

Village of Webster
Community Meeting Hall
29 South Ave
Webster, NY 14580

Zoning Board of Appeals Minutes
Meeting Date: March 19, 2015

Present:

Chairman Mark Nicholson, Michael O'Connor, Robert Fantauzzo, Sean Miller, Attorney David Mayer, Building/Code Enforcement Officer Will Barham, Secretary Carol Moranz

Absent:

William Baker

The meeting came to order at 7:30 pm.

Motion was made by Michael O'Connor, seconded by Sean Miller, to approve the minutes from the December 14, 2014 meeting. All in favor none opposed, motion passes.

Chairman Nicholson advised both applicants that because a full board was not present, they had the option of coming back at a later time when all members would be there. Both applicants said they wanted to go forward this evening with the present board members.

- 1 Paul Schieble, owner 135 East Main St. Tax ID # 080.10-3-14. Application to erect a 24' x 38' garage addition to existing 24' x 38' carriage house making the total square footage 1824 s.f. Current zoning allows 600 s.f. for garages. Applicant seeks relief from zoning by requesting a 1,224 s.f. variance. Applicable zoning section: 175-59, Accessory Structures. Property Zoned: R2-9.6.
Mr. Schieble described his plans and brought different renderings of changes including different awnings and with a wood façade instead of metal on the front of the building. It will be very similar to what is there now, a tongue and groove siding with random widths. It will be put on vertically to match the carriage house. Main objective will be to park cars inside it. The total increase in square footage will be 600 square feet. I felt this addition will be a better fit for the property instead of requesting an additional building to be added. Surrounding neighbors have been notified and the only concerns I have had are regarding the metal siding. The building will be 12' from the back lot line and 15' on the west side of the property line. The height may also need a variance as well.
S. Miller asked how many cars will be parked inside? Applicant stated 3 cars and 1 boat will be stored in the building.

M. Nicholson asked what is the height of the current barn. Applicant stated 27' . He also asked if there is any historical significance to the structure.

P. Adams – Planning Board Chair – said the Planning Board did not feel it was necessary for a survey from the Historical Commission because the main building is not being taken down. The addition is in such poor condition and is being torn down.

S. Miller asked if he is going to put any other shops inside it such as a wood shop. Applicant said possibly but it will be just for his puttering around.

Opened to the Public

Jerry Spronz – 199 East Main St.- I think it is good he is rebuilding this barn. I feel that it should go forward.

P. Adams – Planning Board Chairman – We had concerns also with design. We are glad he is going to be using tongue and groove planking on the outside of the building.

Bruce Winters – 20 Dunning Ave. – I have no problem with this either. I like to see these old barns saved.

Closed to the Public

Motion was made by Sean Miller, seconded by Michael O'Connor to declare the Village of Webster Zoning Board of Appeals as the lead agency and to declare it a Type II Action under SEQR. All in favor none opposed. Motion passes.

Motion was made by Sean Miller, seconded by Robert Fantauzzo for a 1,224 square foot area variance and a 9' height variance at 135 East Main Street. Building to be the same color as the house, and no awning as listed as option 3 in plans submitted by applicant. All in favor, none opposed. Motion passes.

- 2 David Piergiacomi, proposed owner of 77 East Main St. Tax ID # 080.10-3-6. Application to change use of old Burger King building to the "Original Mac & Cheese" restaurant. Applicant also seeks use of current drive thru, requesting relief from current zoning which does not allow drive-thru's in the Central Business District. Applicable zoning section: 175-22(B) Permitted Structures and Uses. Property Zoned: Central Business.

Applicants described project and addressed the 4 Use Variance criteria with supplemental paperwork. (See archive notes). Applicants described the proposed landscaping for sound buffering at the drive thru area. The operating hours will be Monday – Saturday from 11:00 am – 9:00 pm. They noted that they consider themselves to be a high quality fast food establishment. It was also noted that the trailer and the food truck will be parked on the premises.

M. Nicholson asked when they are planning to open. They hope by June or July of this year.

Opened to the Public

Rick Walter – 20 Elm St. – I am not directly behind this property. Asked that might consider night sky compliant lighting. Also perhaps using an 8 foot fence instead of a 6 foot fence to reduce headlights shining behind the property. I am not in favor of any sound system as someone always turns it up.

