
Town of Lansing

Tuesday, December 13, 2016 6:30 PM, Zoning Board of Appeals Meeting

ZONING BOARD OF APPEALS MEMBERS

(*Denotes present)

Linda Hirvonen	*	Dan Konowalow
* Henry (Hurf) Sheldon, Chairman	*	Judy Drake
* Maureen Cowen		
* Dean Shea, Alternate		

Other Staff

* Lynn Day, Zoning Officer
* Guy Krogh, Esq.

PUBLIC PRESENT

John Dietershagen
Kelly Jo Hunink

GENERAL BUSINESS

Chairperson, Henry (Hurf) Sheldon called The Town of Lansing Zoning Board of Appeals Meeting to order at 6:3 PM.

Alternate Dean Shea was enacted to vote this evening due to a Member being absent.

Approval/Denial of Minutes for: November 15, 2016

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Pg. 11, line 1 choose to chose.

Dean Shea made motion to approve as amended. Judy Drake seconded the motion and it was carried by the following roll call vote:

APPROVED

Vote of Zoning Board . . . (Aye) Maureen Cowen, Member
Vote of Zoning Board . . . (Aye) Judy Drake, Member
Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member
Vote of Zoning Board . . . (Aye) Dean Shea, Alternate
Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair

Mr. Sheldon acknowledged the Legal Notices pertaining to the Area Variance request was published in the Ithaca Journal as required.

Dean Shea made a motion to open the Public Hearing at 6:35 PM on the Application request made by Robbins Sign Co., LLC, Agent for Mirabito for an Area Variance. Daniel Konowalow seconded the motion and it was carried by the following roll call vote:

Vote of Zoning Board . . . (Aye) Maureen Cowen, Member
Vote of Zoning Board . . . (Aye) Judy Drake, Member
Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member
Vote of Zoning Board . . . (Aye) Dean Shea, Alternate
Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair

Public Hearing - Consideration of an Area Variance for Signage made by; Robbins Sign Co., LLC, Agent for Mirabito, of 32 Peruville Road, Tax # 30.-1-16.4

Billy Jo Hunink appeared before the Board on behalf of Robbin’s Sign Co. Ms. Hunink state the Mirabito Company is trying to keep the branding to the “M” image with a square. presented the following request(s);

- A. To install a 76” x 76” Corporate standard manufactured Sign onto an existing Pylon Sign. Existing Pylon Sign height is 16’7” high. The requested Signage height will be 18’11”. There is another option that Mirabito would consider that would not exceed 16’ 7”
- B. To request that the 3 new Channel Letter sets for the Canopies will extend above the Canopy approximately 4-5” at each location. (Red “C” Part of) Corporate Standard. Sets will be lit with LED lights.
- C. To install 3 Channel Letter Sets, one Vinyl letter set and 1 Diesel vinyl signage for Canopies. The request will increase the square footage for these signs from 30.48 Sq. Ft. to 104 Sq. Ft.

APPROVED

Provided Justification from the Robbins Sign Co. for Request;

Justification of request for proposed signage

1. Signage is required for a successful gas station/convenience store. Branding and repetition of the corporate name are all part of their rewards and royalty programs.
2. Existing XtraFuel is being bought by Mirabito. Hence all XtraFuel signage must be removed and replaced with Mirabito signage.
3. This proposed signage will be similar to other gas stations and will meet all corporate requests to maintain a unified image throughout their over 100 stores.
4. We do not believe that any of the requested signage is negative and or will hinder the look of the neighborhood in any way.
5. The actual "DIESEL" lettering is more informative than sales oriented so as not to have regular vehicles pulling into that area. This may indeed cut down on confusion and possible accidents at that site.

Public/Member Comments/Concerns

Zoning Officer, Lynn Day states a Building Permit has been issued for 2 Signs (1 on the Diesel Canopy and 1 on the Building). The Town Sign Law states a maximum of 2 Signs up to 96 Sq. Ft. and no taller than 15 Ft. from the ground are permitted per Commercial Business.

