

City of Olean
ZONING BOARD OF APPEALS

Minutes for Zoning Board
Meeting held on October 26, 2017

1. Roll Call

Bob Moser called the meeting to order at 5:33p.m. Thomas Enright read the roll call. All members were present.

Present:

- Charlotte Hardy
- Otto Tertinek
- Darryl Bloom
- Shayne Certo
- Bob Moser
- Michael Padlo
- Thomas Enright

Absent:

Staff:

- Kathleen Hewitt- Account Clerk Typist
- Edward Jennings- Code Enforcement Supervisor

1. Old Business

Reading and approval September 28, 2017 meeting minutes.

Reading and approval October 12, 2017 meeting minutes

A MOTION was made by Darryl Bloom, seconded by Michael Padlo to approve both sets of meeting minutes as is: Voice vote, ayes all. Motion carried.

117 South 4th Street – David Carucci

Charlotte Hardy stated she requested 2 years of tax returns to establish hardship and it was categorically denied by the applicant. She further explained she went to the assessor office and no deed has been filed on 301 South Union Street since 2006 and she feels there is something there.

A MOTION was made by Charlotte Hardy, seconded by Thomas Enright to question Mr. Carucci: Voice vote, ayes all. Motion carried.

Shayne questioned Mr. Carucci if he had any plans to expand his current business or purchase adjacent properties. Mr. Carucci responded that the original agreement made with Mr. Mehta was specified that he could not purchase any additional property on the street, and turn it into commercial property. Shayne questioned if he could or would be willing to purchase adjacent properties to eliminate the backing up noise. Mr. Carucci responded that he would be happy to look at that option but Zoning Board would have to un-due the original use variance from 1990 when Mr. Mehta received it.

Charlotte stated that this is not Mr. Mehta use variance this is a completely new use variance. Mr. Carucci responded that he feels they still have to operate under Mr. Mehta variance from 1990. Otto noted this is a new variance.

Bob Moser questioned Ed Jennings for a comment on the matter.

Ed Jennings responded that if he purchased adjacent property he would need a separate use variance. He further explained that this particular variance in question he cannot expand.

Shayne questioned Mr. Carucci if he would be willing to do these steps. Mr. Carucci responded that if it would make the neighborhood happy then he would, however; if he did purchase adjacent buildings and it was granted then it would affect Third Street in the same manner or if the property was cut funny then he would not be able to circle around without having to purchase both properties. He noted it would not solve the backup beeper problem. Mr. Carucci reiterated he resolved this issue because there is no backing up between 11:00 p.m. - 7:00 a.m.

Darryl Bloom questioned if Mr. DeRose can offer an explanation to the deed situation located 301 S. Union St.

A MOTION was made by Darryl Bloom, seconded by Michael Padlo to question Mr. DeRose in regards to 301 S. Union Street property deed. Voice vote, ayes all. Motion carried.

Dan DeRose stated that he handled the real estate transaction for that property. He further explained that it is a land contract and the deed will go on record once it is paid for. He noted this is not an unusual situation and the property is gone.

Charlotte reiterated that she cannot seem to prove a financial hardship due to Mr. Carucci is claiming 1.5 million dollars in revenue and heading towards 2 million so hardship needs to be provided. She noted she sees a lot of expenses. She commented that it appears he can move his business to places more suitable such as the tile plant and without tax documents she cannot ensure there is hardship. Shayne questioned if they were to ask Mr. Carucci to relocate wouldn't that be financial hardship for him. Charlotte responded without the tax documents she cannot prove hardship.

Thomas Enright explained he spent about 1 hour with Mr. Carucci at the plant in question and he took a look at all the board concerns while there. Thomas noted that he feels the concerns were answered very adequate. He continued Mr. Carucci supplied lots of financial and legal documentation and it satisfies his concern, DEC and OSHA documentation were provided and he feels that it satisfied his concern. He explained that the point of proving financial hardship he does not see any feasibility in moving this operation to anywhere else that would incur anything short then catastrophic for the businesses financial hardship. He feels that you could not build that building for less than 1 million and he would also be left with a building that would simply rot there and South Fourth St. does not need that. He noted Mr. Carucci is willing to bend over backward to address the concerns of everyone.

