

**Minutes of a Regular Meeting of the
Town of Geddes
Zoning Board of Appeals
February 15, 2018**

February 16, 2018

Members Present:

David Balcer- Chairman
David Tortora
Dominick Episcopo
Frank Smolen

Also Present:

Donald Doerr- Town Attorney

Chairman Balcer calls the February 15, 2018 meeting to order at 7:00 p.m. and asks for all cell phones to be placed on silent.

All Members Present

Approval for January 10, 2018

1st- Tortora
2nd- Episcopo
All in Favor
Opposed- NONE
Motion- Carried

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 that you clearly state your name and address or the company you represent.

Chairman Balcer acknowledged the resignation of ZBA Member Vincent Scarantino which was accepted by the Town Board on Tuesday February 13, 2018. Chairman Balcer stated that it was a pleasure to have Vince on the Board, and that he appreciated his input and the insight he brought to the Board. Chairman Balcer asked that the minutes reflect this Board's appreciation for Vincent's service to this Board and the Town of Geddes over the years.

Chairman Balcer addressed a letter from Michael & Virginia Kempisty dated December 12, 2017 and received by this Board on or about January 5, 2018. Chairman Balcer stated that all members of the Board are in receipt of this letter and asked if any Board Member wished to make a motion to re-hear Appeal #'s 602 and 604 from 2017. Hearing no motion Chairman Balcer stated that we will move on to the next matter on the Agenda.

Michael Kempisty stated that he thought that he would have an opportunity to discuss the two cases with the Board. Attorney Doerr stated that since no Board Member made a motion to re-hear the case there is no further discussion and there is no public hearing. Mr. Kempisty again questioned why he could not be heard but that he did not want to debate this with Mr. Doerr. For the record, Attorney Doerr stated that Town Law §267-a 12. States as follows: "A motion for the zoning board of appeals to hold a rehearing to review any order, decision or determination of the board not

previously reheard may be made by any member of the board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. . . ” Attorney Doerr explained that it must be a Board Member that makes the motion and if made must be by a unanimous vote, before any public hearing can even be scheduled.

Chairman Balcer then called the next matter, Christopher Community, Inc.

Appeal Case # 626- at the request of Christopher Community Inc., Applicant, (Ludden Housing Dev. Fund Co., Inc., Owner) of premises located at 817 Fay Road , Syracuse , New York 13219 (Tax Map # 025.-01-01.2) located in a Residential B: Multiple – Family Zoning District, for a modification to a “Special Permit” for a proposed ~500 SF addition to enlarge the community room, and for such additional relief as may be necessary or appropriate pursuant to Sections 240-12 B. (10) and 240-25 F. of the Zoning Ordinance of the Town of Geddes.

Chairman Balcer stated that this Board (ZBA) will take lead agency status for the purpose of S.E.Q.R. and made a motion that for the purpose of the NYS Quality Review (SEQR) this case is determined to be an Unlisted action, and will be given a negative declaration, finding that there is no adverse environmental impact.

2nd – Smolen

All in Favor

Opposed – NONE

Motion – Carried 4-0

Jeremy Davidheiser, Director of Facilities and Construction (Christopher Community, Inc.) states his case to the Board. He received a letter from the Town Engineer stating that there is an existing detention pond for the site. The pond should be enlarged to accommodate the additional impervious area. Based on the changes the basin should be enlarged by a volume equal to 2.4 inches of runoff from the additional impervious area. Silk fence or compost sock should be added downhill of the addition and sewer relocation area. In the OCPB review, it is recommended that new easements should be shown on the plan for the relocated sanitary sewer.

Mr. Davidheiser states that he would like to do additional permeable paving as opposed to modifying the detention basin.

Attorney Doerr stated that included with the materials the Board also received the original Special Permit [SUP] and Area Variances from this Board from August 9, 1989 (the 1st page is the decision and the remaining pages are the application- the 1989 decision encompasses the SUP as well as some variances in the application); as well as the Onondaga County Planning Board resolution dated February 7, 2018 (OCPB Case #Z-18-35).

