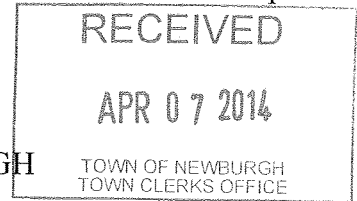


ZBA MEETING – MARCH 27, 2014

(Time Noted – 9:56 PM)

AUTUMN SKY DEVELOPMENT

254 ROUTE 17K, NBGH
(86-1-86) I / B ZONE



Applicant is seeking area variances for the maximum amount of allowed signage; signs shall be setback minimum 15 feet from the street line and directional signs shall not be greater than three (3) square feet to erect a new free-standing sign, a directional sign and signage on the building.

Chairperson Cardone: Under Other Board Business, we have a letter concerning the Autumn Sky Development:

I am writing to you on behalf of Autumn Sky Development Corporation, the owner of West Wings Plaza (to be renamed Autumn Sky Plaza), to request a six-month extension of the signage variance approval granted to Autumn Sky Development Corporation. The variance approval is set to expire on Monday May 26, 2014. The winter weather has made it difficult for the owner to construct the signage, and the applicant therefore seeks this six-month extension in accordance with Town of Newburgh Code § 185-55. On behalf of Autumn Sky Development Corporation, we request that the Zoning Board of Appeals extend the variance approval for six (6) months, commencing on May 26, 2014 and expiring on November 26, 2014. We ask that this request be placed on the Board's March 27th agenda for consideration. Thank you in advance for your courtesies. (Dominic Cordisco, Drake Loeb) And this applicant in a very timely way has requested the six month extension of their variance.

Do we have a motion to that effect to grant their request?

Ms. Smith: Sure, I'll make a motion to grant their request for a six month extension.

Mr. Masten: Second.

Ms. Gennarelli: Roll call.

Michael Maher: Yes

John Masten: Yes

Roseanne Smith: Yes

Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

GRACE CARDONE
MICHAEL MAHER
JOHN MASTEN

ROSEANNE SMITH

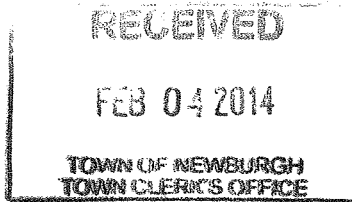
ABSENT: JAMES MANLEY
JOHN MC KELVEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.
BETTY GENNARELLI, ZBA SECRETARY
GERALD CANFIELD, CODE COMPLIANCE
JOSEPH MATTINA, CODE COMPLIANCE

(Time Noted – 9:57 PM)

AS 4/7/14



Section 86, Block 1, Lot 86

TOWN OF NEWBURGH: COUNTY OF ORANGE
ZONING BOARD OF APPEALS

-----X

In the Matter of the Application of

AUTUMN SKY DEVELOPMENT, INC.

DECISION

For area variances as follows:

- *Grant of a variance allowing a directional sign to be located 1 foot from the property line where 15 feet is required;*
- *Grant of a variance allowing a directional sign to be 20 square feet in area where 3 square feet is the maximum area allowed; and*
- *Grant of a variance allowing a total site signage of 438 square feet where 150 square feet is the maximum amount allowed.*

-----X

Introduction

Autumn Sky Development seeks area variances as follows: (1) grant of a variance allowing a directional sign to be located 1 foot from the property line where 15 feet is required; (2) grant of a variance allowing a directional sign to have an area of 20 square feet where 3 feet is the maximum allowed; and (3) grant of a variance allowing total signage on the site to have a square footage of 438 square feet where 150 square feet is the maximum allowed.

The property is located at 254 Route 17K in the IB Zoning District and is identified on the Town of Newburgh tax maps as Section 86, Block 1, Lot 86.

A public hearing was held on November 26, 2013, notice of which was

published in The Mid-Hudson Times and The Sentinel and mailed to adjoining property owners as required by Code.

Law

Section 185(14)(B)(1)(c) limits the total square footage for all signs on a particular property to no more than one half of the street frontage of that property. In this case the above stated formula limits the total square footage for all signage to 150 square feet. Additionally, pursuant to section 185-14(2)(b) and (c) directional signs must be located at least 15 feet from a property line and not be more than 3 square feet in area.

Background

After receiving all the materials presented by the applicant and hearing the testimony of Dominic Cordisco, Esq. and Michael Michalski, a principal in Autumn Sky Development, Inc. at the public hearing held before the Zoning Board of Appeals on November 26, 2013, the Board makes the following findings of fact:

1. The applicant is the owner of the property located at 254 Route 17K and is designated on the tax map as Section 86, Block 1, Lot 86. It is located in the IB Zoning District.
2. The applicant seeks permission to replace several signs on the property. Combined, the total signage is proposed to be 438 square feet.
3. The objectives sought by the applicant is to improve way finding to the premises which is presently unduly difficult.

4. As indicated hereinabove, Section 185(14)(B)(1)(c) of the Town Code limits the total square footage for all signs on a particular property to no more than one half of the street frontage of that property.
5. Additionally, a directional sign is proposed to be located only 1 foot from a property line where a minimum of fifteen (15) feet from the property is required and is also proposed to be 20 square feet in area where 3 feet is the maximum area allowed.
6. The applicant's proposal is set forth on a series of photographs and a site plan prepared by Daniel P. Yanosh, N.Y.S., L.S. last revised October 1, 2013. These photographs and plans are hereby incorporated into this decision and a set shall remain in the Zoning Board's file in this matter.
7. The required, existing and proposed dimensions and the extent of the variances requested are as follows:

Bulk Requirement	Allowance	Existing	Proposed	Variance	Percentage
Total Signage	150 S.F.		438 S.F.	288 S.F.	192%
Directional Signage	3 S.F.		20 S.F.	17 S.F.	566.6%
Street Setback	15'		1'	14'	93.3%

8. Several members of the public were heard during the hearing. All spoke in favor of granting the requested variances.
9. The Building Inspector denied a building permit application by letter dated October 4, 2013.

