

**Minutes of a Regular Meeting of the
Town of Geddes
Zoning Board of Appeals
July 11, 2018**

DRAFT

Members Present:

David Balcer- Chairman
David Tortora
Dominick Episcopo
Frank Smolen

Also Present:

Donald Doerr- Town Attorney
Martin Kelley- Town Council
Bob Fanelli- Planning Board Chairman

Absent: Ron Benedetti

Chairman Balcer calls the June 13, 2018 meeting to order at 7:00 p.m. and asks for all cell phones to be placed on silent.

Approval of June 2018 minutes

1st – Tortora
2nd- Episcopo
All in Favor
Opposed- None

Motion – Carried 4-0

All matters heard by this Zoning Board of Appeals are in the form of a public hearing. Everyone who wants to be heard will be heard. Before speaking, we ask you clearly state your name & address or the company you represent.

ADJOURNED CASES:

Case # 618 - At the request of Michael Kempisty of 1187 State Fair Blvd. Syracuse, NY 13219 in regards to a building permit issued at 1237 State Fair Blvd (T.M. # 019.-01-14.1) located in a Commercial C: Heavy Commercial Zoning District, for an “ Interpretation” of the above – mentioned Zoning Code of the Town of Geddes as it relates to the building permit application issued at 1237 State Fair Blvd for a double sided billboard sign with the eastbound side being an LED digital face and the westbound side with a static face up lights, specifically where it states “if the authorized sign has not been installed within 180 days from the date of issuance of the permit, then the permit shall expire, and a new application must be made for any sign work”.

Case # 621- at the request of Thad Kempisty of 1187 State Fair Blvd Syracuse, NY 13209 in regards to a building permit issued at 1237 State Fair Blvd (T.M. # 019.-01-14.1) located in a Commercial C: Heavy Commercial Zoning District , for an “ interpretation” of the above – mentioned Zoning Code of the Town of Geddes as it relates to the building permit application issued at that address for a double sided billboard sign with the eastbound side being an LED digital face and the west bound side with a static face and lights up pursuant to Section 240-19.2 A., C. (3), l.(1) & K . And 240-39 A., B., & C. of the Zoning Ordinance of the Town of Geddes.

Chairman Balcer reads into the record an e-mail from Michael Kempisty dated Tuesday July 10, 2018.

Hello, Mr. Balcer- I have signed a lease agreement with Mr. Ribble to construct a billboard on my property contingent on certain requirements. Due to the current placement of his existing digital billboard on the Gaworecki parcel a setback variance of approximately 100 ft. (10%) will be necessary from the current Town Code requirement of 1000 ft. between billboards. As I have stated the lease agreement is contingent on both 1) receiving all required approvals from the Town including the variance and 2) it requires Cases #618 and # 621 currently holding on your agenda to be withdrawn. Mr. Ribble said he is currently having the location surveys made and I will be filing the required variance request shortly. In order to protect my property rights I must request a further postponement of our cases (#618 & #621). I believe we are on a constructive path to resolving all the issues before your board. Again, thank you for your patience and especially your consideration during my surgery and recovery.

Sincerely, Michael Kempisty

Chairman Balcer asks for a motion to adjourn both cases and keep them open until the August meeting.

1st – Smolen
2nd- Episcopo
All in Favor
Opposed- NONE
Motion- Carried 4-0

Appeal Case # 627- At the request of Richard E. Roberts, applicant (Richard E. & Robyn Ann Roberts, Owners), for premises located at 126 Copleigh Drive (T.M. # 032.-05-32.0) located in a Residential A: Single Family Zoning District, for an Area Variance to place a 12’ x 18’ pre built shed in the side yard 6’ away from the principle building (home) where 10’ is required, and less than the required 5’ from the side yard property line, and for such additional relief as may be necessary or appropriate. Pursuant to Section 267-A of the Town Law and Section 240-11 C. (3) (b) & (e) of the Zoning Ordinance of the Town of Geddes.

The ZBA will take lead agency status for the purpose of SEQR and I would like to make motion that for the purpose of the NYS Quality Review (SEQR) this case will be determined to be a

Type II Action, and no further SEQR review is necessary, unless otherwise advised by our council. Do I hear a second?

2nd- Tortora

In Favor- Balcer, Tortora and Smolen

Opposed- NONE

Abstain- Member Episcopo

Motion – Carried 3-0 with one abstention.

Chairman Balcer re-opened the Public Hearing from the June 13, 2018 ZBA meeting of this Board. Attorney Doerr reminded the Board and those in attendance that at last month's ZBA meeting that Member Episcopo has decided to recuse himself from this matter and to abstain from voting or participating in this matter to avoid any appearance of a conflict of interest.

Jeff Myers, Esq., again appeared on behalf of his clients, the Roberts. Mr. Roberts was also in attendance. Mr. Myers stated that since the last meeting they had an opportunity to get an estimate for moving the shed, which was fairly reasonable. He reported that they will definitely be able to move the shed so that it is at least 5 feet off the side property line, which will eliminate the need for a "side-yard setback area variance." They will also be able to move the shed at least another foot, and possibly more, from the residence so that it will now be a minimum of 7' from the main residence, reducing the amount of the variance required to 3' (Code requires 10').

Mr. Meyers explained that when you try to move the shed away from the house you run into the slant coming down from the Ross property behind him. Also, a large tree is there and tree roots come into play. In light of the above, Mr. Meyers asked that his application be amended to remove the requested side yard setback area variance and to reduce the requested 4' variance to 3'. Chairman Balcer accepted the amendments to the Application.

Attorney Doerr confirmed with Mr. Myers whether a time limit of 45 days to move the shed would be sufficient and added that it would likely be made a condition of any variance that is granted as well as providing the Codes Office with the exact footage of where the shed will be placed. Mr. Myers and his client agreed that those time-frames would work.

Chairman Balcer asks for a motion to close the public hearing.

1st- Smolen

2nd- Tortora

In Favor - Balcer, Tortora and Smolen

Opposed- NONE

Abstain- Member Episcopo

Motion – Carried 3-0 with one abstention.

Chairman Balcer asks the Board to address the Standards of Proof:

1. Will there be an undesirable change in the character of the neighborhood or a detriment to nearby properties? **No, the applicants have reduced the size and**

number of variances required and the shed is not a detriment to the character of the neighborhood.

2. Can the applicant achieve his goal by some other feasible method? **Yes, but since the shed was installed at first without a permit the applicants have agreed to mitigate and lessen the original requested variances.**
3. Is this requested Area Variance substantial? **No, since the Applicants have agreed to lessen the original requested variances.**
4. Will the proposed variance have an adverse impact on the physical or environmental conditions in the neighborhood or district? **No, the shed will have no adverse impact on the physical or environmental conditions of the neighborhood.**
5. Is the alleged difficulty self-created? **Yes, however when balanced with the other four factors this is not dispositive.**

Member Smolen then made a motion to approve a 3' Area Variance to allow for an accessory building (Shed) to be placed 7' from the main residence, with the following conditions:

The Applicant has 45 days from the date of this Decision to:

- 1) move the shed; and
- 2) to provide proof to the Town Code Enforcement Office showing that the shed is no longer in the 5' side yard setback, as well as the actual measurements (dimensions) of how far the shed is located from the principal building (Minimum of 7' from home) as well as how far it is from the side yard property line.

The motion was seconded by Member Tortora.

Roll Call Vote:

Chairman Balcer- YES

Member Tortora- YES

Member Smolen- YES

Member Episcopo- ABSTAINS

Member Benedetti – Absent

Motion- Carried and Area Variance – **GRANTED with Conditions** by a vote of 3 to 0 with one abstention.

Appeal Case # 628- at the request of John Szczech, Applicant (James j. & Arlie S. Carr, owners) for premises located at 3201 W. Genesee St (T.M. # 036.-08-05.1) located in a Residential A: Single Family Residential District, for a Use Variance to operate a bank (Solvay Bank) with a drive through, and for such additional relief as may be necessary or appropriate. Pursuant to

Section 267-A of the Town Law for a Use Variance pursuant to Section 240-11 A. & B. of the Zoning Ordinance of the Town of Geddes.

Chairman Balcer re-opened the Public Hearing from the June 13, 2018 ZBA meeting of this Board. Chairman Balcer stated that he has a referral from the Geddes Planning Board and stated that he would like to read it into the record:

Chairman Balcer reads into record – Referral from the Geddes Town Planning Board:

At the request of the ZBA the Town of Geddes Planning Board has conducted a review of the documents submitted for the proposed Solvay Bank to be at 3201 W. Genesee St.

During the review process, the Planning Board determined that modifications to the documents were necessary to bring them into compliance with site plan requirements. The applicant has modified the plans and supplied additional documentation satisfactorily to the Planning Board. The Planning Board had also requested modifications to some of the site signage. The modifications being, a specific request for the reduction in the height of the berm for the monument sign at the corner of W. Genesee St. & S. Terry Rd. from 30" down to 15"; and a reduction in the size of the enter/exit signs, which they reduced from 6 s.f. (2'x3') down to 4.5 s.f. (1'6"x3'). No specifics for the enter/exit signs were given, but suggestions were made, such as: the legal allowable 2 s.f. (1'x2'), or 4 s.f. (1' 6"x2'8"). These signs are for directionality not for advertising; all that's really needs on them is an arrow with the word "enter" or "exit". Even at 2 s.f. or 4 s.f. there is enough room for them to fit their logo with a directional arrow (See attached). We will leave any further signage modifications up to the ZBA, if they deem necessary.

Therefore having received the requested documentation from the applicant, it is the Planning Boards opinion that the site plan and associated documents submitted by L.J.R. Engineering, P.C., titled Site Plan, Sheet No. 1, dated May 17, 2018, with latest revision date 7/3/18, is acceptable and recommended for further consideration by the Zoning Board of Appeals.

Robert Fanelli
Chairman of Town Planning Board

Chairman Balcer stated that he spoke with the Town Engineer at the Town Board meeting last night and he stated that he is still waiting on the drainage amendments. Mr. Szczech stated that he did not know of any outstanding issues. Attorney Doerr advised that the Board can always add conditions to any Use Variance it grants, so as not to hold up the project.

Mr. Szczech states that at the Planning Board meeting there was a big discussion about sidewalks. Their plans showed sidewalks on Terry Road but not W. Genesee St. The Planning Board wanted to see a sidewalk on the W. Genesee Street side also. Mr. Szczech stated that his clients have agreed to put sidewalks as presented on W. Genesee Street so long as the State DOT does not require signalization. Attorney Doerr asked Mr. Szczech to clarify what he

means by signalization. Mr. Szczech stated that that they would agree to striping the crosswalks etc. but not to pay for the crosswalk signals (push button & hand signals). Attorney Doerr clarified with the Applicants that if the State asks for them to put the sidewalks in the State's ROW without paying for signalization that they would be in agreement.

Mr. Szczech talks about the lighting issue about being too bright. He recommends that he can put a shield on the fixture in the parking lot that can stop the back lighting which will help on W. Genesee St, S. Terry Rd and for adjoining neighbors. He states all the light poles will have baffles.

Member Tortora asks if the light fixtures will be at a 90-degree angle. Mr. Szczech states that he agrees to install fixtures with baffles to direct light towards the subject property at a 90 degree angle. Discussion then ensued about lessening the lumens on the signs so that it was not as bright, and Mr. Szczech agreed to address this.

Mr. Szczech then talked about the landscaping and buffer at the rear of the property as well as the fencing of the property which will run along the rear property from property line to property line.

Member Tortora again brought up his concern, that he raised at previous meetings, of the need for a by-pass lane so that cars do not get "stuck" trying to drive around the building and drive-thru. An extensive discussion then ensued between the Board Members, the Applicants as well as members in the audience including the Planning Board Chairman. The end result, which all agreed upon, was to install an additional sign before the drive-thru warning that there was no through traffic so as to prevent a bottle-neck.

Attorney Doerr asked Mr. Szczech to go through the four criteria necessary in order for this Board to issue a Use Variance. Mr. Szczech then went through each of the criteria. With regard to the first prong: "Whether the applicant has demonstrated that they cannot realize a reasonable return on the property for each and every permitted use in the applicable zoning district, provided that the lack of return is substantial as demonstrated by competent financial evidence?", Mr. Szczech referred the Board to the detailed report from Berkshire Hathaway Home Services CNY Realty dated April 11, 2018 from Daniel J. Hartnett. The Board then discussed the criteria and reviewed the

Attorney Doerr reminded the Board that they also have a positive referral from the Onondaga County Planning Board dated April 11, 2018 (OCPB Case #Z-18-103), determining that the referral will have no significant adverse inter-community or county-wide implications. This referral was read into the record at the Public Hearing on this matter at the April 11, 2018 ZBA meeting by Chairman Balcer.

Finally, Attorney Doerr confirmed with the Applicant that if the Board were to grant this Use Variance that they would have no objection to the Board adding a condition that the Building/Demolition Permit be applied for within six (6) months of this decision.

With no further questions from the Board or those in attendance, Chairman Balcer asks for a motion to close the Public Hearing.

1st – Episcopo

2nd- Smolen

All in Favor

Opposed- NONE

Motion – Carried 4-0

Mr. Doerr stated that an SEQRA determination was made for this application at the April 11, 2018 ZBA meeting where it was determined that this is an Unlisted Action, and was given a negative declaration, with a finding that there is no adverse environmental impact.

Chairman Balcer next asked the Board to address the Standards of Proof:

1. Whether the applicant has demonstrated that they cannot realize a reasonable return on the property for each and every permitted use in the applicable zoning district, provided that the lack of return is substantial as demonstrated by competent financial evidence?

The Board finds that the applicant has demonstrated that they cannot realize a reasonable return on the property, which has been used as a gas station for over fifty years, for each and every permitted use in a Residential-A zoning district, as demonstrated by competent financial evidence and testimony with regard to a detailed report from Berkshire Hathaway Home Services CNY Realty, which report is made a part of this record.

2. Whether the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood? **Yes, this parcel is unique in that it is an existing non-conforming parcel that was a gasoline/service station for over 50 years making it unique to the properties in the immediate neighborhood.**
3. Whether the requested use variance, if granted, will alter the essential character of the neighborhood? **No, the removal of the existing gas station and related gas tanks at use at this site for over 50 years and replacing it with a less intensive use as a commercial bank, as well as the numerous conditions being imposed on the applicant as well as site plan revisions which will result in a substantial improvement to the neighborhood.**
4. Whether the alleged hardship was self-created? **No, the Board finds that the premises and gas station use predate the Zoning Code and the applicant has a provision in their purchase offer that their offer is contingent on a Use Variance being granted by this Board before the property is transferred.**

Member Smolen then made a motion to approve the Use Variance to construct and allow a bank (Solvay Bank) at this property with the following conditions:

1. This Use Variance is limited to the operation of a Commercial Bank with a drive-thru; if there are any significant changes to the Site Plan or hours of operation, the current owner will need to come back to this Board for a Use Variance;
2. The Use Variance is contingent on the Applicant applying for a Development (Building & Demolition Permit) within six (6) months of the date of this Decision or said Use Variance becomes null and void;
3. The Use Variance is subject to the latest revisions to the Site Plan as presented to this Board and approved by the Geddes Planning Board (as modified to be consistent with this Decision & the Area Variance Decision with regard to signage [Case # 629]);
4. That the Use Variance is subject to final approval of the Drainage Plan as determined and approved by the Geddes Town Engineer;
5. That as a condition of this Use Variance the Applicant agrees to install sidewalks on Terry Road and West Genesee Street as provided for in the last set of drawings submitted to the Town. In the event that the State Department of Transportation requires the Applicant to pay for crosswalks and signals (other than striping of lines) then that portion of the sidewalks on West Genesee Street will not be required to be installed.

The motion was seconded by Member Episcopo.

Roll Call Vote:

Chairman Balcer- YES

Member Tortora- YES

Member Smolen- YES

Member Episcopo- YES

Member Benedetti – Absent

Motion- Carried and the Use Variance was **GRANTED with Conditions** by a vote of 4 to 0.

Appeal Case # 629- At the request of John Szczech, Applicant (James. & Arlie S. Carr, Owners) for premises located at 3201 W. Genesee St (T.M. # 036.-08-05.1) for a proposed bank (Solvay Bank) located in a Residential A: Single – Family Residential District for: an Area Variance for an additional attached/monument sign (3 proposed where 2 are allowed per code); an Area Variance of 4 SF to allow for a 24 SF monument sign (20 SF allowed per code); and Area Variances to allow 3 directional signs (Code allows 2) and Area Variances of 4 SF to allow for 6 SF directional signs (Code limits directional signs to 2 SF); and for such additional relief as may be necessary or appropriate pursuant to Section 267-A of the Town Law & pursuant to Section 240-38 A. and B. (1) of the Zoning Ordinance of the Town of Geddes.

Chairman Balcer re-opened the Public Hearing from the June 13, 2018 ZBA meeting of this Board. Attorney Doerr states that after going over the Code and the application and

supporting materials, the following additional variances will be required, and the Application needs to be amended in this regard:

1. Add an area variance to allow signage on all signs to be back-lit instead of indirect light only as required by Code §240-38(b) 1.;
2. Add an area variance, that was pointed out by the Board at the last meeting, for the 2 attached wall signs to be allowed to extend above the first story of the building wall, which it is attached, as proposed in the latest plans submitted to this Board (Code § 240-38 (b) 1);
3. The area variances for the exit and enter signs, the code calls for 2 sq. ft. and they originally proposed 6 SF sign. In the revised plans they're asking for 4 ½ sq. ft. which would require a 2 ½ sq. ft. Area Variance for each exit and enter sign.

Mr. Szczech speaks about how based on the Planning Board comments they reduced the size of the berm by lowering it and cutting it in half from 30" to 15" and agreed with the amendments as stated by Attorney Doerr. Chairman Balcer accepted the amendments to the area variance requests. The Board stated that with regard to the additional sign stating "no through traffic" that they would like the sign to be next to the light pole on the S. Terry Road side.

Considerable discussion then ensued between Member Tortora and the Applicant regarding reducing the lumens on the backlit signs as discussed earlier with regard to the Use Variance case. Mr. Szczech once again states that reducing the lumens can be accomplished and they are willing to do so. He agreed to submit a lighting plan that showed lumens being less than those at the Baldwinsville Solvay Bank location.

Chairman Balcer asked if anyone in the audience had any comments and there were none.

Chairman Balcer asks for a motion to close the public hearing

1st- Tortora

2nd- Smolen

All in Favor

Opposed- NONE

Motion- Carried 4-0

Chairman Balcer asks the Board to address the standards of proof:

1. Will there be an undesirable change in the character of the neighborhood or a detriment to nearby properties? **No, the applicant has revised their requested sign plan to reduce the number and size of the signage and variances requested to be more consistent and appropriate to a residential setting; there is no neighborhood opposition and the approved site plan includes landscaping and a fence between this property and the neighboring residential properties; as well as the conditions being placed on the applicant by this Board including the condition of lessening the lumens on the lighting of the signs.**

2. Can the applicant achieve his goal by some other feasible method? **Yes, but the applicant has agreed to mitigate and lessen the original requested variances to minimize any effect on the neighboring properties.**
3. Is this requested Area Variance substantial? **Yes, due to the quantity of the signage requested, however, since the applicant agreed to lessen the original requested signage, as suggested by this Board, this factor is mitigated and not as significant as it would have been.**
4. Will the proposed variances have an adverse impact on the physical or environmental conditions in the neighborhood or district? **No, the sign package will not have an adverse impact on the physical or environmental conditions of the neighborhood especially in light of the conditions being imposed on the applicant and the lessening of the lumens (brightness) of the signage which will minimize any impact or effect on the neighborhood.**
5. Is the alleged difficulty self-created? **Yes, however when balanced with the other four factors this is not dispositive.**

Member Tortora then made a motion to approve the following Area Variances:

1. an area variance to allow for two (2) attached wall signs and one freestanding monument sign (3 signs proposed - 2 signs allowed per Code);
2. an area variance of 4SF to allow for a 24 SF freestanding monument sign (20 SF allowed per Code);
3. area variances of 2.5 SF to allow for four (3 [enter/exit] and 1 for drive-through) directional signs of 4.5 SF (2SF allowed per Code);
4. an Area Variance to allow for all signs at this site to be internally back lit (where the code calls for all signs to be illuminated by indirect light only); and
5. and an area variance to allow for the two attached wall signs to extend above the first story of the building in the gable end of the roofs.

The above area variances are all subject to the following conditions:

1. That the berm indicated in the latest set of plans for the freestanding monument sign be reduced from 30" high to 15" high;
2. That prior to a building permit being issued for the signage on this site, the Applicant will submit an acceptable light plan indicating the "foot candle" of the "led" back-lit signage to show that it is of a lesser intensity than the lighting plan in place at the Baldwinsville branch of Solvay Bank;

3. That the lighting and signage plans are in all other respects conditioned on the last set of drawings (with modifications consistent with this Decision and the Use Variance Decision (Case# 628) submitted by the Applicant to this Board.

The motion was seconded by Member Smolen.

Roll Call Vote:

Chairman Balcer- YES

Member Tortora- YES

Member Smolen- YES

Member Episcopo- YES

Member Benedetti – Absent

Motion- Carried and the Area Variances were **GRANTED with Conditions** by a vote of 4 to 0.

Chairman Balcer asks for a motion to close the meeting

1st- Episcopo

2nd- Smolen

All in Favor

Opposed- NONE

Motion –Carried 4-0.

Meeting closes at 8:25 p.m.

Minutes ratified by ZBA Board: August 8, 2018