

**ZONING BOARD OF APPEALS
MONDAY, DECEMBER 16, 2013**

Members Present: Susan Marteney, Matthew Moscov, Deborah Calarco, Scott Kilmer, Mario Campanello, Ed Darrow

Absent: Douglas Parker

Staff Present: Andy Fusco, Corporation Counsel; Brian Hicks, Code Enforcement

APPLICATIONS APPROVED: 59 Arterial West, 1 Morris St.

APPLICATIONS DENIED: none

APPLICATIONS TABLED: none

Ed Darrow: Welcome to the City of Auburn Zoning Board of Appeals. I'm Board Chairman Edward Darrow. Please silence all cell phones. Tonight we will be hearing 59 Arterial West and 1 Morris St.

59 Arterial West. Area variance for an additional wall sign in excess of the allowed maximum square footage for combined signage.

Ed Darrow: 59 Arterial West please approach the podium, give your name and address and tell us what you'd like to do.

Joe Keller, 440 Wilkonson Rd., Macedon: I'd like to put a sign up on the front of the building facing route 5. The area for the sign, the total square feet is 81.76 and allowable is 50 square feet.

Ed Darrow: So you are only looking to install one sign, not two, one on the front and one on what would be the entrance side.

Joe Keller: Yes.

Ed Darrow: You are looking to install two?

Joe Keller: Yes. The one sign going on the entrance side would be the one side I'm allowed so I'm asking for this sign and a second sign.

Ed Darrow: Actually, it can be looked at that the front facing sign that can be seen by east and west bound traffic on the arterial is your primary sign and the one by your door could be looked at as the secondary sign.

Joe Keller: Okay, the secondary sign on the entrance side is less than 50 square feet so that's an allowable sign.

Ed Darrow: But the square footage of your primary sign makes the secondary sign need a variance. If you understand what I'm saying.

Joe Keller: Okay. Yes, I do.

Ed Darrow: Am I incorrect in that Brian? Am I reading this wrong?

Brian Hicks: Most areas that you run into that's what we'd be looking for, an area variance for a second or third sign. Each property is allowed two signs per street front. Right now he only has one which is over the entrance door and that's allowed. He wants to put the second one on the arterial west side. That'll be two signs, he's okay for that. It's the square footage that we're looking for the variance for as he's only allowed a maximum of 50 square feet per location.

Ed Darrow: So it's strictly the square footage not the two signs?

Brian Hicks: Strictly the square footage.

Ed Darrow: Thank you for the clarification.

Are there any questions from board members?

Scott Kilmer: Joe, what did you say the square footage of the sign you wanted is?

Joe Keller: 81.76

Scott Kilmer: And you're allowed 50.

Joe Keller: Correct.

Scott Kilmer: So that's 31 square feet instead of 85 square feet over the allowed.

Joe Keller: Correct.

Scott Kilmer: Am I looking at that right?

Ed Darrow: I think it's actually 85 square feet that the variance is for.

Joe Keller: Yes, I'm sorry, it's including both signs. Okay.

Ed Darrow: So the area variance for the sign is for 85 square feet.

Scott Kilmer: So the 85 includes both signs.

Ed Darrow: Well that's how much the square footage is over both signs. Or for signage.

Brian, I have a question. If a second sign is allowed why is there a variance for the installation of a second wall sign?

Brian Hicks: The area variance is for the square footage. In a C1 neighborhood commercial district you're only allowed a maximum of 50 square feet for the location. In his case he's going to be looking for 135 square feet so with 50 square feet allowed in the C1 zone, if he had two signs of 25 square feet each we wouldn't be here.

Ed Darrow: Okay, but if he's allowed two signs I still don't understand why the first one, the variance for the installation of a second wall sign, why the variance isn't just for the 85 square feet over the allowable maximum signage.

Brian Hicks: But it is. It's only the 85 square feet that we're looking for, over the allowable 50.

Ed Darrow: All right, because on here it says he also needs a variance for a second sign.

Brian Hicks: I'll check my copy but I think this might have been a template and with our staffing in our office right now, there may have been an error.

Ed Darrow: I understand. When anyone considers the motion you can strike item 1 because an area variance for a second sign is not needed. That's where the confusion was coming from on my part.

Any other questions from board members?

Scott Kilmer: Joe, these will both be lit signs?

Joe Keller: Yes.

Susan Marteney: You've certainly done a lot of work on the building, too. It looks good.

Joe Keller: Thank you. We've done quite a bit.

Ed Darrow: Any other questions? You may be seated sir, but we reserve the right to recall you.

