

**Minutes of a Regular Meeting of the
Town of Geddes
Zoning Board of Appeals
October 10, 2018**

Members Present:

David Balcer- Chairman
David Tortora
Dominick Episcopo
Ron Benedetti
Frank Smolen

Also Present:

Don Doerr- Town Attorney

Chairman Balcer calls the September 12, 2018 meeting to order at 7:00 p.m. and asks for all cell phones to be placed on silent.

Approval of September 2018 Minutes

1st- Benedetti

2nd- Episcopo

All in Favor

Opposed- NONE

Motion- Carried 5-0

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.

Chairman Balcer asks the Board if they have visited the sites of the new cases. All members have.

Appeal Case # 634- at the request of Daniel Wolnik (Applicant & Owner) for property at 2522 W. Genesee Street Syracuse, NY 13219(T.M. # 035.-02-32.0) located in a Residential A: Single – Family Residential Zoning District for a Use Variance to operate a “Motor Vehicle Sales & Service Center”, and for such additional relief as may be necessary or appropriate pursuant to Section 267-A of the Town Law and pursuant to Section 240-11 A. & B. of the Zoning Ordinance of the Town of Geddes.

Chairman Balcer reads into record the referral from Onondaga County Planning Board letter. NOW THEREFORE BE IT RESOLVED, that the Onondaga County Planning Board recommends the following MODIFICATION(S) to the proposed action prior to local board approval of the proposed action:

Per the Onondaga County Health Department, the existing septic system is not consistent with the proposed use of the site and a connection to the public sewage treatment system will be

required. The applicant is advised to consult with the Onondaga County Health Department regarding adequate wastewater disposal plans and/ or contact the Onondaga County Department of Water Environment Protection's Flow Control and Plumbing Control offices to determine sewer availability and capacity and to obtain appropriate permits for all plumbing installations, respectively.

Should the municipality grant the variance request, the Board also offers the following comment(s) for the next phase of development?

- 1.) The applicant must contact the New York State Department of Transportation to coordinate requirements for the proposed driveway on West Genesee Street, in order to satisfy commercial driveway standards. Any mitigation as may be determined by the Department must be reflected on the project plans prior to municipal approval, and any work within the state right-a-way will be subject to a highway work permit.
- 2.) The applicant must submit a lighting plan to the New York State Department of Transportation and reflect any mitigation as may be determined by the Department on the project plans prior to municipal approval. No glare or spillover onto adjacent properties or the state right-a-way will be determined.

And,

A letter from the Town Engineer

I have reviewed the material submitted for the above application and have the following comments:

1. The letter of Intent states 8 display vehicles will be "in separate marked area of the parking field". The Site Plan shows a total of 8 parking spaces, does not show a "separate marked area". There is no other flat area currently available on the site other than within the right-a-way of West Genesee Street, where parking would not be permitted.
2. The existing septic tank is also within the right-a-way of West Genesee Street. No leach field is shown. The use of this septic tank for a new commercial use would not meet current standards. A connection to the existing sanitary sewer on the other side of West Genesee Street would be required.

Town Attorney Don Doerr states that General Municipal Law Section 239 N.N – The Rights and duties of neighboring municipalities in planning and zoning matter. The notice of materials were provided to the Village of Solvay for they are the neighboring municipality. For they are 500 feet of the property.

Robert Germain- represents Mr. Wolnik and addresses the board over the Standards of Proof and the Zoning of the property.

Chairman Balcer states that the Site Plan states 11 spaces required, but the code would be a minimum of 17 spaces with your letter of intent stating 6 employees. The letter of intent also states you will have 8 display parking spaces. Your Site Plan states you are providing 5 parking spaces and 3 display spaces for a total of 8 spaces? Where will your employees park? If you

have 6 employees, you will have to have a close to 6 vehicles on the property to be worked on. Where will they be parked? Motor vehicle sales, service & repair is only allowed in Commercial C: Heavy Commercial District in our code and you are proposing it in a Residential District.

Mr. Germain states that the letter of intent was made before the architect did the plans and so we would like to revise our letter of intent. He also ask the Board that there are 2 ways to go.

- 1- an amendment of the application to a Commercial B
- 2- If the Board finds that there are reasonable conditions that should be imposed that are based on protection of the neighborhood and to add reasonable restriction or revisions.