Lynn Day, Zoning Office has concerns with the Pylon Pricing Sign near the road. Mr. Day states the existing height is over 16.7 ft. and with the proposed would be even more out of compliance.

Mr. Day advised all if the Channel lights are lit, Robbins Sign Co. would then be required to appear before the Planning Board for Site Plan Review.

Henry (Hurf) Sheldon inquired from Ms. Hunink how many previous times has she had to appear before a ZBA Board. Ms. Hunink states Sayre Pa. Most places the Signage has fit to their Zoning requirements.

Henry (Hurf) Sheldon clarified that this request is only for Mirabito and does not include Dunkin Donut or Deli Joe's.

Daniel Konowalow inquired as to what the Company (Mirabito) standard is and what are they trying to accomplish.

Billy Jo Hunink states Mirabito has a design ascetic of a square "C" image around the "M" on their Signs.

APPROVED

Ms. Hunink indicated the existing Pylons can be used, however the sign would be placed on the top of them. Due to the shape being a square the size would be 76" x 76" wide.

Daniel Konowalow felt that many buildings get narrower as they go up. Mr. Konowalow doesn't see the need to stick with the existing pylons.

Judy Drake inquired as to why all the channel canopy logos have to go above. Ms. Hunink states if they stay within the canopy the letters will be smaller. Also three channel lights will be lite.

Henry (Hurf) Sheldon inquired if any previous stores requested the channel canopy without the 6" extension of the one letter. Ms. Hunink indicated yes, 4 other ones.

Dean Shea states one of your justification listed, success of the Gas Station. Mr. Shea states speaking as a resident, his perspective is that it is already successful without the additional requested Signage. Mr. Shea further inquired if Ms. Hunink knows of any confusion happening at the Lansing Store. Ms. Hunink states no.

Daniel Konowalow inquired if Ms. Hunink has anything in writing from the Company showing their success by having the 40" Sign in place of the 32" Sign. What is the impact of the additional 8" as far as the Company's successfulness? Ms. Hunink states she has nothing valid from Corporate Office other than the fact that they are trying to promote the "M" branding as compared to the long Mirabito branding on their pylon Signs. Daniel suggested changing the shape of the Signage that is placed in the pylon.

Henry (Hurf) Sheldon reiterated the existing Pylon Pricing Sign is nonconforming.

Lynn Day, Zoning Officer states the freestanding Sign could be very similar to the one that is on the building. It would have to be shrunk, but could be done.

Ms. Hunink inquired if further discussion was required if she kept the cabinet and just changed the sign shape.

Dean Shea indicated most likely that would be a discussion to be had depending on what else you would like to lose. Mr. Shea further stated Ms. Hunink is talking about a huge amount of square footage and a lot of Signs.

APPROVED

Guy Krogh, Legal Counsel states the State law mandates a certain size Sign for Motorist for advertising the pricing of gasoline. That Sign size probably should not be taken into consideration.

Henry (Hurf) Sheldon doesn't see the lettering on the Canopy Sign as a free standing. He does feel the lettering (C) extension above the canopy as a problem.

Dean Shea feels having 3 channel LED Signs on the Canopy are a lot. Maybe 1 would be ok and 1 on the Diesel.

Lynn Day, states any lighted Sign must go before the Planning Board for Site Plan Review. Again, Mr. Day states there is a big difference in the size of the Signs.

Dean Shea would like to see the proposed footage chopped down considerably.

Maureen Cowen agreed with Dean Shea.

Daniel Konowalow states the key issue is not the existing Mirabito's (Xtra Mart's) Signage, but what the current Code compliance is now. Mr. Konowalow states the ZBA is falling into a trap by comparing Mirabito's existing Signage when they are already out of compliance.

Lynn Day, Zoning Officer again states the current Code requirement is two (2) Signs and they have already been issued a Building Permit for 2 Signs. What has come before the Board is a request for an additional Six (6) Signs.

Henry (Hurf) Sheldon expressed that the Sign Committee had a very lengthy and difficult Town discussion in 2014 with respect to how many signs and sizes Business's should have. In addition, the Comprehensive Plan wanted to be "Business Friendly". Mr. Sheldon felt due to having a new Sign Law, by allowing such a request would "Shoot the Law".

