

**VILLAGE OF ESSEX JUNCTION
ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
December 15, 2009**

MEMBERS PRESENT: Tom Weaver (Chairman); Ron Gauthier, Jim Moody, Martin Hughes, Bruce Murdough.
ADMINISTRATION: Robin Pierce.

1. CALL TO ORDER and AUDIENCE FOR VISITORS

Chairman Tom Weaver called the meeting to order at 5 p.m. There were no comments from the public.

2. ADDITIONS/AMENDMENTS TO AGENDA

There were no changes to the agenda.

3. MINUTES

July 21, 2009

MOTION by Jim Moody, SECOND by Ron Gauthier, to approve the 7/21/09 with the following correction/clarification:

Page 1, Elect Chairman and Vice Chairman, Motion – change “SECOND by Ron Gauthier” to “SECOND by Martin Hughes”.

VOTING: 5 ayes; motion carried.

4. PUBLIC HEARING

The function of the Zoning Board as a quasi-judicial board and the hearing procedure were explained. Individuals to give testimony before the Board were sworn in.

Variance application for relief of height restriction for fence post, waivers of front setbacks for fence, banner posts, flagpoles, directional, wall and temporary kiosk signs for streetscape improvements at 105 Pearl Street in the PE District by Rick Hamlin, agent for the Village of Essex Junction, owners

Rick Hamlin (project manager), Jody Carriere (engineer), Liza Kilcoyne (architect), Dave Grimm (CVE General Manager), and John Booth (CVE project engineer) appeared on behalf of the application.

STAFF REPORT

The Zoning Board received a written staff report on the application, dated 12/15/09. Robin Pierce briefly reviewed the variance requests which include the following:

- Fence installed on the property line rather than set back two feet as required.
- Brick fence posts of seven feet high which exceed the height allowance of six feet per the Code.
- Additional flagpole (four are requested, but the Code only allows three).
- Metal poles that are 14' in height to display colored banners.
- Banner sign (10 s.f.) at Gate B that is 15' high and a new light pole in the median to be operated by the police when directing traffic.
- Wall sign on the new ticket building above the ticket windows that can be changed without seeking a zoning permit each time.

- Lettering saying “Champlain Valley Exposition” covering a 2’x 19’ area in the archway 12’ above the pedestrian walkthrough which is part of the ticket booth building (there is no definition in the regulations for this type of sign).

Mr. Pierce noted the Planning Commission approved the application subject to approval by the Zoning Board. The Planning Commission did not want additional signs/banners hanging on the fence as has been past practice by CVE.

Tom Weaver questioned how the maker of the ordinance can get a variance from the ordinance that was drafted. Robin Pierce reported the Village Attorney advised to avoid conflict of interest staff can answer questions on the Code, but cannot give advice. Chairman Weaver stated the proper way to address the matter is to have the Planning Commission make changes to the ordinance to allow the requested items, but this will take time, perhaps six months. Mr. Pierce interjected the schedule will not allow for a six month delay.

APPLICANT COMMENTS

Rick Hamlin explained the applicant is the Village of Essex Junction. The landowner is CVE. The situation is similar to a developer asking permission to develop on another person’s property. With the application all development will occur on CVE property. Per the federal funding for the project, CVE provided an easement to allow the Village to do work on CVE property. The project began as a vision many years ago to do improvements to the streetscape and this spawned cooperative teamwork between the Village of Essex Junction and CVE. The Village sought an earmark of federal funding to allow the work to be done. Sen. Leahy secured two earmarks totaling \$2.2 million for improvements to Pearl Street. A local match was not required with the earmark, but CVE agreed to contribute \$200,000 and the Village will contribute \$160,000. Total project cost is \$2.256 million. CVE granted an easement behind the fence along Pearl Street for construction purposes which will expedite the project. There is an agreement in place that says the improvements are owned by the Village, but CVE will maintain all improvements outside the original 75’ right-of-way line. The project and agreement is unique, stated Mr. Hamlin. There is no deadline to use the earmark, but the commitment by the team is to do the work in the next construction season (beginning spring 2010).

Bruce Murdough asked if the money is in the budget already. Robin Pierce confirmed the funds have been approved by the voters. Jim Moody observed there is no time limitation on the funding, but the work is slated to be done by next construction season without going through the normal process of seeking any necessary changes to the ordinance. Rick Hamlin pointed out construction costs are favorable due to the current state of the economy. As time passes increases in construction costs can be expected. Mr. Moody asked the benefit to the village by the project. Mr. Hamlin stated federal funds were received and used in a timely manner for streetscape improvements at Five Corners. The earmark for the CVE frontage was secured and should be expended in a timely manner as well so additional funding can be sought to address the remaining section between the fairgrounds and Five Corners. Liza Kilcoyne noted the Planning Commission has been discussing Pearl Street and the streetscape.