Don Doerr clarifies that the property is zoned Residential "A" Single – Family Residential District 240-11(non-residential lot structure requirements need to abide by that. For that the principal structure front yard setback is 40 feet and currently it is 3 feet. The side yard setback is 20 feet and one side it is currently 8.2 feet. That would require 2 variances on top of the use variance. He also states that on the application it's stated Commercial C. The property is in a Residential Zone and the applicant has to prove the four (4) facts. It doesn't jump to a Commercial Zone. The Board can take light of fact that this Board for a Commercial "Requires specific use permit for a garage and sales. There are two things the applicant needs to do is

1. In a Residential "A" you have to meet 240.11 D.
2. Parking area design standards 240.30 B- non- residential uses. Would have to meet the buffering, landscaping, and etc.

The Board would do the Use Variance first with talking of the Chairman, he is going to refer it to the Planning Board not for Site Plan but for recommendations on the Use Variance.

Jim Jerome- W. Genesee commends that the applicant purchased the property and it isn't sitting vacant but he is going to put a lot of money into it.

Mrs. Calerino- Century Dr asked what hours you will be operating. Mr. Wolnik states from 8am – 7 pm.

Joan St. Thomas Wynthrop Rd asked how many cars you will be working on and how many cars will be parked until serviced on. Mr. Wolnik states he would only have couple cars at a time.

Don Doerr asked about the billboards of to take them down. Mr. Wolnik stated that they are under contract with Lamar until 2020. In the application states they will be coming down. Mr. Germain stated he would be looking into that and would submit a revised Letter of Intent to the Board.

Chairman Balcer asks for someone to make a motion to refer this case to the Planning Board for the Use Variance and to hold the public hearing until the referral comes back to Zoning Board.

November 14

1st- Tortora

2nd- Episcopo

All in Favor

Motion- Carried 5-0

Appeal Case # 635- at the request of Michael Kempisty (property owner), for vacant property located on Walters Road (T.M. # 019.-01-09.0) located in a Commercial C: Heavy Commercial District & the I-690 Billboard Overlay District for an Area Variance to allow a static billboard less than a 1,000 feet away from an existing billboard and for such additional relief as may be necessary or appropriate. Pursuant to Section 267-A of the Town Law for an Area Variance pursuant to Section 240-19.2 C.(3)(a) & 240-19.2 E.(2) 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 a 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 SEQRA review is necessary, unless otherwise by our council.

2nd- Smolen

All in Favor

Opposed- NONE

Motion- Carried 5-0

Don Doerr states into record that the Board should have received a copy of measurements from LEHR Land Surveyors dated 9/26/2018 of existing billboard at 1237 State Fair Blvd and to the proposed billboard showing a distance of 906 feet so that the Area Variance would be 94 feet in the application it said about 10 %.

Chairman Balcer reads into record two letters submitted to the Board from Mr. Kempisty.

Regarding billboard variance case no. 635, I have attached a letter of consent from my mother, Virginia Kempisty, as owner of the adjacent parcel known as Tax Map No. 019.-01-0.10 for any access or encroachment for the proposed TDK billboard. We are in the process of creating a limited liability company and combining our two lots into one parcel. I hope this is sufficient.

Sincerely, Michael Kempisty

I hereby consent to any encroachment, aerial or otherwise, of the proposed TDK billboard on my parcel known as Tax Map No. 019.-01-0.10. I have also granted TDK an access easement for the placement and servicing of the proposed billboard. I would request, if the Town requires, to be added as an additional party to Appeal Case No. 635

Sincerely, Virginia Kempisty

Chairman Balcer reads a referral from the County Planning Board therefore be it resolved, that the Onondaga County Planning Board has determined that said referral will have no significant adverse inter-community or county-wide implications and may consequently be acted on solely by the referring board.

Mr. Kempisty presents his case and states that this is a minimum variance goes through the Standards of Proof.

Don Doerr states that Mr. Kempisty and Mr. Ribble (KMG) have a memorandum of understanding and a land lease agreement which covers both parcels. Mr. Kempisty has added

his mother Virginia Kempisty (co-applicant) due to her property and his property will be joined together at some time to make it a one parcel.

Joe Pozzi-Legal Counsel for Orchard Development, LLC (Forest Tarolli) 550 Charles Ave state their opposition on the Area Variance and would like to talk about the detriment to other properties. Mr. Tarolli has property directly adjacent to the subject property in question. The property line extends about 600 feet from Mr. Kempisty's. His client has been getting negotiations with billboard companies in order to put up a billboard on the property and have plans to develop the property and with having a billboard will add tremendous value to that potential development. So with the board granting the Variance. Orchard Development will no longer have that ability to use the property lawfully and it wouldn't need a variance. Mr. Tarolli's property is more sufficient distance of 1, 000 feet from the existing billboard. Mr. Tarolli would not need for a variance to erect a billboard and is in compliance with billboard overlay and with code and regulations.