Chairman Balcer reads into record that the Onondaga County Planning Board has determined that said referral will have no significant adverse inter-community or county-wide implications and offered the following comment in regards to the above referral: “relocate the sewer line and associated easement at the rear of the building, and reflect the new easement on a modified plan

prior to municipal approval.” Attorney Doerr asked the Applicant if he would be amenable to conditions being made a part of the SUP that if the board were to grant the modification that they would add the additional permeable surface area and the comments in the OCPA Resolution relating to the location of the sanitary line and the easement being approved by the Town Engineer and Town Attorney. Mr. Davidheiser stated that he would have no objection to those conditions.

Member Tortora states that the measurements say 500 + or – for the addition, but that he calculated the addition to be 535.63 SF. He stated that he would like it to be a condition that the building be no greater in SF than this number and Mr. Davidheiser had no objection.

With no further comments from the Applicant, Board or those in attendance, Chairman Balcer asked for a motion to close the public hearing.

1st – Member Smolen

2nd- Chairman Balcer

All in Favor

Opposed- None

Motion – Carried

Chairman Balcer and the Board then deliberated and addressed and weighed the criteria necessary to amend the Special Permit under Code §240-25 and made the following findings:

1. That the proposed use will be in compliance with all other applicable regulations of Special Permit regulations, inclusive of specific zoning district controls applicable to all zoning districts and all other applicable local, state and federal regulations. All agree.
2. That the proposed addition will not have any adverse impact upon the character or integrity of any land use within the immediate neighborhood. The relatively small addition to this expansion of an existing Special Permit is compatible to the existing building. It blends in with the existing Bishop Ludden High School and there are ball fields to the south. All agree.
3. That the proposed addition will be physically and visually compatible with and will not impede the development or redevelopment of the general neighborhood or adversely affect the existing land use within proximity to the subject site. The proposed expansion will match and be compatible with the existing building with the same color and trim and architectural features and will not adversely affect existing land use near this site. All agree.
4. The proposed use and expansion will not cause any adverse environmental impact upon surrounding properties, especially in light of the conditions being imposed on the applicant including but not limited to the sanitary line, sanitary easement and permeable pavement issues being worked out and approved by the Town Engineer. All agree.

Based on the findings of fact, Chairman Balcer asks if any Board Member wished to make a motion to approve/deny this case?

Member Tortora then made a Motion to approve modifications to the existing Special Permit dated 8/9/89 with the following conditions:

1. The applicant will add additional permeable surface areas to the site as determined and approved by the Town Engineer to address drainage concerns at the site;
2. The exact site and location of the relocated sanitary line and easement is to be approved by the Town Engineer, and the revised easement is to be approved by the Town Attorney and filed at the Onondaga County Clerk's Office;
3. That the Special Permit is approved in substantial compliance with the submitted set of drawings by Holmes, King, Kallquist & Associates, Architects, LLP dated 6/23/17; and that an 'As built Site Plan/Survey' must be submitted to the Town Engineer showing the moved sanitary line and sanitary easement at the conclusion of the project; and
4. That the addition to the Community Room shall not exceed 535.63 SF.

2nd- Smolen

Roll Call Vote:

Chairman Balcer – YES

Member Tortora- YES

Member Episcopo- YES

Member Smolen- YES

All in Favor

Motion- Carried 4-0 with conditions.

Adjourned Cases:

Chairman Balcer then re-opened the Public Hearings for the two pending interpretation cases # 618 & # 621 as requested by Mr. Michael Kempisty.

Appeal 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".

Appeal 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.

Mr. Kempisty again reiterates that he was hoping to speak about his letter request for the Board to re-hear his two previous cases from 2016. Mr. Kempisty claims that it states that anyone that wants to be heard will be heard so he “wants to be heard.” Attorney Doerr reiterates that it has to be with regard to a Public Hearing that has been properly noticed and is before the public. With regard to a motion to re-hear pursuant to the New York State Town Law it has to be a motion by a Board member to re-hear any case. There has been no motion and as a result there has been no vote to re-open so there is no discussion or right to a public hearing. Mr. Kempisty is then asked which appeal he wishes to speak to first.

