

**ZBA Meeting & Public Hearing
July 19, 2010, 7:00pm
Village Municipal Center**

Attendance: Chairman Stephen Lynch, Members Harry Haldt, Edward Fish, George Macura, and Anthony Celani

Other Village Officials: Mayor Jay Niles, Village Attorney Michael Martin, ZBA/Village Clerk Rick Roberts

Others: Mr. Peter & Mrs. Louise Beyer, Mr. Michael Zinn and Luit. Timothy Zinn, Granville Rescue Squad

Chairman Lynch called the Meeting to Order at 7:00pm.

Ratify Meeting Minutes: Mr. Haldt moved the acceptance of the Meeting Minutes of June 21st as circulated by the ZBA Clerk. Mr. Macura seconded the motion and it carried unanimously.

Area Variance Application—Granville Rescue Squad: Chairman Lynch called the Public Hearing concerning the Area Variance Application for the Granville Rescue Squad to Order at 7:04pm. The Chairman outlined the specifics associated with the application. He then opened the floor to public comment. No input was received from those in attendance. As a result, Mr. Macura moved that the Public Hearing be closed at 7:06pm. Mr. Haldt seconded the motion and it carried unanimously.

Chairman Lynch asked the representatives present from the Rescue Squad if they wished to add anything before the Board commenced deliberations. No further input was offered.

The Board then commenced deliberations. Chairman Lynch advised that the Rescue Squad had changed their plot plan to include 30' setbacks to both the rear and side lines of the property. He further stated that lot coverage was not expected to exceed 50%; this will avoid the need for an additional variances for these purposes. As a result, the Board needs to consider only two variances from the standards for industrial zones as contained within the Zoning Law. These variances include the lot size (.63 acres versus a standard of 2 acres) and total road frontage (105' versus a standard of 150').

Chairman Lynch advised that there were five (5) separate tests that the Board had to apply to any request for an area variance, and that the Board must reach a conclusion that a majority of these have been satisfied in order to grant the minimum variance that will allow the applicant to proceed.

The first test to consider is that of any undesirable changes that the variances would produce to the neighborhood. The Board discussed this matter and concluded that the existing Rescue Squad Building that adjoins the subject lot already defines the

neighborhood as one of mixed use. The subject property was generally viewed to be in just fair condition, and the proposed garage would be viewed as an improvement. The Board felt that the proposed garage would represent a typical building for this type of zoning classification and that this new construction would not alter the essential characteristics seen within the neighborhood.

The next test that the Board considered was that of the feasibility of the applicant to obtain the same results that they are seeking via alternate means. The Board discussed the possibility of the Rescue Squad combining the subject property with their adjoining parcel to the west which contains the Main Squad Building, a garage, and a large parking lot. While this would eliminate the need for a variance concerning the road frontage as the combined lots would contain more than 150' along East Potter Avenue, Rescue Squad Officials commented that the combination of the lots would likely result in another required variance (for lot coverage) as the adjoining parcel to the West is considered to be existing/non-conforming in terms of lot coverage. Following a period of discussion in this matter, the Board concluded that no viable alternate means existed for the erection of the proposed garage as requested.

Chairman Lynch then asked the Board if they felt that the existing variance request was perceived to be substantial. Mr. Haldt commented that he did not see the existing request as being "substantial". Chairman Lynch agreed with Mr. Haldt, as did Mr. Celani and Mr. Fish.

The Board then considered whether the proposed variances would have any adverse physical or environmental impacts on the surrounding neighborhood. Following a brief period of discussion concerning the size of the proposed driveway and "pad area" for the garage, Board members concluded that they saw no adverse physical or environmental impacts. Mr. Macura questioned if the subject property bordered the Rail Trail. Mayor Niles commented that it did, but that the Village perceived this to be a positive aspect—in the event of an accident or injury on the Rail Trail the Rescue Squad would have direct access, and they are perceived to be "good neighbors".

Finally, the Board addressed the question of whether the hardship associated with these variance requests was self created. Chairman Lynch asked the representatives from the Rescue Squad what their plans were for the existing house contained on the subject property. Representatives indicated that the house is presently being used for training purposes, but that a future evaluation was planned for the house and it will likely either be renovated or razed. Following a brief period of discussion concerning the change in the proposed placement for the garage, the Board unanimously concluded that the hardship associated with variance applications under consideration was not self-created.

Chairman Lynch inquired if the Board had any further questions before attempting to make a decision concerning the proposed variance applications. There were no further questions. Mr. Fish then moved that the two Area Variance applications be approved as follows: A) With respect to the road frontage, approval of construction with 105' of space along East Potter Avenue as compared to the standard of 150' and B) Allowance of

construction on a lot including .63 acres as compared to the standard of 2 acres. Mr. Haldt seconded the motion and it carried unanimously. Chairman Lynch declared the variance applications approved and advised the representatives from the Rescue Squad that the written decision would be available to them through the offices of the Village Clerk within 5 business days. *The representatives from the Rescue Squad thanked the Board for their time and consideration and left the meeting at approximately 7:40pm.*

Revisit Complaint—Forum Restaurant: Chairman Lynch reminded the Board that a complaint had been received at last month's meeting concerning the Forum Restaurant. The complainant reported observing a gathering of people in the "Forum Tower". This area is not authorized for occupancy at present due to lack of compliance with the NYS Fire & Building Code. Further, Area and Use Variance applications were previously considered by the ZBA and subsequently denied. In summary, a concern exists relating to public safety if this area is being occupied (due to inadequate egress in the event of a fire or other emergency); in addition, the height of the tower and the potential uses for this portion of the facility (e.g. lodging) represent violations of the Village Zoning Law.

