

**Village of Spencerport
Zoning Board of Appeals
March 19, 2010**

Board Members Present

Chairman John Dole
Mark Unvericht
Paul Lane

Board Members Absent

Michael Flavin

Others Present

Trustee Carol Nellis Ewell
Donna Stassen

Dan Schum
Fr. Lance Gonyo
Joan Quigley
Ralph Parmalee
Mr. Sugar

At this time Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of St. John the Evangelist Church for a special sign permit on property located at 55 Martha Street, Spencerport, NY. Such application requests to erect five signs: one lighted building mounted sign designating St. Johns Religious Shop and four directional signs designating parking and vehicle travel direction.

Whereas lighted signs and or additional signs shall require a variance and special use permit from the Zoning Board of Appeals pursuant to Chapter 105-6 of the Code of the Village of Spencerport, for property located in an R-2 Residential District.

Tom Divincenzo: The shop was originally in the church there was a sign by the church, we moved up the street when the church was remodeled and there wasn't enough room for us. Now the school has closed and we are moving back home.

We are hoping to get the customers to Amity and Martha and then when they turn the first sign will be placed in front of the parish center about 300 ft from the corner. The school is set down below and there is limited parking there so we wanted to make sure that the people who are coming for the basketball games park up on top we have 3 or 4 reserved handicap parking space for the grandparents that come to the game.

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Representatives from the Church reviewed the other site locations for the signage.

Tom Divincenzo stated they are trying to keep the signs as inconspicuous as possible. He also stated that there wont be any additional lighting they are hoping that the street lighting and headlights will be enough.

Chairman Dole: I have a concern with the three traffic signs the two entrance and the one exit signs are being placed between the curb and the sidewalk.

Tom Divincenzo: I have them on poles that were already there, they were pre-existing signs.

Chairman Dole: The double sided sign at the entrance needs to be pushed back on property owned by the church and off the village property. This location is right in the line of sight and could be a very dangerous situation.

Ralph Parmalee: Are you saying to install the sign on the other side of the sidewalk; we have no problem with that.

Ralph Parmalee: How far from the sidewalk should the sign be installed?

Chairman Dole: 3 ft.

Chairman Dole advised Mr. Divincenzo that if he wanted to pursue installing that sign in the easement he would have to come in front of the Village Board, this Board does not have the authority to allow signage on the Village property. After reviewing the locations of the other requested signs the board agreed there did not appear to be any safety or line of sight issues.

After further discussion the following resolution was offered.

Resolution No 194
March 18, 2010

Introduced by Chairman Dole
Seconded by Mark Unvericht

Resolved that the Zoning Board of Appeals has determined that the application of St. John the Evangelist Church for a special use permit for signage on property located at 55 Martha Street is deemed a Type 2 action and no further review is required.

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Resolution No 195
March 18, 2010

Introduced by Chairman Dole
Seconded by Mark Unvericht

Resolved, that the Zoning Board of Appeals has granted approval to St. John the Evangelist Church for a special sign permit to erect five (5) signs.

All signs to be constructed and placed as shown on application submitted by Rev. Lance Gonyo with the exception of the double sided sign at entrance on Martha Street.

Whereas, the Zoning Board of Appeals after reviewing the proposed location has determined that the sign on the corner of Martha can not be placed between curb and sidewalk. A sign at this location would impair the line of sight and have an impact on the safety of the neighborhood and has placed the following condition;

Placement of sign on Martha Street needs to be located on St. John the Evangelist Church property and three (3) feet from sidewalk.

Ayes: Dole, Unvericht, Lane

Nays: none

Next on the agenda is the application of William Armstrong, for two (2) area variances on property located at 3061 Brockport Road, Spencerport NY.

1. Area variance for an existing wood deck with an existing side setback of 3.6" whereas the minimum required setback of a class 11 accessory structure shall be located not nearer than 5' from the side or rear property line.
2. Area variance for an existing class 1 structure with an existing side setback of 9' whereas the minimum setback for a class 1 structure shall not be less than 5' from the rear or side property line. Both variances pursuant to Chapter 140-14-F of the Code of the Village of Spencerport.

Property located in an R-1 Residential District.

Tax Account #086.20-1-6.2

Attorney Daniel Schum will be representing William Armstrong this evening.