Bruce Winters – 20 Dunning Ave. – The patrons from the old Burger King would leave a trail of remnants from food packaging, leaving a string of trash along the street. Mr. Piergiacomini showed what packaging they will be using and stated that the drinks will be in standard paper cups. R. Fantauzzo said the new tenants will need to be reminded to do this cleanup. Applicants stated they will have no problem checking to be sure the area is kept clean.

Rick Walter – 20 Elm St. – this is another reason why an 8 foot fence will be a good idea to help cut down on the garbage being blown into surrounding areas.

Paul Schiebel – 135 East Main St. – I support them being in the building.

Darrell Byerts -36 Elm St. – I do have lighting concerns. I think an 8 foot fence is a great idea and would help with the sound issues as well. Vegetation to be installed parallel to the houses would also help. A trash receptacle perhaps in the middle of the area would also be a good idea.

Wayne Conklin – 36 Kathrene Ct. – I have been in the Village for 43 years. This building has been empty for 5 – 6 years. The drive thru is essential for this type of business. It isn't another pizza type place. It would be a good fit for the Village of Webster.

Matt Chatfield – 62 Park Ave. – WCCED – I am speaking in favor of this building being reactivated. I am excited that it will be owner occupied. The trash and noise issues seem to be addressed by these new applicants.

Peter Adams – Planning Board Chairperson – I echo what Matt Chatfield said. This is a drive thru variance. The other issues will not be part of that variance. Those are site plan items. The proposed sound system is much quieter than what was in the old Burger King. The zoning change that happened in 2004 might not have been a good idea for this area. Fences, smells, and lighting are all site plan issues. The owners will be on the premises. It will not be kids running the restaurant so trash issues will be dealt with better. I polled the planning board members and they liked it and I think the business owners will be good neighbors.

Will Barham stated that he has not had any sound complaints regarding Dunkin Donuts except for the trucks unloading at 3:00 am. He also said that if we catch kids throwing stuff maybe we can fine them, but the applicants cannot patrol all the neighbors' properties. There are items in our Code to address trash problems. Mr. Gustin who owns the property next door to this location also wrote a favorable letter for this project.

Mark Nicholson asked the applicant about lighting, noise and trash issues. They stated that they will work with the neighbors to control these issues. They suggested turning off the lights after 9:00 pm if needed but will need to leave on the ones required for safety. Regarding garbage issue – they view this location as their second home. They will be policing it morning and night to be sure the property is kept clean. Noise – they are looking into having a screen by the drive thru to confirm orders so that they do not have to be repeated. The owners will be at the location every day. They will take care of all noise, lighting and trash issues as the come up.

Will Barham asked for applicants to please leave the lights on to help with crime reduction in the area, per requests from the Webster Police Department.

Closed to the Public

Motion was made by Michael O'Connor, seconded by Robert Fantauzzo to go into executive session to discuss legal advice with the attorney. All in favor none opposed. Motion passes.

Executive session concluded.

Sam DiPrima – property owner – was asked by Mark Nicholson how he would feel about adding an 8 foot fence along the back of the property. Owner said he would do that.

Mark Nicholson discussed the 4 points for the Use Variance:

- (a) Under applicable zoning regulation, the applicant is deprived of all economic use or benefit from the property in question, which deprivation shall be established by competent financial evidence. **ZBA stated condition has been met.**
- (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood. **ZBA stated condition has been met.**
- (c) The requested use variance, if granted, will not alter the essential character of the neighborhood. **ZBA stated condition has been met.**
- (d) The alleged hardship has not been self-created. **ZBA stated condition has been met.**

Conclusion was stated by the Zoning Board that there is nothing standing in the way of granting the Use Variance for this property.

Motion was made by Michael O'Connor, seconded by Sean Miller for a Type II action pursuant to SEQR and to declare the Village of Webster Zoning Board of Appeals as the lead agency. All in favor, none opposed. Motion passes.

Motion was made by Sean Miller, seconded by Robert Fantauzzo to grant a Use Variance at 77 East Main Street for a drive thru at the second window under the awning contingent on installation of an 8' fence along the back of the property to be installed by the owner. All in favor, none opposed. Motion passes.

Motion was made by Sean Miller, seconded by Robert Fantauzzo to adjourn the meeting at 9:10 pm. All in favor none opposed, motion passes.

Respectfully submitted,

Carol A. Moranz
Zoning Board Secretary