Rick Hamlin reviewed the project team including Dave Crawford, Rick Hamlin, Dave Grimm, John Booth, Jody Carriere, Liza Kilcoyne, Ande DeForge, and others. Jody Carriere reviewed the project beginning with Gate B and the median with the light and banner. A variance on the size and height of the sign at Gate B is requested. Also, the black wrought iron fence along the frontage is six feet high, but the brick pillars are seven feet high which requires a variance. The

new ticket building/entryway has three variable wall signs above the ticket windows. The request is to allow the message on the sign to change per event without requiring a new permit each time (following brief discussion it was determined a variance is not needed for the message signs). Ms. Carriere stated there are three information boards on the kiosk and it is requested the information on these boards be allowed to change without requiring review each time. The ticket booth entrance sign on the arch over the entryway does not fit into any definition or category outlined in the Code, said Ms. Carriere, so a variance is requested. Four flagpoles for four separate flags (U.S., Canadian, Vermont, and CVE) are requested. The Code allows three poles. There are 14' high banner posts proposed in six locations in groups of three along the fence line from Mac's Market to Gate B. A variance is needed to extend over six feet in height. The request is for 15 posts of 14' high with a pair of banners on each post. There will be a 12' x 5' banner by Gate A at 15' high.

Ron Gauthier asked if the ticket booth will be opened year round. Dave Grimm stated the windows will be open when tickets are being sold during or prior to events. There was discussion of who owns the ticket building. Rick Hamlin reiterated the Village will own the improvements while CVE will maintain the improvements per the agreement. John Booth likened the situation to the Village owning the space and leasing it to CVE at no cost.

PUBLIC COMMENT

There were no comments from the public.

MOTION by Ron Gauthier, SECOND by Jim Moody, to close the public portion of the variance application for streetscape improvements at 105 Pearl Street by the Village of Essex Junction. VOTING: 5 ayes; motion carried.

DELIBERATION/DECISION

Variance, Streetscape Improvements, 105 Pearl Street, Village Essex Junction

There was discussion of the process to amend the ordinance. Tom Weaver summarized the variances requested by the applicant include the fence location with 7' high brick posts and metal posts 14' in height for banners, an additional flagpole, banner signs at Gate A and Gate B, and the ticket booth entrance sign. Ron Gauthier pointed out the fence will become the property of the Village and the right-of-way is along the backside of the fence so a variance for the fence is not necessary. There was discussion of the ticket booth entrance sign appearing too large on the structure versus the same sized sign on a larger building, such as the red cow barn. It was noted the sign is intended to be viewed by pedestrians rather than people in vehicles. The sign is recessed under the building. The proposed sign is 38 s.f. which exceeds the allowed size of 26 s.f. so a variance of 12' is needed.

FINDINGS OF FACT:

1. The project site is located at 105 Pearl Street in the Planned Exposition (PE) District with a lot size of approximately 5,662,800 s.f.
2. For front yards abutting commercial districts the minimum setback shall be 20'.
3. The applicants are requesting four variances.
4. The applicants are proposing to construct seven foot high brick posts as part of a new six foot high wrought iron fence located in the public right-of-way.
5. As part of the new fence at five locations three metal posts will be extended to 14' to accommodate banners for a total of 30 banners (two on each post) and the banners on the posts will be 2' x 5' color banners with no wording/lettering.

6. Four flagpoles are requested at the new pedestrian entrance, one of 30' in height and the other three at 25' in height, and since the Code allows three flagpoles a variance is requested for the fourth flagpole.
7. There will be a banner sign at the reconfigured Gate B and the top of the sign will be 15' (the sign will be 2'x 5' in size); additionally, there is a new light pole in the median separating traffic at Gate B. The signs are located within the public right-of-way.
8. The entrance sign of 2'x 19' is mounted over the pedestrian walkway at the ticket booth entrance in the archway 12' above the paving level in line with the building soffit, and the entire ticket booth building will be located in the public right-of-way.
9. The ticket booth building sign can be 26 s.f.
10. There was no public comment for or against the application.

CONCLUSION:

1. The height of the brick posts and the metal posts located in the public right-of-way are an appropriate design for the streetscape.
2. Due to the unusual nature of CVE's business and the variety of businesses located within the Planned Exposition District a variance for an additional flagpole is not necessary.
3. Variances for the Gate A and Gate B banner signs are not necessary because the gates are located in the public right-of-way.
4. A ticket booth building sign of 26 s.f. is appropriate in size.
5. The proposed upgrades seem appropriate for the activity that is undertaken at the Exposition.
6. The request to have changeable kiosk signs permitted as an ongoing activity is appropriate.

MOTION by Jim Moody, SECOND by Bruce Murdough, based on the Findings and Conclusions that a variance is not required for the brick fence posts and metal posts, the variance for an additional flagpole is granted, and the banner signs at Gate A and Gate B do not require a variance because the gates are located in the public right-of-way.

VOTING: 5 ayes; motion carried.

5. OTHER BUSINESS

None.

6. ADJOURNMENT

MOTION by Martin Hughes, SECOND by Ron Gauthier, to adjourn the meeting.

VOTING: 5 ayes; motion carried.

The meeting was adjourned at 6:25 p.m.

RScty: M.E. Riordan