After hearing the testimony at the public hearing and considering the materials received by the Board and after viewing the subject site, the Board de-

cides as follows:

SEQRA

This matter constitutes an unlisted action under the State Environmental Quality Review Act. The Board has issued a negative declaration thereby determining that the application will have no adverse impact upon the environment.

GML 239 Referral

This application has been referred to the Orange County Planning Department for review and report. The Planning Department has reported that this matter is one for local determination, there being no significant inter-municipal or countywide considerations found to exist.

Findings

In reviewing the facts presented for the requested area variances, the Board considered the five standards for determining whether the applicant has sustained its burden of proof as required by Town Law Section 267-b (3). Each factor has been considered relevant to the decision of the board of appeals, but no single one is viewed as precluding the granting of the variances.

(1) Undesirable Change—Detriment to Nearby Properties

The applicant and its representatives testified at the hearing that the proposed signage would be in harmony with this existing and well-established commercial neighborhood. The applicant also testified that the proposed signage would not in any way result in any undesirable change to the neighborhood nor cause any detriment to any nearby properties. The applicant further testified that the signage proposed is appropriate as to scale relative to the size of the building and is in harmony with other signs in this commercial neighborhood. On bal-

ance, therefore, the essential character of the neighborhood will be unchanged.

No contrary evidence or testimony was submitted to the Board at the public hearing.

Absent any testimony or evidence indicating such, the Board cannot conclude that any undesirable change in the character of the neighborhood or detriment to the surrounding properties in that neighborhood will result from the signs proposed by the applicant.

Accordingly, based upon the evidence and testimony submitted to the Board, the Board finds that issuance of the requested area variances will not result in any serious, undesirable, detriment to the surrounding neighborhood.

(2) Need for Variance

The applicant testified that signage of the quantity and of the size proposed was integral to the identification of their business.

Given the configuration of the property in question, given the fact that its frontage is limited, it is clear that the difficulty confronted by the applicant cannot be overcome by any method, feasible for the applicant to pursue, except by issuance of the area variances.

Accordingly, the Board finds that the benefit sought to be achieved by the applicant can not be achieved by any other method other than the issuance of the requested variances.

(3) Substantial Nature of Variances Requested

The variances requested are substantial. However, under the circumstances present here, and because the focus of the inquiry by the Zoning Board of Appeals is upon the character of the neighborhood in question, and because the Board finds that the signage proposed is needed to properly identify the

premises and provide the public with adequate and needed way finding, we believe, that the substantial nature of the variances requested does not prohibit the Board from granting the application.

(4) Adverse Physical & Environmental Effects

No testimony was given, nor was any evidence produced that would indicate that issuance of the requested variances would result in any adverse physical and/or environmental effects. The applicant testified that no such effects would occur.

(5) Self-Created Difficulty

The need for these variances is clearly self-created in the sense that the applicants are charged with the knowledge of the requirements of the Town of Newburgh Zoning Ordinance.

However, given the fact that the Board has determined that issuance of the requested variances will not result in any adverse impact upon the surrounding neighborhood and further given that the Board has determined that the variance requested is the minimum variances that may be issued to allow the applicant the relief sought, the Board determines that the self-created nature of the hardship confronting the applicant is not a bar to issuance of the relief requested herein.

Decision

In employing the balancing tests set forth in Town Law Section 267-b (3), the Board hereby determines that the applicant has satisfied the requisites of Section 267-b and grants the area variances as requested upon the following conditions:

1. The signage shall be of the size, shape, dimension and appearance as the signage depicted in the photographs and plans and the information provided by the applicant which have heretofore been filed with the Zoning Board of Appeals and which drawing shall remain on file with the Building Department.
2. The variance hereby granted is granted for the purpose of authorizing construction of what is shown on the plans or described within the application materials only. No construction other than as shown or described is authorized by this decision.
3. Section 185-55 [Procedure; construal of provisions; conflict with state law] of the Code of Ordinances of the Town of Newburgh provides, in subdivision "D," that this grant of variance shall become null and void at the expiration of six months from issuance, unless extended by this board for one additional six-month period.

Dated: November 26, 2013



Grace Cardone, Chairperson
Town of Newburgh ZBA

By roll call a motion to adopt the decision was voted as follows:

AYES: Chair Grace Cardone
 Member John McKelvey
 Member Michael Maher
 Member John Masten

Member James Manley
Member Roseanne Smith

NAYS: None

ABSENT: None

STATE OF NEW YORK)
)ss:
COUNTY OF ORANGE)

I, BETTY GENNARELLI, Secretary to the Zoning Board of Appeals of the Town of Newburgh, do hereby certify that the foregoing is a true and exact copy of a Decision maintained in the office of the Town of Newburgh Zoning Board of Appeals, said resulting from a vote having been taken by the Zoning Board at a meeting of said Board held on November 26, 2013



BETTY GENNARELLI, SECRETARY

TOWN OF NEWBURGH ZONING BOARD OF APPEALS

I, ANDREW J. ZARUTSKIE, Clerk of the Town of Newburgh, do hereby certify that the foregoing Decision was filed in the Office of the Town Clerk on FEB 04 2014.



ANDREW J. ZARUTSKIE, CLERK

TOWN OF NEWBURGH