Chairman Lynch advised that he had been in contact with the Village Attorney concerning the ZBA's best course of action to address the complaint. The ZBA could consider requiring the proprietors to reduce the height of the tower structure and/or removing the deck, etc., but in reviewing the ZBA's written decisions in the Area and Use Variance applications previously considered, the ZBA did not specify that the height of the tower must be reduced. Given that a substantial period of time has elapsed since the issuance of the ZBA's decisions, this measure—while still possible—does not seem prudent.

Chairman Lynch then asked the ZBA Clerk the status of any correspondence that was directed to Mr. and Mrs. Daigle in this matter. The ZBA Clerk advised that he had spoken to Washington County Code Enforcement Officer Russ Kiggins and County Fire Marshall Steve Smith on the day after the complaint was received. Both visited Mr. & Mrs. Daigle personally and emphasized the "Do Not Occupy" order for the Tower portion of the facility due to Fire/Building Code issues. This area has been restricted for the personal use of the proprietors only. Both officials advised that they would act as available primary points of contact in the event that any further occupation of this portion of the facility was observed. In order to proceed, a complainant would likely be asked to sign an affidavit which specifies the date, time, and approximate number of occupants; the County would then pursue the complaint to the fullest extent possible. This information was transmitted to the complainant that day. In terms of compliance with the Village Zoning Law, both Mr. Kiggins and Mr. Smith stated that enforcement actions for this type of complaint would fall to the Local Ordinance Officer for the Village, rather than their jurisdiction. Finally, the Clerk advised that he had spoken with Mr. Daigle and his attorney personally, advised of the complaint that had been received, and the fact that the County had been advised of the same. Both Mr. Daigle and his attorney assured that they were in compliance with the County's "Do Not Occupy" order, and they pledged future compliance as well. Given that the complaint was addressed in a timely manner

and Village and County Officials called/visited Mr. & Mrs. Daigle personally, the Clerk advised that no further action had been taken at this time.

Mr. Fish advised that he had also contacted Mr. Daigle personally, and that he had stated that the Tower portion of the facility would not be used for parties, gatherings, etc. and that Mr. Daigle understands the “Do Not Occupy” order.

Chairman Lynch stated that the Zoning Law had been in effect for only a short time before this case was considered and he feels that there is often a “learning curve” for all parties in certain situations like this. He then inquired of the Board what they felt would be an appropriate response to finalize their review of the complaint as received. Mr. Celani suggested that the Tower structure be allowed to remain in place “as is” with the County’s “Do Not Occupy” order remaining in place until such time as the proprietors address the Fire & Building Code issues as specified by the County Code Enforcement Officer and Fire Marshall before this space can be occupied. Following a brief period of discussion, Mr. Celani moved that the Village Attorney draft a Resolution specifying the above course of action by the ZBA. Mr. Macura seconded the motion and it carried unanimously.

Chairman Lynch suggested that the term “Code Enforcement Officer” be replaced with “Local Ordinance Officer” in the Zoning Law going forward. He also reiterated that the ZBA’s duties per the Village Zoning Law---the ZBA is charged with three specific duties—reviewing and processing Area and Use Variance applications, hearing appeals of decision made by the Code Enforcement Officer, and providing interpretations of the Zoning Law as required. Again, it was noted that the term “Code Enforcement Officer” should be replaced by “Local Ordinance Officer”. The Village Attorney advised that this change should be incorporated with other pending updates the next time the Zoning Law is amended. The Chairman advised that the Local Ordinance Officer will also be supplied with a copy of all ZBA Decisions going forward.

Chairman Lynch then opened the meeting to public comment at 8:10pm. Mr. Peter and Mrs. Louise Beyer addressed the Board concerning the Area Variance decision issued for Thomas & Louise Tolworthy last month. Each had questions concerning the construction process, sidewalks, etc. Chairman Lynch advised that the ZBA’s purview with Mr. & Mrs. Tolworthy was limited to a requested exception to the Zoning Law relating to the placement of a generator for utility purposes. The ZBA would not have standing to review the type of sidewalk, fencing, construction process, etc. unless a specific variance request or complaint of an alleged violation of the Zoning Law were received.

There was no further input from the public. Mr. Haldt moved that the meeting be adjourned at 8:15pm. Mr. Celani seconded the motion and it carried unanimously.

Respectfully Submitted,

Richard H. Roberts
Village Clerk-Treasurer