

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

**Members Present:**

David Balcer- Chairman  
David Tortora  
Dominick Episcopo  
Frank Smolen

**Also Present:**

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

**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**

**1<sup>st</sup> – Tortora**

**2<sup>nd</sup>- 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 # 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), I.(1) & K. And 240-39 A., B., & C. of the Zoning Ordinance of the Town of Geddes.

**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”.

Chairman Balcer reads into record a correspondence 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 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 open till the August meeting.

1<sup>st</sup> – Smolen  
2<sup>nd</sup>- 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 Z.B.A. will take lead agency status for the purpose of S.E.Q.R. and I would like to make motion that fir 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?

2<sup>nd</sup>- Tortora  
All in Favor  
Opposed- NONE  
Motion – Carried  
4-0

Member Mr. Episcopo sustains himself from this case.

Jeff Myers- representative for Mr. Roberts states his case. He states that Mr. Roberts has had an estimate with moving the shed. He can move the shed definitely off the 5 foot side line variance. At least 7'.2" that is necessary. He can also at the same time while we are proposing is to move the shed approximately 1 foot or as far as he can. He states that there is a problem is when you try to move it away from the house you run into the slant coming down from Mr. Ross property behind him. Also, a large tree is there and tree roots issues. He knows Mr. Roberts can move it a foot. He is proposing to amend the application. To remove the necessity for the sideline application because Mr. Roberts cannot move it out 5 feet from the property line. He is asking for a 3 foot variance from the house.

Mr. Doerr asks Mr. Myers about a time limit of 45 days to move the shed under the conditions from the Board if the variance is granted and provide the Code Office with the exact footage where the shed will be placed. Mr. Myers states that yes, it would be enough time.

Chairman Balcer asks for a motion to close the public hearing

1<sup>st</sup>- Smolen  
2<sup>nd</sup>- Tortora  
All in Favor  
Opposed- NONE  
Motion- Carried  
Member Episcopo- sustained from voting

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 deterrent to nearby properties? Chairman Balcer states that the fence, being in the same location as the existing fence will pose no change to the character of the neighborhood. Chairman Balcer states NO, because the Board lessened the one closer to the one approximately to the neighbor.

Balcer–Agreed  
Tortora-Agreed  
Smolen - Agreed  
Episcopo- Sustained  
Benedetti - Absent

2. Can the applicant achieve his goal by some other feasible method? Chairman Balcer states YES, the applicant does, to get it as close as possible. But to get it all the way over it would be considered unfeasible.

Balcer- Agreed

Tortora- Agreed

Smolen- Agreed

Episcopo- Sustained

Benedetti- Absent

3. Is this requested Area Variance sustainable? Chairman Balcer states NO

Balcer- Agreed

Tortora- Agreed

Smolen- Agreed

Episcopo- Sustained

Benedetti - Absent

4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? Chairman Balcer states NO

Balcer- Agreed

Tortora- Agreed

Smolen- Agreed

Episcopo- Sustained

Benedetti - Absent

5. Is the alleged difficulty self-created? Chairman Balcer states Yes, the applicant installed a shed without seeking a permit first.

Balcer- Agreed

Tortora –Agreed

Smolen-Agreed

Episcopo –Sustained

Benedetti - Absent

Chairman Balcer states from the finding of facts would someone make a motion to Approve or Deny this Area Variance

1<sup>st</sup>-Smolen makes a motion to approve with the conditions

2<sup>nd</sup>- Tortora

All in Favor- Balcer- Yes

Tortora- Yes

Smolen- Yes

Episcopo- Sustain

3-0

Opposed- NONE

Motion – Carried

**CONDITIONS:**

- 1)** Move the shed, and **2)** to provide proof to the Town showing that the shed is no longer in the 5' side yard setback and the exact measurement of how far the shed is located from the principal building (Minimum of 7') before any building permit is issued.

**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 reads into record – Referral from the 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 and he stated that he is still waiting on the drainage. But this will not hold the variance.

John Szczech states that at the Planning Board meeting there was a big discussion on sidewalks. The variance application opposes sidewalks on Terry Rd S. not W. Genesee St. Mr. Szczech agrees to put sidewalks on W. Genesee St if the state would approve it with no signalization. If signalization was required or the sidewalks to be on their property then the sidewalk could be eliminated.

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 of 60 ft. to 20 ft. That will help on W. Genesee St, S. Terry Rd and adjoining neighbors. He states all the light poles will have a baffles.

Mr. Tortora asks if the baffles will be in a 90 degree angle. Mr. Szczech states that he can have them in 90 degree angle.

Mr. Szczech talks about the fencing of the property, which it will run along the rear property from property line to property line.

An extension discussion of the drive- thru with bypass lane, sign to alert (notify) customers that there is no bypass lane.

No more questions from the board and audience.

Chairman Balcer asks for a motion to close the Public Hearing

1<sup>st</sup> – Episcopo

2<sup>nd</sup>- Smolen

All in Favor

Opposed- NONE

Motion – Carried

4-0

Mr. Doerr stated that an S.E.Q.R was done on April 11, 2018 and was voted to be a Negative Declaration on an unlisted action.

