

Town of Rockland
Zoning Board of Appeals
March 10th, 2022
#1 Area Variance
Meadow Hills MHP LLC

Members present: Chairman Arthur Riegel, Perry Keuhn, Shelia Schultz, Daniel Smith, Emily Casey

Public Hearing Convened at 7pm at Town Hall, 95 Main St. Livingston Manor, NY 12758

Sam Obermeister and Meadow Hills MHP LLC are seeking an area variance to erect a new sign at 2-28 Gabriel St. Livingston Manor, NY

Sam Obermeister; Meadow Hills MHP representative came before the Board requesting an area variance based upon relief from local zoning law 185-30.2 (G) (1.b, c) stating the new sign would be replacing the old sign which would be grandfathered in and would not fall under the current Municipal Code, (3.b) as the new sign falls under the new code. Mr. Obermeister stated it would be an improvement to the overall beautification of the Mobile home park. At this time \$4,000 had been spent on the creation of this new sign.

Sam Obermeister; stated an order to remedy had been issued on 2/27/2022 to Meadow Hills MHP LLC to comply with the Municipal Zoning Ordinance, requesting its removal. A sign permit application had not been submitted at any point to the building department and admitted that the only reason he was before the ZBA now is that he needed a CO for a new home on the property and could not get one until this issue was resolved.

CEO Glen Gabbard confirmed Mr. Sam Obermeisters comments in regard to a lack of sign permit applications, outstanding violations, and the need for a Certificate of Occupancy for a new residence at the mobile home park.

Member Schultz asked how many mobile home parks Meadow Hills operates in other Municipalities to which Mr. Obermeister stated there were five (5) other parks are under Meadow Hills MHP management.

Member Keuhn inquired about Meadow Hills operational procedures and experiences in other Municipalities with regards to reviewing the Local Municipal Codes , seeking guidance from Code enforcement officers for compliance .

Member Casey wanted to know what further beautification would be taking place on the Meadows hills property. If more lighting would be added , if flowers would be added to the area where the sign would be located.

Member Smith inquired about whether Mr. Obermeister attempted to reach out for guidance from Code Enforcement Officer Gabbard , or review the local Municipal Code , at which time Mr. Obermeister stated he had not , but had already spent the \$4,000 on the new sign .

Member Riegal stated that the new sign is an improvement and the old one was grandfathered but approving this variance would set a precedent for perpetual grandfathering of any section of the Code.

A motion to close the meeting was made by Member Riegal and seconded by Member Casey.

Public hearing was closed at 7:16 pm

Town of Rockland
Zoning Board of Appeals
Regular Meeting: March 10th, 2022, at 7:16 pm

Chairman Riegal opened the regular meeting with the pledge to the flag.

Approval of Previous Minutes

Previous minutes of July 28th, 2021, were amended.

Chairman Riegal stated

“Add comment to end – was granted permission to build on Town property” Recognized by Town of Rockland Town Board

Motioned made by Emily Casey and seconded by Sheila Shultz to correct the minutes and by unanimous consent the previous minutes were approved as corrected and amended.

Case Review discussion

Continued discussion regarding the clear Town zoning regulations and the applied height restrictions to the sign. After a vigorous discussion regarding the grandfather clause particularly as it relates to the difference in replacing verses refurbishing. The new replacement sign thus triggers the sign to fall under the current Municipal Codes- located within the General Business District, pro's & cons and possible precedents all members felt that this area variance is not possible due to the many concerns that a precedent could be set due to perpetual grandfather of any local zoning regulations.

Chairman Riegal stated that all decisions of the ZBA need to be defensible in a court of law and if an applicant were to approach the board in the future, with the same variance request they would have to be approved if they met the same criteria as the code must be applied equitably:

His decision to vote against the variance was based upon the following:

1. The new sign is more than double the 12 sq. ft. maximum in the General Business district. It also exceeds the 6 foot maximum height from grade.
 - The Board denied a similar variance in 2018 regarding a replacement sign that was also out of code and the law must be applied equitably.
 - Failure to apply the code in an equal manner to all cases would open the Town to litigation.
 - The new sign is an improvement and the old one was grandfathered but approving this variance would set a precedent for perpetual grandfathering of any section of the Code.

With no further discussion the Board moved into the Standard of Review process.

ZBA: Standard of Review: Area Variance

Zoning Board of Appeals must balance the benefit to the applicant versus detriment to the health, safety and welfare of the neighborhood. The burden of proof lies with the applicant. Factors to be assessed:

1. **Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.**

Discussion: will create an undesirable change of character in the neighborhood and community as well.

Resolution: There will be no undesirable change produced by granting this variance

By _____ P.Kuehn Seconded ____ D. Smith_____

Roll Call Vote: Perry Kuehn – Yes Sheila Schultz – Yes Emily Casey – Yes
Arthur Riegal – Yes Daniel Smith - Yes

2. **Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.**

Discussion: Modification to the sign to comply with regulation size

Resolution: The benefits can be achieved by other methods

Casey _____ By _____ P.Kuehn _____ Seconded _____ E.

Roll Call Vote: Perry Kuehn – Yes Sheila Schultz – Yes Emily Casey – Yes
 Arthur Riegal – Yes Daniel Smith - Yes

3. Whether the requested area variance is substantial.

Discussion: The Sign is double the height is restriction of the Town zoning code.

Resolution: The area variance is substantial

By _____ D. Smith _____ Seconded _____ E.Casey _____

Roll Call Vote: Perry Kuehn – Yes Sheila Schultz – Yes Emily Casey – Yes
 Arthur Riegal – Yes Daniel Smith - Yes

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Discussion: Impact on the neighborhood

Resolution: Will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Schultz _____ By _____ P. Kuehn _____ Seconded _____ S.

Roll Call Vote: Perry Kuehn – Yes Sheila Schultz – Yes Emily Casey – Yes
 Arthur Riegal – Yes Daniel Smith - Yes

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

Discussion: The availability of Municipal Codes , and other resources such a Code enforcement Officer as guidance as is self-created

Resolution: The difficulty is self-created

By _____ P. Keuhn _____ Seconded ___ S.
Schultz _____

Roll Call Vote: Perry Kuehn – Yes Sheila Schultz – Yes Emily Casey – Yes
 Arthur Riegal – Yes Daniel Smith - Yes

Zoning Board Action

Approve _____ Deny ___X___ Approve with conditions (below)

The use variance as requested by the applicant is hereby denied, the project does not to meet the requirements of the Town of Rockland Zoning code re: local zoning law 185-30.2 (G) (1.b, c) (3.b) as the new sign falls under the new code. Applicant has been referred to The Town of Rockland Code Enforcement Officer for further assistance.

Resolution by _____ P. Kuehn _____ Seconded ___ S.
Schultz _____

Roll Call Vote
Perry Kuehn – No Sheila Schultz – No Emily Casey – No
Arthur Riegal – No Daniel Smith - No

Motion to adjourn made and passed by common consent at 7:47 pm