Is there anyone present wishing to speak for or against this application? Is there anyone present wishing to speak for or against this application? Hearing none,

seeing none I'm going to close the public portion so we may discuss this amongst ourselves.

Thoughts, opinions, concerns?

I think it's pretty straight forward.

Scott Kilmer: It is an unusual location the way it's positioned on that curve like that.

Ed Darrow: Very unusual angle as you've pointed out and you don't even notice it driving by but the submitted aerial really points out how unusual it is. That was a bigger help than viewing the property.

Chair will entertain a motion.

Susan Marteney: I have a question though, the applicant is really asking for an area variance for two wall signs?

Ed Darrow: No, just an area variance for 85 square feet of excess signage.

Susan Marteney: Okay. I move to approve an area variance for Mark's Pizzeria, Joe Keller at 59 Arterial West for an area variance of 85 square feet of signage because the applicant has proven the following five elements:

- The area variance will not produce an undesirable change or detriment to the character of the properties in the neighborhood, and;
- The benefit sought cannot be attained by any other method other than an area variance, and;
- The variance is not substantial, and;
- The area variance will not produce an adverse impact on the environment of or physical conditions in the neighborhood, and;
- The applicant's difficulty was not self-created.

Chair: We have a motion, do I have a second.

Mario Campanello: Second.

Ed Darrow: Roll call please.

All members vote approval. Motion carried.

Ed Darrow: Your variance has been approved. Please see Code Enforcement for proper permitting. Congratulations. Thank you.

1 Morris St. Area variance for a shed closer than the minimum allowed distance from a property line.

Ed Darrow: 1 Morris St. please approach, give your name and address and tell us what you'd like to do.

Chris Mehl, 1 Morris St.: I'm looking to put up an eight by ten storage shed in my yard however I don't meet the setback requirements because of the size of my yard.

Ed Darrow: Okay, for the record the applicant is seeking a 3'6" rear property line setback of the required 4'. An area variance of 2' from the side property line of the required 3' setback and a 4' variance of the required 10' from a primary structure separation.

Questions from board members?

Scott Kilmer: Is there a building there now?

Chris Mehl: Yes, I wasn't aware I needed a permit.

Scott Kilmer: So that's the one that's staying there or are you replacing it?

Chris Mehl: That's the one staying there.

Ed Darrow: Any other questions from board members?

[Inaudible]

Chris Mehl: I have a chain link fence to the north, south and west around the back side of my house which is mine and a wooden privacy fence which is my neighbors' to the south on Genesee St.

Ed Darrow: Any other questions from board members? You may be seated sir, but we reserve the right to recall you.

Is there anyone present wishing to speak for or against this application? Please come forward. State your name and address for the record, please.

Donna Blumrick, 111 E. Genesee St. with her husband Joseph Blumrick: We're the people with the wooden privacy fence he was talking about. We do not have any objections to the neighbor putting up a shed however I do have an objection to the location where he has put it. I've lived there over 21 years and you heard him say something about the vegetation. There was a hug problem with vegetation in his yard and I have to get over there to rip it off my fence because it goes right

onto the fence and adheres and goes through the slats and everything. If he puts the shed that close to the wooden fence then there'll be no room for anybody to get in between to clear this. It'll just get accumulation of leaves and debris and rodents and what not. If he would like to move it to the other side closer to his house we wouldn't have an objection because that's where his chain link fence is and it's open. But this would cause damage to our wooden fence that's been up there over 20-some years.

Ed Darrow: Question. The shed to your property line, would that be the two foot from the side yard?

Donna Blumrick: I believe so.

Chris Mehl: Yes.

Ed Darrow: Okay, so there would be two feet between the chain link fence and the shed. No? I'll let Mrs. Blumrick finish then I'll have you speak again.

Donna Blumrick: I believe that's it. I think the shed is really too close. You really can't get in between it to maintain it. He won't be able to get in to maintain it let alone us get over there to maintain it and he hasn't lived there to see how bad this vegetation gets. He's already torn some of it down but it's the ground cover. Something that grows on the ground that's almost like ivy that adheres right to the wood and you have to rip it off and it busts right through the slats. It needs to be maintained on a regular basis.

Ed Darrow: Okay, thank you.

Sir, could you please re-approach? Could you please clarify for the board the distance that'll be between the wooden fence and your shed? It's either going to be the 3'6" or the 2'. And being it's the side yard I assume it would be the 2'.