Chairman Balcer addresses the Standards of Proof:

1. Deprivation of all economic use or the benefit standard. Can the applicant realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence? A letter from Berkshire Hathaway Home services supports this question.

Balcer- Agreed

Tortora- Agreed

Episcopo- Agreed

Smolen- Agreed

Benedetti- Absent

2. Will it change the essential character of the neighborhood? Chairman Balcer states NO, it will enhance the neighborhood. To erect a 6' stockade fence to protect the neighbors from lighting, walking traffic to W. Genesee St from Dorchester Rd, removal of contaminates, and additional buffering to the residential of the rear of property.

Tortora- Agreed

Episcopo- Agreed

Smolen- Agreed

Benedetti- Absent

3. It is uniqueness needed for this parcel compared to the rest of the neighborhood? Chairman Balcer states YES, because of the current use there burton to change it to something else makes it a very unique situation to most of the properties in the area. For it to be used as a gas station for over 50 years and much less inattentive use that makes it unique to other properties in the area.

Tortora- Agreed

Episcopo- Agreed

Smolen- Agreed

Benedetti- Absent

4. Is this a self- created hardship? Chairman Balcer states NO.  
Mr. Doerr states with the self-creative hardship deals with that they do not own the property now so they didn't buy it not knowing that they bought it with a contingency. They have a purchase offer contingent. They did not create any hardship because they have a contract prevision.

Tortora- Agreed

Episcopo- Agreed

Smolen- Agreed

Benedetti- Absent

Chairman Balcer asks for a motion to approve or deny this case with conditions.

1<sup>st</sup>- Smolen- Approve

2<sup>nd</sup>- Episcopo

All in Favor

Opposed- NONE

Motion- Carried.

4-0

Balcer- Approve

Tortora- Approve

Episcopo- Approve

Smolen- Approve

7/11/18

Use Variance – GRANTED with conditions

1. This Use Variance is limited to the operation of a Commercial Bank; if there are any significant changes to the Site Plan or hours of operation, the current owner will need to come before this Board;
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;
4. That the Use Variance is subject to final approval of the Drainage Plan as 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.

**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.

Mr. Doerr reads into record an additions to the variance

1. Agree to the amendment
2. Add a variance to allow signage on all signs to be back- lit instead of indirect light only. 240-38(b) 1. Under no obligations.
3. Add a variance that was pointed out by the Board at the last meeting for an area variance for the 2 attached wall signs to be allowed to extend above the first story of the building wall. Which it is attached as per posed in the latest plans submitted to the Board. 240-38 (b) 1.
4. Discussion on the area variances for the exit and enter signs, originally the code calls for 2 sq. ft. They originally proposed 6 sq. ft. 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. If Board wants that then there will be a variance to allow additional directional signs for the drive- thru.

Mr. Szczech speaks about how they lowered the berm, would like a variance on the monument sign. Logo signs are good. He would like to know where to place the drive-thru sign?

The Board states that they would like the sign to be next to the light pole on the S. Terry Rd side.

No comments from the public

Chairman Balcer asks for a motion to close the public hearing

1<sup>st</sup>- Tortora

2<sup>nd</sup>- Smolen

All in Favor

Opposed- NONE

Motion- Carried

4-0



Chairman Balcer addresses the standards of proof:

1. Will there be an undesirable change in the character of the neighborhood or a detriment to nearby properties? Chairman Balcer states NO, lessen them by the conditions apposed on it.  
Tortora- Agreed  
Episcopo- Agreed  
Smolen- Agreed  
Benedetti- Absent
2. Can the applicant achieve his goal by some other feasible method? Chairman Balcer states NO, they got them down as feasible as possible due to the situation.  
Tortora- Agreed  
Episcopo- Agreed  
Smolen- Agreed  
Benedetti- Absent
3. Is this requested Area Variance substantial? Chairman Balcer states YES, each one has been lessened that did not meet a significant impact.  
Tortora- Agreed  
Episcopo- Agreed  
Smolen- Agreed  
Benedetti- Absent
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? Chairman Balcer states NO, lessened the lighting. No other impact.  
Tortora- Agreed  
Episcopo- Agreed  
Smolen- Agreed  
Benedetti- Absent
5. Is the alleged difficulty self-created? Chairman Balcer states YES, applicant is proposing erect a sign with and larger square footage of area than allowed by code.  
Tortora- Agreed  
Episcopo- Agreed  
Smolen- Agreed  
Benedetti- Absent

Based on the findings of fact, would someone make a motion to approve or deny (or adjourn) this case?

1<sup>st</sup>- Tortora- Approve with conditions

2<sup>nd</sup>- Smolen- Approve

All in Favor

Opposed- NONE

Motion- Carried

Balcer- YES

Tortora- YES

Episcopo- YES

Smolen- YES

Benedetti- Absent

4-0

Area Variance is GRANTED with conditions

1. That the berm indicated in the latest set of plans for the 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 plan in all other respects is conditioned on the last set of drawings submitted by the Applicant to this Board.

Chairman Balcer asks for a motion to close the meeting

1<sup>st</sup>- Episcopo

2<sup>nd</sup>- Smolen

All in Favor

Opposed- NONE

Motion -Carried

Meeting closes at 8:25 p.m.