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ZBA MEETING MINUTES
TOWN OF LLOYD ZONING BOARD
Thursday, August 9, 2018

1 **CALL TO ORDER TIME:** 7:00PM
2

3 **PLEDGE OF ALLEGIANCE**
4

5 **ATTENDANCE** **Present:** Paul Gargiulo, Vice-Chair; Russell Gilmore; William Brown;
6 Alan Hartman; Michael Guerriero, Town Board Liaison; Anthony Giangrasso,
7 Deputy Building Inspector; Rob Stout, Town Attorney; Laura Oddo-Kelly,
8 Administrative Assistant to Planning and Zoning.
9 **Absent:** John Litts, Chair
10

11 **ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS; ROOM CAPACITY IS**
12 **49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.**
13
14

15
16 **New Public Hearings**
17

18 **MCBS DG Highland LLC, 3584-3594 Route 9W, SBL# 88.17-6-25.110 & 88.17-6-16.110, in**
19 **GMU zone.**

20 Dollar General / Multifamily

21 ***Applicant is seeking an area variance for side yard parking in the GM Zone**

22 Development project of 21.7 acres of land along Route 9W. The applicant desires to take three
23 lots (SBL: 88.17-6-15.11, 16.11 and 25.11) Lot 3 will contain a proposed Dollar General retail
24 store with parking on the side.

25 **Michael Moriello, applicant’s attorney, provided a supplemental submittal to explain more**
26 **fully the area variance, the requirements and exactly what is proposed to do with the**
27 **parking.**

28 **Addendum to area variance application and SEQRA EAF, Part 2 draft responses by**
29 **applicant received from Michael Moriello, Esq. 08.01.18.**
30

31
32 John Joseph, developer and Michael Moriello Esq., applicant’s attorney, were present to address
33 particulars of the requested area variance.

34 Stout said he would give an overview of what the applicant is requesting from the ZBA. The
35 project has been before the Planning Board from some time and the reason for the applicant
36 coming in front of the ZBA is not because of any physical change in the project from what was
37 initially proposed considered by the Planning Board. It is coming in front of the ZBA because
38 three of the items that were initially believed to waivers within the authority of the Planning
39 Board waived as part of the application are actually not in the range of authority granted to the
40 Planning Board in the Town Code. Therefore, to properly address the requirements and consider

41 or not that it should be waived it should be dealt with as an area variance. The applicant is here
42 for the procedural step and Stout recommended that the public hearing should be held open to
43 allow any additional comments that may come in.
44 Gargiulo asked which code requirements were missed.
45 Stout said section 100-26 K1 relative to the location of outdoor parking on the side of a building
46 and 100-26 M relative to outdoor lighting, and 100-26 L5 referring to the planting of shade trees
47 along the sides of roadways. There have been at least two months of public hearings with the
48 Planning Board which has closed. The variance is just for the location of the parking, not for the
49 ingress and egress.
50 Joseph provided the ZBA with a map that showed the entrance, exit and where the location of the
51 parking would be.
52 There was a discussion about the parking and their measurements for Dollar General. The ZBA
53 was concerned about the distance from the back of each parked car.
54 Gargiulo asked if there were any public comments.
55 Jeff Anzevino, 31 Mile Hill Rd, said he was speaking on behalf of himself as a resident and not
56 his employer. Anzevino questioned why the applicant is not adhering to the zoning code in that
57 district. He is concerned about the impacts of what is being proposed to be built. The parcels are
58 segregated and do not function as one development with traffic circulation that can go between
59 the commercial and residential portions of the project. It is being developed as two separate sites
60 and is very concerned about the traffic pattern. The ZBA variance, if approved, would allow for
61 additional residential units, thus, allowing for more traffic. Anzevino believes it is a self-inflicted
62 variance. He will put all his concerns in writing to the ZBA, Planning Board, and the Town
63 Board. Section 126 L5 of the code states that there should be trees in front of the Dollar General
64 and the applicant believes the trees would eventually grow into the power lines so they would
65 like to put fewer trees. Anzevino believes that there should be more trees but the trees planted
66 should be of the type that do not grow quite so tall. The zoning states that the retail store should
67 have a front door on Route 9W and it is his understanding that because the building is sideways
68 the door will be on the side with a fake door that looks out onto Route 9W. He believes the
69 traffic should be mitigated to flow through the site.
70 There was a discussion of egress and ingress from the site and traffic flow.
71 Gargiulo said the plan of the building and the traffic situation is the Planning Board's job. The
72 ZBA will listen to the comments and see what they can do.
73 Geri Baisch, resident of Bell Dr, spoke about her concerns with the parking and whether there is
74 enough room to maneuver in the parking lot.
75 Joseph said the design has nothing to do with additional units. The existing structure that is to
76 remain and be remodeled is why the plan is the way it is. The only way to fit the building on the
77 lot is for it to be sideways. Joseph said the zoning requires 75 feet frontage so there is buildable
78 lot that you can't build anything on, thus that is what led them to put the building sideways.
79 Gilmore asked if there would be any development around the pond or the area north of the pond
80 towards Christopher Avenue.
81 Joseph said none what so ever.
82 Moriello stated that there will be a no build covenant in the whole area by the pond.
83 Gargiulo said the public hearing would stay open until next month so the applicant can furnish
84 better plans with measurements of the parking to the ZBA.
85 A **Motion** was made by Alan Hartman, seconded by William Brown to extend the public
86 hearing. All ayes.

87

88 **Jackson, Vicki, 11 Milton Avenue, SBL# 88.69-8-4, in CB Zone.**

89 Applicant is seeking a residential use variance to convert an existing ground floor commercial
90 space of approximately 2200 square feet into two equal sized apartments.

91 *** Please refer to attached use table in code book.**

92 ***The ZBA requested a more accurate site plan at the next meeting.***

93 No new information, applicant not present.

94 A **Motion** was made by Paul Gargiulo, seconded by Alan Hartman to extend the public hearing.

95 All ayes.

96

97 **Extended Public Hearing**

98

99 **Watson, David I, 10 Bellevue Rd, SBL# 88.17-2-36.120, in R 2 Zone.**

100 Applicant is seeking an area variance relief of 13' 7" for the front yard to build a 240 sq ft
101 accessory structure.

102 **The ZBA requested the applicant to provide them with a survey, pictures of the property
103 which show the steep grade, where the building would be situated, and a topography map
104 of the property.**

105 **Spiciarich complaint letter received 07.09.18.**

106 **Watson summation letter (Please see attached) and change in variance received 08.09.18.**

107 **Applicant is now seeking a front variance of 5' (please see attached)**

108 The applicant was present to explain his intent of the area variance and show pictures of the
109 property.

110 Watson said when he bought his house in 1978 he was given front yard variance and feels that
111 should be grandfathered in and given precedence. He felt that Spiciarich's letter is incorrect in
112 saying that the land is unstable and that the ground is not denuded (he showed pictures). The
113 slope is heavily vegetated and at the bottom of the slope are a lot of trees. He stated that he never
114 diverted a stream on her property, he believes it was the cause of a storm drain being re-routed
115 by the Town. He continued that he never put tar balls on her property and that it is highly
116 probable when the asphalt was freshly poured by the Town part of it could have rolled off the
117 edge and into the gully where the storm drain water took it down.

118 Brown said that never would have happened because when you use a paver it puts down a
119 uniform base. Brown further commented that to put a building on ground that has been recently
120 filled is not advisable.

121 Watson said he is only seeking a 5' variance now.

122 The ZBA requested the applicant again provide them with a survey and a topography map of the
123 property.

124

125 **New Business**

126

127 **Bark Place of Ulster, Inc, 296 Route 299, SBL# 87.2-1-14 in DB Zone.**

128 Expansion of non-conforming use - Applicant is seeking a commercial use variance to construct
129 a 3000 sq ft, one story building for a dog training, boarding and daycare facility for an
130 established business since June 2008. Applicant is also seeking site plan approval from the
131 Planning Board.

132

133 Ciro Interrante, applicant's representative, and applicant's, Kevin and Diane Koller, were present
134 to give an overview of the project. They are proposing to construct a 3000 sq. ft, one story
135 building with an existing well and septic. Interrante showed the particulars of the building and
136 said it is an existing non-conforming use. The reason is that kennels are not a permitted use in
137 that zone. Interrante said he has submitted a letter explain further why they need a variance
138 which would include a financial hardship if the applicant were to seek another locale (see
139 attached).

140 Gilmore said the property has already been granted a variance for a kennel there.

141 Stout said the question is whether they were there by virtue of a variance or because it is a pre-
142 existing nonconforming use. If they can establish that they had a variance that may change the
143 analysis.

144 Giangrasso said he had done some research and found that the ZBA gave the applicant a variance
145 for the building and the Planning Board gave site plan approval. He said he has not found the
146 decision yet which would give him the details.

147 Diane Koller said they do not breed any animals at their business.

148 Stout requested Giangrasso look up what the zoning was initially and then they would know
149 more how to proceed.

150

151 A **Motion** was made by Alan Hartman, seconded by William Brown to set the public hearing for
152 September 13, 2018.

153

154 **Metrando, David, 831 N Chodikee Lake Road, SBL# 79.2-2-2.200 in R1 Zone.**

155 Applicant is seeking a residential area variance relief of 8' on the left side yard setback to add a
156 10' x 20' carport attached to an already existing garage.

157

158 The applicant was present with renderings to give an overview of the relief requested.

159 Gilmore asked what the proximity was to the neighboring house.

160 Metrando explained where it would be.

161 For the next meeting, Gilmore said he would just like to know the actual distance between the
162 neighboring house and the applicant's property.

163 Stout said the ZBA could do SEQR tonight because it is a Type II action which means there is no
164 SEQR review, the Board can issue that finding tonight.

165 Gargiulo said he would like to hold it over to the next month.

166

167 A **Motion** was made by Paul Gargiulo, seconded by Alan Hartman to set the public hearing for
168 September 13, 2018.

169

170 **Minutes to Approve:**

171

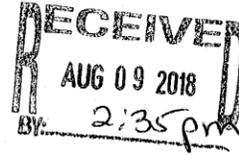
172 A **Motion** to approve the minutes of the July 12, 2018 Zoning Board Meeting was made by Russ
173 Gilmore, seconded by William Brown. Four ayes; one absent (Litts).

174 A **Motion** to adjourn was made by Alan Hartman, seconded by Russ Gilmore, at 8:56 PM. All
175 eyes.

Aug. 2, 2018

To: The Town of Lloyd Zoning Board of Appeals

From: David I. Watson
10 Bellevue Rd.
Highland, NY 12528



Re: the July 9, 2018 letter to the ZBA from Annmarie Spiciarich

To the Members of the ZBA:

Regarding the above described letter several points are herein furnished to you for correction and clarification.

Ms. Spiciarich's letter consists of many off topic concerns that have nothing to do with the specific and narrow request for a front variance, needed to build my proposed 240 sq. ft. auxiliary building. As such her letter has distracted board members and myself from the pertinent discussion of the need and justification for a front variance.

Her letter presents a revisionist history that either intentionally or unintentionally misrepresents facts that I verbally addressed at our July 12, 2018 ZBA meeting. To sum up:

In the 41 years I have owned 10 Bellevue Rd., I have never been denied a building permit or zoning variance. This includes last year, 2017, when I sought to build a carriage house. I voluntarily withdrew the project upon learning of a national regulation, the "slope rule", which we discussed at the July 12, 2018, ZBA meeting. The ZBA never voted to deny me a variance because I withdrew the project prior to any vote on the matter. Please inform Ms. Spiciarich that her grateful thanks to you is misdirected and that her belief that, " the board did not allow him, (me), to build said structure', is not borne out by the facts.

Indeed, the house which I began constructing in 1978 was done with a Permit and a front Zoning Variance issued by the Town of Lloyd Building Department. The house is built on filled land and, to date, neither the house nor the land upon which it rests has ever come crashing down hill onto River Rd., the street at the base of my private property. Neither the house or the land has moved in 40 years. The Town provided me with a Permit and a Variance to build my house, a precedent which I now request be done again to build the proposed 240 sq. ft. auxiliary building.

What was to become my property was filled before I owned it by the former owner, Arthur Mackey. In like manner, I continued fill work on my property, receiving the first delivery of material from the Town of Lloyd Highway Department in Nov. 2002. The material filled a bowl at the north end of my property with bluestone and the substructure of Bellevue Rd., during the road's rebuilding by the Town. Directly behind the region of that 16 year old fill is a hill which is all virgin ground. The hill is covered by trees to the extent that neither River Rd., nor Ms. Spiciarich's property is visible from my property. It is the site where I propose to build the 240 sq. ft. auxiliary building.

Among other suppliers of fill were John Litts, Chairman of the Town of Lloyd Zoning Board and Leonard Auchmoody, who is a Town official, purchased from them in their capacity as private businessmen. Two dump truck loads of broken concrete blocks and broken concrete slabs were contributed at no cost by Annmarie Spiciarich, the complainant, when she had the front of her house remodeled.

At the July 12, 2018 meeting we discussed the Town of Lloyd's spewing of untreated storm drain water onto Ms. Spiciarich's property. Formerly from a drain located at the boundary of my property and the property of Peter and Fran Brooks, my neighbors to the immediate north, the storm water was released so that it crossed the complainant's lawn at a specific position for many years. The Town then redirected the storm water through newly constructed pipes to a point under the Brookes' driveway and thence down

Aug. 9, 2018

To: Town of Lloyd ZBA - John Litts, Chairman

From: David I. Watson
10 Bellevue Rd.,
Highland, NY 12528

Re: amended request for a front zone variance regarding a proposed 240 sq. ft. building

Members of the ZBA:

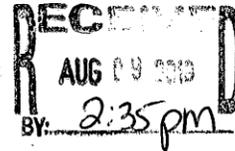
As suggested by the ZBA at the June 2018 meeting, the site for the proposed 12' by 20' auxiliary building has been moved to a new locale. As a result, the original request for a front variance of 13' 7" is no longer required.

Rather, an amended request for a front variance of 5' is needed. The plot plan to be presented at the Aug 9, 2018 ZBA meeting will illustrate the new building position relative to the 30' front distance required for construction of a fixed structure.

Thank you for your consideration.



David I. Watson



Use Variance

7-26-18

- a. Cannot realize a reasonable return, substantiate by submission of the following competent financial evidence:

A kennel is not an allowed use in the DB zone. Bark Place of Ulster Inc. has been in the present location for over 10 years and has been providing a needed service to the community all that time. Demand for services has increased over the years creating a need for a larger facility. There are economic advantages to building the proposed 3,000 square-foot one story kennel building on the existing site compared to purchasing another site in a zone where the use is allowed. For comparison, a 1.2 acre piece of property on Route 299 was recently sold for \$125,000 and the property was approved by the planning board for an auto repair facility. Additional site work for that project including clearing, well and septic and grading of the site will cost an additional \$32,000. If this applicant is allowed to build on their existing property, using the existing parking area and well, the savings would be approximately \$ 150,000. More detailed financial evidence will be presented at the zoning board meeting.

- b. Is sustaining a hardship that is unique and does not apply to a substantial portion of the zoning district, or neighborhood within which the subject property is located, as evidenced by the following:

The hardship is unique to this site because it is not an allowed use in the current zoning. The business is an existing use for the past 10 years which provides a service to the neighborhood. There are some parcels along Route 299 that have been spot zoned possibly based on pre-existing businesses. Other existing businesses/uses along route 299 that are in the DB zone include a miniature golf course and ice cream stand, an office building, a convenience store/gas station, a medical facility, a state police barracks, a private nursery school, a big box store, a deli, single and multi-family homes, a church, a motel and an auto repair facility and towing business to name a few. Many of these uses are prohibited in the DB zone and are considered service businesses. They provide a variety of services to customers and their location along Route 299 makes it easy and convenient for customers. Bark Place of Ulster, Inc. also provides a service to the general public by providing caring for customers' dogs and behavioral training for dogs and their owners. The kennel provides daycare for dogs. Dog day care is a service business. Dogs under New York State law have the same rights as humans. Possibly a comparison can be made for the need for daycare for dogs – same as daycare for people. Daycare for people is allowed in GB zone with a special use permit. I know it's not the same, but similar. A lot of people have dogs for companions and for assistance with everyday life and those dogs need care and services from time to time just like people. Looking at the zoning map and table of allowed uses, the only place where a kennel is a permitted principal use is in the HBD zone. Kennels are allowed with a special use permit in the A zone and the LI zone. The LI zone is mostly located on upper north road. The A zone is located mostly in the south west portion of the township. And it's hard to tell from the image of the zoning map on the internet where the HBD district is. This does not leave a lot of locations where a kennel can be located. There are likely many residents of the town that own dogs and cats and it would be more convenient for those