Chairman Balcer asks for a motion to close the Public Hearing

1st- Tortora

2nd- Episcopo

All in Favor

Opposed- NONE

Motion- Carried 5-0

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? **NO, it's in a billboard overlay district and a Commercial district. The billboard itself would not be a detriment to nearby properties.**

Balcer- Agree

Tortora- Agree

Episcopo- Agree

Benedetti- Agree

Smolen – Agree

2. Can the applicant achieve his goal by some other feasible method? **NO, with survey submitted Mr. Kempisty cannot move the billboard overlay any more onto his property.**

Balcer- Agree

Tortora- Agree

Episcopo- Agree

Benedetti- Agree

Smolen – Agree

3. Is this requested Area Variance substantial? **NO, it's only 10 %**
Balcer- Agree
Tortora- Agree
Episcopo- Agree
Benedetti- Agree
Smolen – Agree

4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? **NO, it's in a billboard overlay district and there are a couple billboards erected in the surrounding neighborhood.**
Balcer- Agree
Tortora- Agree
Episcopo- Agree
Benedetti- Agree
Smolen – Agree

5. Is the alleged difficulty self- created? **YES, applicant is proposing erect a billboard closer to an existing billboard than allowed by code.**
Balcer- Agree
Tortora- Agree
Episcopo- Agree
Benedetti- Agree
Smolen – Agree

Chairman Balcer states based on the findings of fact, would someone like to make a motion to approve this case with 4 conditions:

1st- Tortora

2nd- Smolen

All in Favor

Opposed- NONE

Motion- Carried 5-0

1. The property to be adjoined- Michael Kempisty/ Virginia Kempisty
2. Final Survey (as built)
3. Full Compliance- submitted drawings(Exhibits “ A”)
4. 6 months to obtain building permit

Roll Call Vote:

Chairman Balcer- Agree

Tortora- Agree

Episcopo- Agree

Benedetti- Agree

Smolen- Agree

Motion passed **5-0**

Variance- **GRANTED**

Appeal Case # 636- at the request of KMG Properties LLC applicant for AK Schmidt LLC property owner, for a property located at 1175 State Fair Blvd. (T.M. # 019.-01-18.1) located in a Commercial C: Heavy Commercial District & the i-690 Billboard Overlay District for an Area Variance to allow an existing static billboard less than 450 feet away from a Residential District to 444 feet, a six foot variance and for such additional relief as may be necessary or appropriate. Pursuant to Section 267-A of the Town Law for an Area Variance pursuant to Section 240-19.2 C. (3) (b) of the Zoning Ordinance of the Town of Geddes.

Chairman Balcer reads into record from a letter received from Code Enforcement Officer (Peter Albrigo) –

Stating: After a careful review of the application and exhibits submitted by KMG Properties. It is the opinion of the Code Enforcement Officer that NO variance is needed. The Geddes Code 240 Section 240-19.2 C (3) (b) as **[Amended 3-13-2018 by L.L. 2-2018]** states: That all billboards erected pursuant to this section shall comply with the following location requirements: (b) - The minimum distance from any and all occupied single-family or multiple-family dwelling(s) or occupied dwelling unit(s) within a Residential, Recreational or Senior Citizen Residential Overlay District shall be 350 feet. Where the billboard is illuminated, the minimum distance from any and all occupied single-family or multiple-family dwelling(s) or dwelling(s) within a Residential, Recreational or Senior Citizen Residential Overlay District shall be 450 feet. Under all circumstances, light shall be shielded from such other properties. The single-family dwelling at 307 Lakeside Rd (lake view dr on application) is located in a Commercial “B” Zoning District. The above section only regulates occupied dwelling units with Residential, Recreational or Senior Citizen Residential Overlay District. Therefore, 240-19.2 C (3) (b) does not apply to 307 Lakeside Rd (lake view dr).

Best Regards,
Peter Albrigo

Don Doerr states that Mr. Albrigo also submitted a colored map with said address to show that the property is in the Commercial B District.

Christie Frame (Mr. Ribble) would like to withdraw his application at this time.

Don Doerr states that no further action is required and the case will be closed.

Appeal Case # 621 & # 618 will be adjourn until the next meeting November 14, 2018 so the applicant can obtain a building permit before he withdraws his appeals.

Chairman Balcer asks for a motion to adjourn both cases to November 14, 2018 meeting.

1st- Episcopo

2nd- Benedetti

All in Favor

Opposed- NONE

Motion- Carried 5-0

Chairman Balcer asks for someone to make a motion to close the meeting.

1st- Tortora

2nd- Smolen

All in Favor
Opposed- NONE
Motion- Carried 5-0

Meeting closes at 8:12 p.m.