

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the August 2017 meeting held in the Municipal Center Basement Meeting Room, S4295 South Buffalo Street.

MEMBERS PRESENT: Joseph Liberti, Chairman/Robert Lennartz/Robert Metz/ Dwight Mateer/
Lauren Kaczor/Barbara Bernard, Alternate

OTHERS PRESENT: Len Berkowitz, Deputy Town Attorney
David Holland, Code Enforcement Officer
Rosemary Messina, Secretary

The Chairman called the meeting to order at 7:00 P.M., stating that if anyone appearing before the Board was related through family, financial or business relationship with any member of the Board, it is incumbent upon him to make it known under State Law and the Town Code of Ethics.

The Chairman stated that all persons making an appeal before this Board would be heard in accordance with the Town Laws of the State of New York, Article 16, Sections 267, 279 and 280a, Subdivision 3, and the Town of Orchard Park Zoning Ordinance. Any person aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal, specifying the grounds of the illegality. Such petition must be presented to the court within 30-days after filing of the decision in the office of the Town Clerk.

The meeting minutes for the July 18, 2017 meeting were unanimously **APPROVED, with one Abstention.**

The Chairman stated that site inspections of all cases presented tonight were made by:
LIBERTI, AYE/LENNARTZ, AYE/KACZOR, AYE/MATEER, AYE/METZ, AYE/BERNARD, AYE

1. ZBA File #20-17, Zaremba Group, LLC. Vacant Land, Southwestern Boulevard, Zoned B-2 (Part of Farm Lot 405, Township 10, Range 7; SBL#153.07-1-8.3). Requests a Variance to reduce the number of off-street parking spaces required by Section 144-29A (3) (c).

APPEARANCE: Mr. Sorgi, Attorney
Mr. Aaron Brooke, Zaremba Group LLC

Mr. Sorgi passed out information to the members regarding the variance request. He told the members that the Town requires 47-parking spaces for this project, and that they would like to have a variance granted to construct 32-spaces. In the information distributed to the members, Dollar General Corporation indicates that they have approximately 13,500 stores, and find they do not need more than 30-parking spaces at their retail operations. Typically, three employees are present and no daily peak hours of shopping occur; not even on holidays. He further told the members that customers do not go to Dollar General as a shopping destination, like they may, for example, a "Wal-Mart". Mr. Sorge reviewed the parking plan noting that additional parking spaces can be put in if they are needed in the future. He believes the site will have a sanitary sewer, as the Town of West Seneca may not accept them as an out-of-district customer due to capacity issues they are experiencing.

Mr. Metz would like the future parking spots designated on the plan. Mr. Sorgi indicated on the site plan where these spaces will be constructed. He told the members that this site has no wetlands upon it. It was established that only two handicap parking spaces are required, and Mr. Sorgi explained that this is based on the square footage of the building, its use, and the Orchard Park requirement.

Mr. Sorgi told the members that Patrick Reddington and Elizabeth Reddington are the owners of this parcel and the adjacent parcel. They plan to develop the adjacent parcel in the future, and possibly put in a connecting driveway with a perpetual easement. This will resolve any overflow parking needs for either lot.

Mr. Lennartz asked for clarification of the site plan and established that there is ample room for the septic system, and the additional 15-parking spots. Mr. Sorgi feels leaving green space is preferred at the site, rather than constructing the remaining spaces that will not be used.

Mr. Mateer established that there is ample room for snow storage at the site and that if needed, the snow can be removed and taken away by truck. It was also established that the Petitioners have not been in contact with the adjacent property owners. Further discussion concluded with the Petitioners stating that they would reach-out to the neighbors regarding the proposed project.

Ms. Kaczor discussed the parking map and confirmed where parking spaces were located.

Chairman Liberti established that the store is not open 24-hours per day.

The Chair then asked if there was anyone in the audience who would wish to speak in favor of granting of the variance.

(Twice) NO RESPONSE.

The Chair then asked if there was anyone in the audience who would wish to speak against the granting of the variance.

IN OPPOSITION:

*Ms. Elizabeth Spahn
2765 Southwestern Boulevard
Orchard Park, New York 14127*

Ms. Spahn does not support the variance request as she does not want development or this project constructed due to increased traffic issues.

*Mr. Vincent Nicosia
165 S. Transit Hill Road
Depew, New York 14043*

Mr. Nicosia owns the adjacent property and he does not support the variance request.

The Chair then asked if the Secretary had received any communications either for, or against, granting the variance. The Secretary stated no communications have been received.

Board discussion:

Mr. Lennartz feels the request is reasonable; if they need additional parking, the area is there. He also agrees this is not a "destination" store for shoppers.

Ms. Kaczor discussed a stipulation to add to the motion. It was determined it was not necessary by consulting with Deputy Attorney Len Berkowitz, who explained that the "Use" Variance stays with a property for as long as the use remains the same.

Mr. Metz made a motion, seconded by Mr. Lennartz, that this is a Type 2 SEQR Action and that a **Negative Declaration** under SEQR be made based on the submitted short EAF.

THE VOTE ON THE MOTION BEING UNANIMOUS, A NEGATIVE DECLARATION IS MADE UNDER SEQR.

Mr. Lennartz made a **MOTION**, seconded by Ms. Kaczor, to **GRANT** the Area Variance for the following reasons:

1. There will not be an undesirable change to the character of the neighborhood and a detriment to nearby properties.
2. The benefit can be sought in another way.
3. The request is not substantial.
4. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
5. The difficulty is self-created, but that does not preclude the granting of the variance.

THE MOTION BEING:

LIBERTI	AYE
LENNARTZ	AYE
MATEER	AYE
METZ	AYE
KACZOR	AYE

THE MOTION BEING FIVE (5) IN FAVOR, THE MOTION IS PASSED.

Meeting adjourned at 7:28 P.M.

DATED: 8/18/17
REVIEWED: 9/19/17

Rosemary M. Messina, Secretary
Zoning Board of Appeals

Joseph Liberti, Chairman