Daniel Konowalow stated he also served on that the Sign Committee.

Henry (Hurf) Sheldon states without the Signs, he feels everyone would know it's a Gas Station. The Town really wants to encourage business to be here.

Lynn Day, inquired from Ms. Hunink if Mirabito would consider keeping the Signage the same size as the existing. Ms. Hunink states that's a Corporate decision.

APPROVED

Daniel Konowalow made a motion to close the Public Hearing at 7:19 P.M. Maureen Cowen seconded the motion and it was carried by the following roll call vote:

- Vote of Zoning Board . . . (Aye) Maureen Cowen, Member**
- Vote of Zoning Board . . . (Aye) Judy Drake, Member**
- Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**
- Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**
- Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

Further Member Discussion

Henry (Hurf) Sheldon didn't feel reducing the height of the Pylon Sign by 1 ½ ft. would make that much of a difference. He feels they should be able to use the same height as existing, but just insert a new Sign. Mr. Sheldon feels if they owners had not change, things would remain the same and still be out of compliance.

Henry (Hurf) Sheldon states the Board will have to look at this request under three (3) separate categories. One for the height, overall square footage, and number of Signs.

Daniel Konowalow clearly stated, the Board is not there to redesign for the Applicant.

Henry (Hurf) Sheldon states the Board will look at them as three (3) different proposals and label them A, B & C.

Members reviewed the criteria for the Area Variance for proposal A as follows;

**AREA VARIANCE FINDINGS AND DECISION
TOWN OF LANSING ZONING BOARD OF APPEALS**

BACKGROUND INFORMATION

Applicant:

Robbins Sign Co. LLC
Agent for: Mirabito

Variance No: 16-08
Notice to County Sent on: 11/4/16
SEQRA: N/A

APPROVED

32 Peruville Rd.
Lansing, NY 14882

Hearing Held On: 08/08/16

Property Location: 32 Peruville Road

Tax Parcel #: 30.-1-16.4

Applicable Section of Town Zoning Ordinance:
Local Law 1 of 2014

RESOLUTION AND FINDINGS

WHEREAS, Robbins Sign Co, Agent for “Mirabito” has applied for an Area Variance and

WHEREAS, on December 13, 2016 the Town of Lansing Zoning Board of Appeals (the “ZBA”) thoroughly reviewed and analyzed: (i) the information and evidence submitted by the applicant(s) in support of the requested area variance; (ii) all other information and materials properly before the ZBA; and (iii) the issues and impacts raised for consideration by neighbors, the public, and the ZBA; and

WHEREAS, in accordance with Article 8 of the New York State Environmental Conservation Law and the State Environmental Quality Review Act, and its implementing regulations at 6 NYCRR Part 617, the ZBA has determined that this action – considering and approving or denying an area variance – is a Type II Action per 6 NYCRR 617.5(c), and therefore no environmental review is required; and

WHEREAS, on December 13, 2016 the ZBA, in accordance with Town Local 1 of 2014 and the Town of Lansing Land Use Ordinance, considered the application and all materials before the ZBA and, in the course of deliberations, took into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood or community arising from the potential granting of an area variance.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town of Lansing Zoning Board of Appeals (“ZBA”) hereby makes the following findings with respect to the specific criteria for area variances as set forth in Town Law § 267-b(3)(b), and other applicable provisions of law

APPROVED

and of the Town Zoning Ordinance:

Members reviewed the criteria for the Area Variance for **proposal A** as follows;

a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

Yes X No

Findings: Height increase is non-conforming and will set a bad precedent for future Business.

b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?

Yes ____ No X

Findings: This existing signage from previous owner is already out of compliance.

c. Whether the requested area variance is substantial?

Yes X No ____

Findings: Request for Height and Area is substantial.

d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Yes X No ____

Findings: Would not comply with surrounding Businesses.

e. Whether the alleged difficulty was self-created?

