek.

Poll vote – 6 ayes. Motion carried.

In the matter of Appeals Case #1190 for K & R Day Trucking, Inc., 840 Bullis Road, Elma, Mr Bradley Day was present. Mr. Day spoke on how the tank needs to be above ground and that he started to explore how to do the tank themselves. He went over the difference between underground and aboveground tanks and how the tank can be retro fitted.

Mr. Trzepacz asked what the DEC regulations are. The Town attorney asked if the correct code is on the application. The zoning is commercial C-2 and that the application has to be modified to have the correct code. Mr. Trzepacz explained how the survey is split making it look like there are two different pieces of property. The survey may have been changed and the Board may not have a current version.

Rose Bapst of 1515 Bullis Road spoke for the case.

Mr. Komorek made the motion: In Appeals Case #1190 for K & R Day Trucking, Inc, 840 Bullis Road, Elma, who is requesting a variance to install an above ground fuel

storage tank, I move the variance be granted provided all Elma Town Codes and Ordinances are met. Seconded by Mr. Schafer.
Poll vote – 5 ayes, 1 naye. Motion carried.

The minutes of the last meeting of February 8, 2011 were approved.

There are no communications at this time.

Attorney Todoro spoke about 60 Gaylord Court that Mr. Desanto bought through foreclosure and that Mr. Fargo's property is connected. It is a non-conforming lot and what does Mr. Desanto have to do to sell the property. Don told Phyllis that it should be grandfathered in.

There being no further business, the meeting was adjourned at 8:22 PM.

Respectfully submitted,

Kerry A. Galuski
Secretary-Clerk