



TOWN of
THOMPSON
ZONING BOARD OF APPEALS

Minutes: Zoning Board of Appeals

December 12, 2016

Merrill Seney Community Room, Town Hall, 7PM

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Chairman Dan Roy called the meeting to order at 7:00 PM in the Merrill Seney Community Room at the Town Hall.

1. Roll Call: A. David Babbitt
Kevin Beno
Kirby Cunha
Leslie Lavallee
Thomas Poplawski
Dan Roy
There was a quorum.

Alternate Leslie Lavallee was seated. Alternate Thomas Poplawski was not seated.

2. Staff Present: Alvan Hill, ZEO
Tina Fox, Recording Secretary

3. Public Hearings

- A. **Variance 16:08:** Havish, LLC, Applicant and Owner of Record. For property at 440 Riverside Dr. Map 85/Block 95/Lot 23A/Zone C. Variance requested to: 1) Increase impervious surface to 80%; 2) Add a sign for a free-standing menu board and direction signs not to exceed 25 sq. ft.; and 3) Add pavement for drive-up window.

Reason: Parcel was already developed and exceeded 60% when the regulation was enacted. The drive-up window requires a menu board for placing order.

1. Daniel Blanchette of J&D Civil Engineers spoke on behalf of the applicant. He stated that the public hearing was continued from last month so that the applicant could seek legal counsel, but they were unable to retain an attorney. The application is for three variances, as listed above. The lot is only .35 acres, the second smallest commercial lot in Town. On a one acre lot, the impervious surface would be around 30%. The hardship in this case is due to the small size of the lot.
2. Janet Blanchette of J&D Civil Engineers stated that when a site plan was approved in 2004 for this property, it was a conforming lot. In 2007, the Planning and Zoning Commission enacted new Zoning Regulations and made the lot nonconforming. ZBA exists for situations like this.

3. Ernest Cotnoir, 163 Providence St., Putnam, spoke on behalf of abutting property owners. He stated that according to State statute, variances can only be approved if the variance does not compromise the comprehensive zoning plan, and strict adherence to the Zoning Regulations would cause an unusual hardship. The definition of hardship has been litigated extensively. The first test of a hardship is that it must be unusual to that property/effect that property in a way it wouldn't effect other commercial properties. Also, financial considerations are not an appropriate reason for a hardship. He cited two cases regarding financial hardship not being significant enough to qualify as a hardship. When these standards are applied, there is no hardship for this application. The regulations are not unusual, but standard. There has been a gas station and convenience store at the location since 2004 with no drive-thru. The lot is simply too small for this type of development. This would be an intensification of use. The lot is too small to accommodate what the applicant is asking for.
4. D. Blanchette stated that the size of the lot is what is unusual. Having a drive-thru would be financially advantageous, but it is not the primary reason of the application. A list of signatures was previously submitted in support of the drive-thru. He presented a list of variances approved for this property, some of which listed the hardship as the size of the lot being so small.
5. K. Beno asked what the hours of operation of the drive-thru would be, to which Mr. Patel stated that the drive-thru would be operational from 5:00 AM - 9:00 PM.
6. **A. David Babbitt moved and Kirby Cunha seconded the motion to close the public hearing for application 16-08. The motion carried unanimously.**
7. D. Roy suggested that each of the three pieces of the application should be voted on separately.
8. The Board briefly discussed pavement percentage and drainage.
9. **A. David Babbitt moved and Kirby Cunha seconded the motion to approve the first portion of application 16-08, to increase the impervious surface area to 80%.**

A. David Babbitt- Yes	Kevin Beno- No	Kirby Cunha- No
Leslie Lavallee- No	Dan Roy- No	

The motion did not carry.
10. **A. David Babbitt moved and Kirby Cunha seconded the motion to approve the second portion of application 16-08, to add a free-standing menu board.**

A. David Babbitt- Yes	Kevin Beno- No	Kirby Cunha- No
Leslie Lavallee- No	Dan Roy- No	

The motion did not carry.
11. **A. David Babbitt moved and Kirby Cunha seconded the motion to approve the third portion of application 16-08, to add pavement for a drive-thru window.**

A. David Babbitt- Yes	Kevin Beno- No	Kirby Cunha- No
Leslie Lavallee- No	Dan Roy- No	

The motion did not carry.
12. D. Roy stated that the variances for 16-08 have been denied.

4. Approval of Minutes
 - A. **A. David Babbitt moved and Kirby Cunha seconded the motion to accept the minutes of the November 14, 2016 meeting as written. The motion carried unanimously.**
5. Correspondence
 - A. Sent via mail (*sent via email only)
 1. Agenda: Zoning Board of Appeals, December 12, 2016
 2. Minutes: Zoning Board of Appeals, November 14, 2016; Planning and Zoning Commission, November 28, 2016
 3. ZEO Report: November 2016
 4. Budget Report: November 2016
6. Applications and Appeals: None
7. Applications and Appeals Received after Agenda Posted: None
8. Old Business
 - A. K. Beno asked about snow dates for meetings, and what the procedure is if a meeting gets cancelled. A. Hill and T. Fox would notify members if a meeting is cancelled because of weather. A. Hill will notify applicants when they apply that meetings may be postponed to the following Wednesday in January, February, and March.
9. New Business: None
10. Citizens' Comments: None
11. Commissioners' Comments: None
12. Future Meetings
 - A. Monday, January 9, 2017: Merrill Seney Community Room, Town Hall 7:00 PM.
(Automatically scheduled for January 11, 2017 if the meeting is not held on January 9, 2017 due to weather conditions)
13. Adjournment
 - A. **A. David Babbitt moved and Kirby Cunha seconded the motion to adjourn. The motion carried unanimously.**
 - B. Chairman Dan Roy adjourned the meeting at 7:30 PM.

Tina Fox
Recording Secretary