Chris Mehl: I have it marked here. From the shed and the wooden fence itself? There would be at least 2 foot clearance there however there's still the chain link fence separating both of those so it makes it tight either way you go about it. The chain link fence and the wooden fence, rough guesstimate are roughly one foot away from each other. There's not much space between.

Ed Darrow: Now this ground cover, is this on your property?

Chris Mehl: Yes, I was in the process of trying to get rid of it. I haven't quite conquered it yet but it's definitely on the to-do list.

Ed Darrow: So it's your intention to get rid of it completely?

Chris Mehl: Yes. It's a ground ivy. It completely covers the ground. For this situation I did clear that one small area for the shed. I haven't gotten to the rest. Once again it's on the to-do list. There's quite a few things to be done there. From what I've seen they have stone between the chain link fence and the wooden fence and it has not continued into there, maybe I haven't lived there long enough to see.

Ed Darrow: Okay. Any other questions.

Scott Kilmer: I'm a little confused by the map here, the little schematic. If you look at the one submitted by Chris it looks like there's a variation between 12 and 16 inches between [inaudible]. Am I reading that right?

Chris Mehl: Yes, the fence isn't completely squared up there.

Scott Kilmer: So the shed is going to be anywhere from 12 inches to 16 inches away from the fence?

Chris Mehl: Correct. Those are the measurements where it stands right now.

Scott Kilmer: We heard earlier it was 24, about two feet. Basically it's supposed to be three feet from the fence but he's asking for a variance of two feet so that would put it one foot away. Am I reading that correctly?

Ed Darrow: That is correct. Where this variance would require that shed to be 3'6" at the minimum away from that rear fence.

Susan Marteney: I think Scott's talking about the side fence, the one toward the neighbors.

Scott Kilmer: The wooden fence.

Ed Darrow: Is that fence the property line?

Chris Mehl: The property line is just on the other side of the chain link fence.

Ed Darrow: How far on the other side of the chain link fence is your property line.

Chris Mehl: I don't know the exact measurement but not much, a couple inches maybe.

Ed Darrow: If that's the case the way you have plotted this shed and the figures you're asking for do not go together.

Chris Mehl: I wasn't sure what the specific figures were on the variance.

Ed Darrow: If these figures are approved you will be required to put the shed at those figures off the property line. They can't be at the figures on this plot plan. You do understand that?

Chris Mehl: I do now, yes.

Ed Darrow: Brian?

Brian Hicks: I'm just here in case you wanted any clarity on any of the items.

Susan Marteney: Does this shed sit on concrete?

Chris Mehl: No, it's concrete blocks and it's built up on pressure treated 4x4s and plywood base.

Scott Kilmer: it doesn't leave much room to clear out the vegetation.

Ed Darrow: No, one foot doesn't. But, we're looking at 2' and 3'6" and that's what he's applied for, that's what's been advertised so that's what we have to work with.

Any other questions from board members? You may be seated sir.

Is there anyone else present wishing to add something? Is this something new? All right, please re-approach. Please give your name and address again for the record.

Donna and Joseph Blumrick, 111 E. Genesee St.: I don't think everybody understands that this shed is on two sides of our wooden fence. Our fence is like this and his shed is here in the corner of it. It's not just one side as I'm hearing it sounds in the description. He's putting it in the corner.

Ed Darrow: So what you're saying is his back property is also your property as well as the side property.

Donna Blumrick: Correct.

Ed Darrow: Thank you for clarifying.

Donna Blumrick: So that makes it even more work that needs to be done there that can't be reached.

Ed Darrow: On the back there is 3'6" between the shed and the fence.

Donna Blumrick: His shed is up against his fence.

Susan Marteney: Six inches.

Donna Blumrick: We put our fence up on the other side of the property line, his fence is like an inch from the property line and there's a one foot buffer in between and the neighbor that lived there before him covered it with stone trying to keep the growth from coming through. So he's using that buffer.

Ed Darrow: So what you're saying, his property line is an inch behind his fence line on both sides.

Donna Blumrick: Correct.

Ed Darrow: So if there's an inch on either side it would be 3'5" from the fence and how's that not true? If the fence...

Susan Marteney: In the picture he drew he's put in...

Ed Darrow: We're disregarding the picture he drew, he has to go by the numbers that were advertised. The picture he drew is out of the picture. He cannot put it 12 inches and 16 inches. Because that's not what was advertised. He had to go with the 3'6" and the 2' because that's what was advertised.

Donna Blumrick: I'm not sure he can access his property if he moves it to those dimensions.

Susan Marteney: That would still be six inches to the rear. If you take 48, that still ends up being those numbers.

Brian Hicks: Mr. Chair, if I can clarify. What was advertised is the amount of area variance he's requesting of the required. Which the first one is 3'6" of the required 4' so that would go with his drawing submitted to our department showing it's placed six inches off the property line. And the rest would follow suit accordingly.

Ed Darrow: Okay, I follow you.

Susan Marteney: His picture does show how much space there is.

Ed Darrow: All right, I misunderstood.

Susan Marteney: And it's not even from the property line, it's from the chain link fence. There's actually more but less space.

Ed Darrow: So you're talking five inches and eleven inches.

Susan Marteney: Are you using the chain link fence or the property line?

Chris Mehl: The fence.

Susan Marteney: The fence. So it's actually seven inches from the property line but we don't know where the property line is.

Brian Hicks: If you look at the survey that was supplied to you you'll see the chain link fence is on the property line but the wooden fence is not. It's inside, it's on his property line. But the wooden fence is also depicted on the survey so you'll see the different post marks along that property line.

Susan Marteney: Where it says 'rod' that's the actual property line?

Brian Hicks: 'Rod' is the corner.

Susan Marteney: Okay, so it is on it then.

Brian Hicks: According to the survey.

Chris Mehl: [inaudible-not at mic]

Brian Hicks: If you come forward on his parcel you'll see that the fence for the end of his chain link fence post right in the side yard and it's roughly maybe six inches off his property line. So that's your line for the chain link.

Susan Marteney: It's a little wonky along there.

Brian Hicks: You have to be careful when you look at those.

Ed Darrow: Thank you, Brian.

Susan Marteney: But ultimately you only have six inches behind, you can't get in there to remove anything.

Chris Mehl: [inaudible-not at mic]

Ed Darrow: Any other questions from board members? Any other people present wishing to speak for or against this? Anyone else present wishing to speak for or against this application? Seeing none, hearing none I will close the public portion so we may discuss it amongst ourselves.

Thoughts, concerns?

Scott Kilmer: It's close to the fence, Mr. Chair, but you could have three feet all the way around the back of that shed and there's still no guarantee he's going to clean it out, that's just being a good neighbor. We can't decide that.

Ed Darrow: Any other thoughts?

Mario Campanello: Yes, being a good neighbor. It's his responsibility to take care of his property and being a good neighbor. I can't take that into consideration.

Susan Marteney: It's also a small yard. Even to have only six feet between the edge of the shed and the back porch, barely get the lawn mower through or carry something through there. Just don't come looking for a swimming pool.

Ed Darrow: Any other thoughts.

Scott Kilmer: My thought is the distance between the chain link fence and the wooden fence doesn't give you a whole lot of room either, that confuses me as to how you would clean it even if there was ten foot between them.

Susan Marteney: You can't get between the two fence types, yep.

Ed Darrow: Any other thoughts? Before I call for a motion I'd like to make it a matter of the record that I will be abstaining from this vote as Ms. Blumrick is a blood relative, she's my first cousin.

Chair will entertain a motion.

Susan Marteney: I would like to make a motion for Christopher Mehl of 1 Morris St. for three variances for the placement of an 8 x 10 shed in the rear yard. An area variance of 3'6" for the rear property line of the required 4' setback, an area variance of 2' from the side property line of the required 3' setback and an area variance of 4' of the required 10' from the primary structure. I move these variances because the applicant has proven the following five elements:

- The area variance will not produce an undesirable change or detriment to the character of the properties in the neighborhood, and;
- The benefit sought cannot be attained by any other method other than an area variance, and;
- The variance is not substantial, and;
- The area variance will not produce an adverse impact on the environment of or physical conditions in the neighborhood, and;
- The applicant's difficulty was not self-created.

Ed Darrow: We have a motion, do we have a second?

: Second.

Ed Darrow: Roll call, please.

All members vote approval with Ed Darrow abstaining.

Ed Darrow: Sir, your variance has been approved. Please see Code Enforcement.

Any other business to come before this board?

Seeing none. Housekeeping, anything?

Susan Marteney: Will Merry Go Round theatre be coming back?

Brian Hicks: We've not been notified.

Susan Marteney: I think because they had to show financial hardship for it.

Scott Kilmer: I got the feeling he wasn't going through with it.

Susan Marteney: I felt like he was going to drop it also.

Ed Darrow: Other than that we can't discuss it. We'll see if it comes up.

Susan Marteney: I just wanted to know if I needed to keep the paperwork.

Ed Darrow: I would, for at least one more month.

Motion to adjourn. So moved. All in favor.

Meeting adjourned.

Recorded by Alicia McKeen