Charlotte stated that she is concerned for the people of the area. She further explained the combined taxes for the area is \$16,000.00 and feels the hardship is with the neighbors and feels they cannot sell their houses for a reasonable price.

Otto Tertinek stated his main concern is the environmental factor and that the floor drain does not having an oil separator attached. He continued DEC has been keeping a close eye on Olean due to the waste and water treatment plant. DEC has the power to fine \$37,500.00 per day for the violation of discharging oily water into the drain.

A MOTION was made by Thomas Enright, seconded by Darryl Bloom to approve the use variance with conditions:

- Otto: Floor drain with oil separator is required.
- Darryl: Additional sound proofing.
(Entire board deliberated on how to address sound proofing condition without resolution).
- Thomas: Flaggers are to be utilized during daylight hours.

Bob questioned if they could leave this open until there is a better handle on the sound proofing direction. Edward Jennings suggested all members make appointment with Mr. Carucci and explore the sound issue first hand and how loud the sound is.

Bob suggested this variance be left open until every member has had an opportunity to meet with Mr. Carucci and explore the sound issue for themselves. He stated next meeting will be a decision so every member needs to have done there due diligence and bring specific conditions.

Bob Moser requested names of each Zoning Board members that is eligible to vote on this variance to be entered into the minutes. Members that are able to vote on this variance are as followed: Thomas Enright, Bob Moser, Charlotte Hardy, Darryl Bloom and Shayne Certo due to they were all present at the public hearing.

A MOTION was made by Thomas Enright, seconded by Darryl Bloom to table the use variance until November 2, 2017 @ 5:30 p.m. Voice vote, ayes all. Motion carried.

Non regular scheduled meeting for the Zoning Board of Appeals will be conducted on November 2, 2017 @ 5:30 p.m. in room 119 for a decision regarding 117 S. 4th Street. All members' are required to meet with Mr. Carucci prior and investigate any and all noise issues and bring any conditions if any to the meeting.

2. Public Hearing (6:08 p.m.)

Thomas Enright read the application regarding 607 & 609 S. Union Street- Sign Variance # 001-17. To place a "39"(L) x 14"(H) full colored RGB programmable led sign with scrolling message display for P10 Fully outdoor use led display. Sign will be placed on the York Street side of the building. If granted it will vary from Chapter 28 Article 28 Section 6.1 of the Zoning law.

Brittany Thierman explained she would like to install a wall mounted LED sign 3 ft x 1 ft facing the road and a 1 ft sign on the Third door down in which it would be made of wood and is not illuminated so customers know where to enter the dance studio and not bother the tenant upstairs.

Thomas questioned the hours the sign would be lit. Brittany stated she is not sure since she has not purchased the sign yet, and does not know how to operate it. Thomas questioned where the sign would be facing. Brittany responded the sign would be facing the York Street side attached to the building.

Shayne questioned if the apartment above would be bothered. Brittany responded the apartment would not be bothered by the light.

Public Hearing was opened at 6:14 p.m.

Mark Crino (*105 Grant Court*) He is concerned about the core of the neighborhood and does not want to see the neighborhood look commercial. He explained the bigger concern of the neighborhood was the traffic however; he stated that is being dealt with. Mr. Crino requested to see an image of the sign in which Brittany produced for viewing. He further explained that he does not want to hinder Brittany's business However; he would like to do what is best for the neighborhood. He questioned how his neighborhood is zoned for signage.

Bob stated across the street from the proposed location is a monument and a river. He further explained LED signs do not shine very far.