Yes X No ____

APPROVED

Findings: _____

2. DETERMINATION BASED ON THE ABOVE FACTORS :

Daniel Konowalow made a motion to deny the Area Variance request on **proposal A**. Maureen Cowan seconded the request and the vote was as follows;

It is hereby determined by the Town of Lansing Zoning Board of Appeals (the "ZBA") that the following Area Variance is **DENIED** with any conditions hereafter stated (if any), it being further found and determined that (i) the benefit to the applicant outweighs any potential negative impacts or detriment to the neighborhood or community; and (ii) such Area Variance is the minimum necessary as adequate to grant relief and, at the same time, preserve and protect the character of the neighborhood and the safety and welfare of the community.

ARE CONDITIONS IMPOSED WITH RESPECT TO THE AREA VARIANCE AS GRANTED: N/A

Yes _____ No _____

STATEMENT OF CONDITIONS:

1. As variances are exceptions based upon exigent need or emergency, should applicant fail to avail itself of the benefits of the above-described area variance within one year from the date hereof, this approval and such area variance shall expire. In cases where construction may be applicable, "avail itself of the benefits" shall mean a building permit obtained (if necessary) and substantial construction has commenced. Said one-year approval period may be extended for good cause by the ZBA if application for an extension is submitted before the expiration of the then applicable variance period.

It is hereby determined by the Town of Lansing Zoning Board of Appeals that the request for an area variance is: **DENIED**

THE VOTE ON THE FOREGOING DECISION, DETERMINATIONS, AND RESOLUTION OF THE TOWN OF LANSING ZONING BOARD OF APPEALS WAS AS FOLLOWS:

APPROVED

Member: Maureen Cowen- Aye
Member: Judy Drake- Aye
Member: Daniel Konowalow -Aye
Alternate Member: Dean Shea - Aye
Chair: Henry (Hurf) Sheldon - Aye

Members reviewed the criteria for the Area Variance for **proposal B** as follows;

1. The Town of Lansing Zoning Board of Appeals (“ZBA”) hereby makes the following findings with respect to the specific criteria for area variances as set forth in Town Law § 267-b(3)(b), and other applicable provisions of law and of the Town Zoning Ordinance:

a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

Yes X No

Findings: In-direct Conflict with Town Law # 1 of 2014

b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?

Yes ____ No X

Findings: Number of Signs already in conflict.

c. Whether the requested area variance is substantial?

Yes X No ____

Findings: Substantial change from existing Signs

d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

APPROVED

Yes No

Findings: Set a bad precedent for future businesses. Three recent Businesses comply.

e. Whether the alleged difficulty was self-created?

Yes No

Findings: Zoning in place prior to property purchase

2. DETERMINATION BASED ON THE ABOVE FACTORS

Dean Shea made a motion to deny the Area Variance request for **proposal B**. Daniel Konowalow seconded the motion and the vote was as follows;

It is hereby determined by the Town of Lansing Zoning Board of Appeals (the "ZBA") that the following Area Variance is **DENIED** with any conditions hereafter stated (if any), it being further found and determined that (i) the benefit to the applicant outweighs any potential negative impacts or detriment to the neighborhood or community; and (ii) such Area Variance is the minimum necessary as adequate to grant relief and, at the same time, preserve and protect the character of the neighborhood and the safety and welfare of the community.

ARE CONDITIONS IMPOSED WITH RESPECT TO THE AREA VARIANCE AS GRANTED: N/A

Yes No

STATEMENT OF CONDITIONS:

1. As variances are exceptions based upon exigent need or emergency, should applicant fail to avail itself of the benefits of the above-described area variance within one year from the date hereof, this approval and such area variance shall expire. In cases where construction may be applicable, "avail itself of the benefits" shall mean a building permit obtained (if necessary) and substantial construction has commenced. Said one-year approval period may be extended for good cause by the ZBA if application for an extension is submitted before the expiration of the then applicable variance period.

