

**MINUTES OF THE REGULAR MEETING OF THE TOWN OF ELLICOTT  
ZONING BOARD OF APPEALS HELD AT THE ELLICOTT ADMINISTRATION  
BUILDING, 215 SOUTH WORK STREET, FALCONER, NY 14733  
ON MAY 22, 2017 AT 7:00 P.M.**

**PRESENT:** Chairman Steve Hoglin, Jean Holton, Ang Cimo, William Pentheny, Attorney William Wright, Code Enforcement Officer Dave Rowe and Secretary Valerie Pierce

**ABSENT:** John Merchant, Ken Lyon and Phil Pratt

Chairman Hoglin opened the meeting at 7:00 PM and led in the Pledge of Allegiance. Secretary Pierce called the roll.

**Motion made by William Pentheny, seconded by Ang Cimo to approve the minutes of the April 24, 2017 meeting.**

**Carried.                    Ayes – 4                    Noes – 0                    Absent – 3**

Attorney William Wright swore in everyone that would be giving testimony at this meeting.

**Chairman Hoglin reopened the public hearing for Richard and Anthony Benedetto for their variance to construct a 4000SF - 6000 SF building and a variance for their parking lot.**

**Attorney Wright** told the Board that since the Benedettos' applied the zoning has been changed from neighborhood business to mercantile. They will not need a variance for the building (they are allowed up to 7500 SF) but would still require a setback variance for the parking lot. Their original application was under a section of code that no longer applies so it was determined that they need to reapply. Richard and Anthony Benedetto will reapply for the June meeting.

Ang Cimo asked when the rezoning was done. Attorney Wright said it was about a month ago. They rezoned everything between Dunham Avenue and the current mercantile that goes all the way to Lakewood Village line.

The Board does not need to take any action and this application will be removed from the agenda as requested by the applicant.

**Chairman Hoglin reopened the public hearing for SBA Towers IX LLC for a special use permit for a telecommunication tower on West Oak Rd., Jamestown, NY on property owned by Moonbrook Country Club.**

**Attorney Wright** reminded the Board that the applicant had appeared two months ago and requested a special use permit to construct a 150' cell tower and it was determined at that meeting they would need two area variances. The first

one was for the 1000 foot setback from any residence. The second was for the lessening of the fence requirement. They were denied the area variances but the special use permit was tabled. Mr. Wright said he had talked to their attorney and they are considering their options. No action is required by the Board.

**Chairman Hoglin reopened the public hearing for ALDI, Inc., 930 Fairmount Ave., Jamestown, NY for signage variances.**

**Christopher Kamar, P.E., from ADP Engineering and Architect was present and explained that at the last meeting it was determined that the Board needed a letter from the Chautauqua Count Planning Board before they could act on this application.**

The Town has received the letter from the County Planning. It stated that this proposed action would be a matter of local concern. They included some additional information on sign codes.

**Mr. Kamar addressed the Board:**

- he told the Board that they would need three variances – one for the number of signs – one for the height of the pylon sign and one for the square footage of the pylon sign - they removed the variance for the height of the sign after discussion with the Board at the last meeting – they will keep the pylon sign at the allowed 30 feet
- he reminded the Board that the store is approximately 220 feet back from the property line and about 230 feet back from the travel lane
- there is also an Auto Zone Store that somewhat blocks their store
- these signs are a part of a corporate package
- there are signs on the front and west side of the building - there is also a corner entry so they have a tower on both sides – the existing tower is approximately 19' 4" and the new tower will be about 24' 6" feet so it will be about 5 feet higher
- they would like to start as soon as possible

Dave Rowe said that he had not heard anything from the public. He said his opinion is that signage is usually designed around the space on the elevation.

Attorney Wright told the Board that Mr. Kamar had properly identified the area variances and if the Board had any questions he could review the code. They both are variances under 267B (the balancing test of the benefit to the applicant weighted against the detriment to society in general). The Board said they did not need to review the criteria. Attorney Wright suggested they take the variances separately starting with the pylon sign. 100 SF is permitted and the applicant is requesting 120 SF. They had been given a variance to allow 112 SF for the pylon sign in the past. Mr. Kamar provided the information on that variance. They would need an additional 8 SF.

Steve said that as long as they were allowed one ground sign or one building sign (they have both) and they have already increased the size of the pylon sign his opinion would be to leave the pylon sign at 112 SF. They are getting larger copy on the building. Steve feels that corporate usually has smaller packages for signs. Mr. Kamar said that the sign they are requesting is the next size sign up.

They never installed the 116 SF pylon sign. The Food Market sign has never been on the pylon sign. The current size of the pylon sign is approximately 76 SF. Mr. Kamar told the Board the larger sign gives people more time to slow down to enter and it also is comparable to other signs already on Fairmount Avenue.

Ang Cimo asked if they could make a sign in between and Mr. Kamar said it would not be cost effective.

Chairman Hoglin asked if the applicant could request the pylon sign variance be tabled until they have more board members present. Attorney Wright said they could. The Board is short three members for this meeting. Mr. Kamar requested that this variance be tabled.

The Board continued with the variance for the number of signs. Mr. Kamar reviewed the size of the wall signs for the Board. The proposed ALDI logo signs are 74.9 SF and the Food Market signs are 38 SF. The total square footage of the wall signs will be 226 SF and the allowable is 397+ SF. ALDI considers this one sign but because of the separation they have to be considered two signs based on the code. Most people know what ALDI sells but there are a fraction of people that don't and they want to be known as ALDI Food Market. Again he reminded the Board that the signs will be 230 feet from the travel lane.

**Mr. Kamar asked if they need to do a SEQR. Attorney Wright stated that this is exempted as a type II action for SEQR as an expansion of a commercial facility under 4000 SF.**

**Steve Hoglin made a motion, seconded by Ang Cimo to approve the wall signs as presented because of the distance from the road.**

**Carried.                      Ayes – 4                      Noes – 0                      Absent – 3**

**Motion made by Ang Cimo, seconded by Steve Hoglin to table the variance for the pylon sign.**

**Carried.                      Ayes – 4                      Noes – 0                      Absent - 3**

**Chairman Hoglin opened the public hearing for Charles Lombardo, 2240 Willard St. Ext., Jamestown, NY for the renewal of his special use permit for a professional finishing business in a residential zone.**

**Mr. Lombardo addressed the Board:**

- he stated that everything was the same
- he does kitchen refinishing in his garage – sometimes he does it onsite
- this is a home occupation

William Penthany said he went up and looked at the site. He does not feel that it is disruptive at all.

Attorney Wright said the last time Mr. Lombardo was in he committed to spraying with the doors closed. Mr. Lombardo said he does that.

Dave Rowe stated there have not been any complaints from the neighbors since two years ago.

This is an on time renewal. Attorney Wright stated that the policy of the Board has been that if the applicant renews on their own on time that can go beyond the two year renewal period. Mr. Wright's recommendation would be 5 years.

Mr. Hoglin reminded Mr. Lombardo that if there are any complaints he would have to come back.

**Motion made by William Penthany, seconded by Jean Holton to approve the renewal of the special use permit for Charles Lombardo, 2240 Willard St. Ext., Jamestown, NY.**

**Carried.**

**Ayes – 4**

**Noes – 0**

**Absent – 3**

**Chairman Hoglin opened the public hearing for Chautauqua County Humane Society Inc., 2825 Strunk Rd., Jamestown, NY for the renewal of their special use permit for an animal shelter in a mercantile district.**

**Kelly Roberts, Executive Director of the Humane Society addressed the Board:**

- they have added a small addition on the back
- she has only been there since January so does not know what questions the Board might have
- she did tell the Board that they no longer have the incinerator – they have a letter from DEC stating that they are aware of that also

Attorney Wright stated that this is an exempt action under SEQR. It is a renewal of a special use permit so it follows all of the criteria for special use permits. They were in two years ago and are on time for their renewal. Attorney Wright

said that because two years ago the construction was under way the Board would not do more than a two year renewal. They can now renewal this for a longer period of time. If they are going to make any substantial changes they would have to come back in.

Steve asked if there are any anticipated changes or expansions that Ms. Roberts knew of. She said she just got there and knows of no plans in place. They are always talking about where they might go in the future but there is nothing at this point.

Dave said there were no complaints concerning the Humane Society. Secretary Pierce stated there was no correspondence from any neighbors.

**Motion made by Steve Hoglin, seconded by Ang Cimo to approve the renewal of the special use permit for the Chautauqua County Humane Society for an animal shelter in a mercantile district for 10 years.**

**Carried.                      Ayes – 4                      Noes – 0                      Absent – 3**

**Motion made by Jean Holton, seconded by Steve Hoglin to adjourn the meeting at 7:48 PM.**

**Carried.                      Ayes – 4                      Noes – 0                      Absent – 3**

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**Valerie Pierce, Secretary**