Frank Dynda (*476 Indiana Ave*) He stated he moved into the neighborhood in 1978 and is in the top 1 percent of the people who taxes in that neighborhood. He explained there neighborhood does not need signage in the neighborhood. He noted there is only 1 dance studio and it is not hard to figure out where it is. Frank continued it is almost like an accident waiting to happen due to people parking on the subway, the parking lot is full. He noted he is totally against this because of the neighborhood. He explained they now have a beautiful court and it does not need to be made commercial, and it is not zoned commercial. He feels the sign in the window looks fantastic there and everyone knows where it is at. He feels they do not need sign on Union Street and they do not need a sign across from the monument.

Pam Simon (*105 Garfield Court*) she stated she received a notice in her mailbox that if she was concerned about the commercial space and the impact that it is having on the neighborhood to attend this meeting however; she did not know this was a zoning board meeting, she thought it was a neighborhood meeting. She questioned if the sign would mirror York St. Brittany responded it would mirror York St. Pam responded her feelings is that she would like to see the sign on Union St. and not mirror York St. because it buffers the neighborhood a little easier. Pam further explained the real reason to get up and talk was the safety issues in which the parking around the curve. Pam explained in detail in regards to the safety of the parking due to the dance studio.

Frank Dynda (*476 Indiana Ave.*)He explained from Larry Sorokes house to the end of the street there is no parking on the right side of the road. He explained the parking situation is not good. He reiterated that they do not need signage in the neighborhood. He noted that previous business never had a sign there.

Paul Gonzalez (*206 York St*) He stated he is the Alderman of the Ward and explained that Common Council just passed resolution to install no parking signs in that area last Tuesday. He stated he has spoke with Brittany and she agrees that parking is a safety issue. He stated Brittany has been a great neighbor and has proven to him that she is eager to work with the neighborhood to come to a compromise. He questioned if possibly a wood sign with a spotlight or more subdued sign would be a compromise. Brittany responded she chose the LED sign sue to she currently has several yard signs and a window sign. She continued she was hoping to eliminate all the yard signs and window sign so there would only be one sign on the wall. She noted she has explored other types of signs including a Plexiglas, she explained it would cost the same if not more than the sign she found on Amazon. Darryl questioned if she would remove all signs. Brittany responded she would remove all the yard signs and the LED sign would then be the only sign. She continued the sign would be on the front of the building facing the river, and would be located between the first set of windows on the left hand side and below the second floor.

Shayne questioned if it would be an option to install on the South Union Street side. Brittany responded it would be an option however; the best place to put it for her business would be where she has requested it to be. Darryl questioned if the variance was granted with a condition to put it on the South Union St. side would she remove all the yard signs. Brittany responded she is not sure because it would be technically on two different avenues you are looking at.

Mark Crino (*105 Grant Court*) he feels that placing the sign on South Union Street side and keeping the yard signs is a good compromise and very appropriate. He stated that if Brittany was willing to compromise it would make her and the neighborhood very happy.

George Hendryx (*430 York St.*) George explained the parking presents a problem for York St. and E. Riverside Dr.

Connie Deckman (*107 E. Ohio St.*) She stated that she is speaking for herself and her husband since he could not be in attendance tonight. They feel the location at South Union Street side would be a good compromise to have the sign however; the York St. side she feels will ruin the character of the neighborhood and is something that she would not want to see.

Public Hearing closed 6:23 p.m.

A MOTION was made by Otto Tertinek, seconded by Michael Padlo to approve the Sign Variance as is.

Rescinding the MOTION, Voice vote, ayes all,

A MOTION was made by Otto Tertinek, seconded by Thomas Enright to approve the Sign Variance as written. Voice vote, ayes: Otto Tertinek, Thomas Enright, Michael Padlo and Bob Moser. Nays: Charlotte Hardy, Shayne Certo and Darryl Bloom. MOTION carried.

Adjournment

A MOTION to adjourn was made by Otto Tertinek, seconded by Thomas Enright. Voice vote, ayes all, Motion carried.

Next Meeting Date

The next Zoning Board meeting has been scheduled for a special meeting Thursday, November 2, 2017 at 5:30 p.m. located in room 119. Meeting adjourned at 6:46 pm.