APPROVED

It is hereby determined by the Town of Lansing Zoning Board of Appeals that the request for an area variance is: **DENIED**

THE VOTE ON THE FOREGOING DECISION, DETERMINATIONS, AND RESOLUTION OF THE TOWN OF LANSING ZONING BOARD OF APPEALS WAS AS FOLLOWS:

- Member: Maureen Cowen- Aye
- Member: Judy Drake- Aye
- Member: Daniel Konowalow -Aye
- Alternate Member: Dean Shea - Aye
- Chair: Henry (Hurf) Sheldon - Abstained

Members reviewed the criteria for the Area Variance for **proposal C** as follows;

The Town of Lansing Zoning Board of Appeals (“ZBA”) hereby makes the following findings with respect to the specific criteria for area variances as set forth in Town Law § 267-b(3)(b), and other applicable provisions of law and of the Town Zoning Ordinance:

a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

Yes X No

Findings: In-direct Conflict with Town Law # 1 of 2014

b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?

Yes ____ No X

Findings: Number of Signs already in conflict.

c. Whether the requested area variance is substantial?

Yes X No ____

APPROVED

Findings: Substantial change from existing Signs

d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Yes No

Findings: Set a bad precedent for future businesses. Three recent Businesses comply.

e. Whether the alleged difficulty was self-created?

Yes No

Findings: Zoning in place prior to property purchase

2. DETERMINATION BASED ON THE ABOVE FACTORS :

Maureen Cowan made a motion to deny the Area Variance on **proposal C**. Daniel Konowalow seconded the motion and the vote was as follows;

It is hereby determined by the Town of Lansing Zoning Board of Appeals (the "ZBA") that the following Area Variance is **DENIED** with any conditions hereafter stated (if any), it being further found and determined that (i) the benefit to the applicant outweighs any potential negative impacts or detriment to the neighborhood or community; and (ii) such Area Variance is the minimum necessary as adequate to grant relief and, at the same time, preserve and protect the character of the neighborhood and the safety and welfare of the community.

ARE CONDITIONS IMPOSED WITH RESPECT TO THE AREA VARIANCE AS GRANTED: N/A

Yes No

STATEMENT OF CONDITIONS:

1. As variances are exceptions based upon exigent need or emergency, should applicant fail to avail itself of the benefits of the above-described area variance within one year from the date hereof, this approval and such area variance shall

APPROVED

expire. In cases where construction may be applicable, “avail itself of the benefits” shall mean a building permit obtained (if necessary) and substantial construction has commenced. Said one-year approval period may be extended for good cause by the ZBA if application for an extension is submitted before the expiration of the then applicable variance period.

It is hereby determined by the Town of Lansing Zoning Board of Appeals that the request for an area variance is: **DENIED**

THE VOTE ON THE FOREGOING DECISION, DETERMINATIONS, AND RESOLUTION OF THE TOWN OF LANSING ZONING BOARD OF APPEALS WAS AS FOLLOWS:

- Member: Maureen Cowen- Aye
- Member: Judy Drake- Aye
- Member: Daniel Konowalow -Aye
- Alternate Member: Dean Shea - Aye
- Chair: Henry (Hurf) Sheldon - Aye

Chairman Sheldon inquired how the Members would feel having some sense of grandfathering what is already there. Some Members felt there would be no problem with the existing signage as long as they make some strategic changes to bring them closer to the Town’s requirement. Vinyl versus lighted is more favorable for the Canopy lights, also using the same pylon height Sign.

Lynn Day, Zoning Officer stated if they dropped the Channel lettering and went to Vinyl that would reduce it by 39 sq. ft. and also remove the diesel lettering all together that would reduce it 8 sq. ft. bringing that almost down to where they need to be.

Daniel Konowalow again repeated that he is going to be really hard on any further options that come back before the Board due to him being on the Sign Committee.

Maureen Cowan felt there are possibilities here that could bring them close to compliance.

Daniel Konowalow made a motion to adjourn the Meeting at 8:20 PM. Judy Drake seconded the motion and it was carried by the following roll call vote:

Vote of Zoning Board . . . (Aye) Maureen Cowen, Member
Vote of Zoning Board . . . (Aye) Judy Drake, Member

APPROVED

Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member
Vote of Zoning Board . . . (Aye) Dean Shea, Alternate
Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair