

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
FEBRUARY 22, 2010**

The Regular Meeting was called to order by Chairman Randy Bogar at 6:00 P.M. Board Members present were Tim Tallman, John Montrose, Bob Schulman, George Koury, Fred Kiehm and Karen Stanislaus. Also in attendance was Deputy Supervisor Matthew Bohn, Town Attorney Herbert Cully, Councilman David Reynolds, Codes Enforcement Officer Joseph Booth, and Secretary Dory Shaw. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting.

The application of **Allied Sign Co., Inc. for Benderson Development, for a building mounted sign at the new Old Navy store in Consumer Square, Commercial Drive, New Hartford, New York**. The applicant is applying for an Area Variance on a sign located in an RB1 zone, which limits wall signs to 80 square feet and an 8 inch projection for the sign. Applicant is seeking an Area Variance for overall size of sign of 45 square feet and an Area Variance on the projection of the sign of 8 inches. Tax Map #317.013-3-22; Zoning: Retail Business 1. Legal Notice was in the Observer Dispatch on February 12, 2010 and adjacent properties within 500' were notified. Mr. John Montagne of Allied Sign Co., Inc. and Ms. Tanesha Bermudez of Old Navy appeared before the Board.

Mr. Montagne referred to the sizes of the other signs in the plaza that range from 500+ sf and below. The proposed sign is 125 sf (one of the smallest corporate signage Old Navy has for their line). The proposed sign is proportionate for the building. Ms. Bermudez stated that all signs are drawn to scale; and also noted the sign is turned off at the close of business hours. Codes Officer Booth said the signs Mr. Montagne pointed out were established at the strip center before there was an Ordinance regulating signage on buildings.

Chairman Bogar asked if there was anyone present to address this application – there was no response. County Planning 239 review and NYSDOT indicated no comments. The Board Members reviewed the photos presented, and the location of the new Old Navy store. There being no further input, the Public Hearing closed at 6:10 P.M.

The Board Members reviewed the file and went thru the criteria necessary for the granting of an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – no (unanimous);
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – no (unanimous);
- The requested variance is substantial – no (unanimous);

- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – no (unanimous);
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – no (unanimous).

Motion was made by Board Member John Montrose to approve the application as presented as the applicant has met the criteria for the 45 sf Area Variance for overall size of sign and an 8” Area Variance on the projection of the sign; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Bob Schulman. Vote taken:

Chairman Randy Bogar – yes
Board Member Fred Kiehm – yes
Board Member Karen Stanislaus - yes
Board Member John Montrose - yes

Board Member Tim Tallman – yes
Board Member George Koury – yes
Board Member Bob Schulman - yes

Motion was **approved** by a vote of 7 – 0.

The Use Variance application of **Faxton-St. Luke’s Healthcare, 1710 Burrstone Road, New Hartford, New York**. The applicant is requesting to place a temporary one-story 84’ x 68’ modular structure on their property located off Burrstone Road for a classroom. Note: The applicant was granted a Use Variance for this on June 16, 2008 which required the modular unit to be removed after two years of occupancy. The applicant is seeking a two-year extension from August 4, 2010 as that is the date the Certificate of Occupancy expires. Tax Map #317.000-2-25; Lot Size: 3.5 Acres; Zoning: Planned Development Institutional. Legal Notice was published in the Observer Dispatch on February 12, 2010 and residents within 500’ were notified. Ms. Sharon Palmer appeared before the Board representing Faxton-St. Luke’s.

Ms. Palmer stated that they are seeking an extension because they haven’t finished the Information Technology project that was started. She stated they are hopeful to have it done in the next 18-24 months. Ms. Palmer explained the location of the mobile structure, and also stated that when the program is completed, the building will be removed from the site. Nine (9) offices are in the structure and the classroom space is for computer training. Nursing, clinical staff and physicians are being trained at this site. It is close to the hospital and convenient for them to take the classes.

Chairman Bogar asked if there was anyone present to address this application – there was no response. County Planning 239 review and NYSDOT indicated no comments. The Public Hearing closed at 6:20 P.M.

The Board Members reviewed the application as presented. It was stated that the Board Members understand the need for the extension, technology changes which creates delays, and it is convenient for the doctors and staff to participate in these classes due to the proximity to the hospital.

At this time, the Board Members went through the criteria necessary for the granting of a Use Variance:

- Applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence – yes (unanimous);
- The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood – yes (unanimous);
- The requested variance, if granted, will not alter the essential character of the neighborhood – it cannot be seen from the road (unanimous);
- The alleged hardship has not been self-created – difference of opinion.

Motion was made by Board Member Fred Kiehm to approve the Use Variance application of Faxton-St. Luke's as requested for a two-year extension from August 4, 2010 to August 4, 2012; seconded by Board Member Karen Stanislaus. Vote taken:

Chairman Randy Bogar – yes
Board Member Fred Kiehm – yes
Board Member Karen Stanislaus - yes
Board Member John Montrose - yes

Board Member Tim Tallman – yes
Board Member George Koury – yes
Board Member Bob Schulman - yes

Motion was **approved** by a vote of 7 – 0.

Note: Ms. Palmer stated that the modular structure would be removed from the site upon completion of the program, even if prior to the two-year extension.

Chairman Bogar referred to an upcoming seminar at SUNY-IT for property maintenance to be held on March 11, 2010 from 6:30 to 8:30 P.M. Any member wishing to attend needs to contact Dory Shaw.

Also, Chairman Bogar noted that the April Zoning Board meeting has been changed to **April 26, 2010**.

There being no further business, the meeting adjourned at 6:30 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

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