Attorney Schum: Mr. Armstrong bought this property in 1979 and now we are getting ready to close on this property. Back in 1987 Mr. Armstrong applied for two (2) building permits one for the pool and one for the shed that we are here talking about.

Unfortunately they used the old tape location map from 1979 to locate those structures and the contractor installed the pool and the shed. We had a survey map done and this was the first one done since 1979.

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On this map the deck attached to the pool came to be 3.6 ft. instead of 5 ft from the side lot line and the buyer's attorney pointed out that violated the code and we are here asking for a variance.

The shed in the rear is a small shed 8 x8 in error it is too close there is no excuse for it, I don't believe that it will change the character of the neighborhood one iota. It has been there for 20 years. The buyer would like to keep the deck and the shed. The one variance is not as substantial as the other the shed is very close 9/10 of a foot to the side lot line. Mr. Armstrong has contacted his neighbors on that side they have no objection.

Mr. Sugar: I currently live next door and this shed has not been an issue for 10 years, I actually am buying Mr. Armstrong's home and have told the buyer of my home about the situation with the shed and she doesn't have any problem with it. I felt it was relevant to let you know and we are hoping to get this variance tonight. I told the buyer of my home about this meeting tonight if she cared to attend.

Chairman Dole stated he was comfortable with the deck variance and has given variances for that amount in the past, but that the .9 is a substantial variance.

Mr. Sugar: The post and rail fence really is what is close to the property line, not the shed itself.

Chairman Dole: What kind of a foundation does the shed have? Is it sitting on a concrete slab?

Attorney Schum and Mr. Sugar believe that it is on a permanent slab.

Attorney Schum: I understand the boards concern that it is close to the lot line, obviously there is no-one here to object. It is in the rear corner of the property. Mr. Armstrong did apply for a permit he paid his fees and he fully intended to comply with the code, so the spirit and intent was there. The old tape map shows nothing for anyone to go by and the lot is 300 ft deep so as you go back if you were off by 2-3 degrees at an angle by the time you got back 300 feet you could be off 3 – 4 feet. It really was an unintentional error and I would ask the board to grant an area variance which is practical difficulty and causes no harm to the neighbor or properties. This was self created but not intentional in any respect.

At this time the Public Hearing was closed.

Paul Lane: Who took care of the property between the existing lot line and the shed?

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Attorney Schum: Mr. Armstrong always maintained his property to the full extent of the property

Mr. Sugar: That particular area sits under a large weeping willow which is relatively shaded; the grass doesn't grow there a lot when it needed to get cut it just got cut.

After board discussion the following this time the following resolution was offered

Resolution No 196
March 18, 2010

Introduced by Chairman Dole
Seconded by Mark Unvericht

Resolved that the Zoning Board of Appeals has determined that the application of William Armstrong for 2 area variances on property located at 3061 Brockport Road is deemed a Type 2 action and no further review is required.

Resolution No 197
March 18, 2010

Introduced by Chairman Dole
Seconded by Mark Unvericht

Resolved, that the application of William Armstrong for the following two (2) area variances on property located at 3061 Brockport Road, Spencerport be approved.

1. Area variance for an existing wood deck with an existing side setback of 3.6 ' whereas the minimum required setback of a class 11 accessory structure shall not be located not nearer than 5' from the side or rear property line.
2. Area variance for an existing class 1 structure with an existing side setback of .9' whereas the minimum setback for a class 1 structure shall not be less than 5' from the rear or side property line. Both variances pursuant to Chapter 140-14-F of the Code of the Village of Spencerport.

Furthermore be it resolved that such approvals were granted based on the following:

1. No one from the neighborhood came to speak against such proposed variances.
2. The applicant's attorney and buyer for such property both were confident that such shed is on a permanent foundation.
3. Such area variances will not result in any negative impact on the neighborhood; such structures have been in place for over 20 years.
4. Such variances are self created but not intentionally by Mr. Armstrong whereas in good faith he received permits.

Ayes: Dole, Unvericht, Lane

Nays: none

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Approval of Minutes

Motion made by Chairman Dole seconded by Mark Unvericht and carried unanimously to approve the January 21, 2010 minutes as written.

Adjournment

Motion made by Chairman Dole seconded by Paul Lane and carried unanimously to adjourn the meeting at 7:50 p.m.