Initially, Mr. Kempisty brings up that he really needs Mr. Albrigo to be here because “he has denied my permit.” Chairman Balcer responds that this Board is here to interpret what he has done.

Mr. Kempisty states that he has given the Board so much information that he has forgotten what he has given the Board. He states that he has given the Board treatises, cases and information on interpretations, and that he shouldn’t have to tell the Board what it should be doing.

With regard to the digital billboard, case #618, Mr. Kempisty states that he (Ribble) was given a permit in February of 2016 and according to Mr. Kempisty’s reading of the Town Code he had to apply for a sign permit and he only had six months to do that. Mr. Kempisty stated that this Board needs to deliberate and he wants to hear what the Board has to say. Chairman Balcer responds that we are waiting to hear all of your information so that we can digest it, as you have given the Board quite a bit of information over the past several months.

Mr. Kempisty states that he applied for a permit to put up a digital billboard after the permit expired and Mr. Albrigo sent it back. Attorney Doerr asked which permit application he is referring to – his original application? Chairman Balcer states it appears that Mr. Kempisty is now talking about a permit application he supposedly made that is not contained in the appeal in front of us, #618. Mr. Kempisty responds that he is talking about the case we are talking about #618. I am asking for a digital billboard and it was sent back. Chairman Balcer states that he does not see what he is referring to as part of this interpretation appeal.

Attorney Doerr states that it may be a good idea, since this case started in May of last year (2017) that we get a listing of everything that has been submitted so that we can agree to everything that has been before this Board from all parties so that we know that we have everything. Attorney Doerr indicated that it appears that Mr. Kempisty handed out something this evening. Mr. Kempisty responded that it was just additional definitional information on what a gore is and that he did just pass it out this evening. Attorney Doerr again indicated that it his intent that at the next meeting to hand out a document listing all of the materials that have been submitted for both of these appeals during the public hearings so that we have an accurate record, and that he will give Mr. Kempisty a copy so that we can all be in agreement what is before the Board. Mr. Kempisty stated “that would be fair.”

With regard to Appeal #621, his brother Thad Kempisty's appeal, Mr. Kempisty stated that last time a Member stated that he went to the site and didn't see glare from the sign at the house. Mr. Kempisty passed out to the Board three pictures. Chairman Balcer asks how the light glare has anything to do with the determination that CEO Albrigo made. Mr. Kempisty explained that he just is showing that there is a glare or flicker at 1187 State Fair Boulevard and submitted 3 pictures that were taken since the last time they were here. Several Members questioned whether there was glare or merely a reflection from the billboard in the window and pointed out that it is not shining or reflecting on the whole house. Attorney Doerr questioned whether this met a 750' setback and whether his house is in a district that is protected from the Billboard Overlay amendment. Mr. Kempisty stated that he is not sure if it is more than 750' from the billboard and that their property at 1187 is zoned as a Commercial C.

Attorney Doerr reads the code and asks if the house at 1187 is more than 750' from the billboard, is this even a factor or relevant? Attorney Doerr states that in this particular case this argument would not stand since the house may be more than 750' from the digital billboard at issue and it does not appear to apply to a structure that is not in a protected district.

With no further questions from the Board, applicant or audience, Chairman Balcer makes a motion to keep both cases (#618 & #621) open and to adjourn them to the next Zoning Board Meeting in March.

2nd- Member Smolen

All in Favor

Opposed- NONE

Motion – Carried 4-0.

Chairman Balcer asked for a motion to adjourn the meeting.

1st – Member Tortora

2nd- Member Episcopo

All in Favor

Opposed- NONE

Motion – Carried 4-0

Meeting closes at 8:01 p.m.