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ABSTENTIONS:

ABSENT:

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ZBA MEETING MINUTES

TOWN OF LLOYD ZONING BOARD

Thursday, May 9, 2019

1 **CALL TO ORDER TIME: 7:00PM**

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3 **PLEDGE OF ALLEGIANCE**

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5 **ATTENDANCE Present:** John Litts, Chair, Paul Gargiulo, Vice-Chair; Alan Hartman; Russell Gilmore;
6 William Brown; Michael Guerriero, Town Board Liaison; Anthony Giangrasso,
7 Deputy Building Inspector; Rob Stout, Land Use Attorney; Laura Oddo-Kelly,
8 Administrative Assistant to Planning and Zoning.
9

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11
12 **ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS; ROOM CAPACITY IS**
13 **49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.**
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16
17 **Extended Public Hearing**

18
19 **D & D Auto, 3537 Route 9W, SBL# 88.69-3-12.100 in GB Zone.**

20 Applicant is seeking a commercial area variance for lot coverage relief of 27% to construct a
21 3600 sq. ft (30'x120') building on a 0.67-acre parcel to store auto parts. The maximum lot
22 coverage of the parcel is 40% and the building actual will be 67%. Applicant is also seeking a
23 rear yard setback relief of 13'8" (actual 11'4") where the required rear yard setback is 25'. The
24 existing driveway entrance Rt.9-W (south) will be used to access the proposed building and
25 parking area. Any new storm water discharge will be directed to the existing storm water system
26 located on the parcel, as designed by a NYS Professional Engineer.

27 **The Board requested visuals and elevations of the building and planting plans as a buffer.**

28
29 Patti Brooks, applicant’s representative was present to give an overview of the proposed project.
30 She presented a map which outlined the abutting residential properties and the applicant’s site for
31 the proposed building. There are a few options proposed to screen the building and possibly
32 filling the site to raise the grade. The height of the building will be at the maximum of 30 feet. A
33 retaining wall, filling and the planting of trees are proposed in order to cover and buffer much of
34 the building from the residential portion of the area. Exactly what the grading plan will be is
35 dependent on how the Town feels that some of the grading would be done on Town property,
36 thus they do not have a final landscaping plan. Brooks said if they are granted the variance, the
37 concerns of the neighbors would be conveyed to the Planning Board. They can’t design a
38 landscaping plan until they do the engineering for the drainage. The hope is what the applicant is
39 proposing will create a better view shed than what is presently there.
40 Litts asked if the plantings are on Town property.

41 Brooks replied yes. They would have to wait for Town approval for a final landscaping plan. The
42 retaining wall would have to be on the applicant's property.
43 There was a discussion of elevation changes and drainage. Brooks supplied a sketch for
44 reference and possible options. The applicant would like to improve the visual impact at the site.
45 Litts said they would like to convey to the Planning Board their concerns with the drainage and
46 the aesthetics of the building.
47 There was a discussion of what the aesthetics of the façade of the building would be. The
48 applicant is proposing to use the same colors which are presently used for the business on the
49 proposed building; gray, blue, and yellow for the signage.
50 Hartman suggested it look more like a residential house than commercial, which he felt would be
51 more pleasing to the residents in the immediate area.
52 Gargiulo said he would suggest to the Planning Board for the building to have fake windows
53 with shutters on the side that faces the residential neighborhood. He felt it would be more
54 appealing and blend in with the neighborhood.
55 An alternative and proposed parking conversation took place.
56 Gilmore interjected that some of the residents were concerned that the height of the building
57 would block out the only sun to their property during the day. He would like see a rendering of
58 the elevations in relation to the houses.
59 Brooks said the height of the proposed building would not be an impact anymore than the
60 existing building on the parcel.
61 A **Motion** was made by Russ Gilmore, seconded by William Brown to close the public hearing.
62 All ayes.
63 The Board conducted the balance test.
64 Litts read the resolution.
65 A **Motion** to grant the area variance was made by William Brown, seconded by Paul Gargiulo.
66 All ayes.

69 **Interpretation of the Code**

71 **Watson, David, 10 Bellevue Rd., SBL# 88.17-2-36.120 in R2 Zone.**

72 Applicant is seeking an area variance relief of 5' for the side yard to construct a post and beam
73 carport roof with landscaping pergola. The required setback for the side yard is 35' and applicant
74 has 30'.

75 **Interpretation of the code discussion of and determination on whether proposed building is 76 considered a structure or not.**

78 Stout said that he spoke to the applicant and the building inspector in terms of what is being
79 requested of the ZBA and what the next steps would be. He explained that Mr. Watson applied
80 for a building permit for the pergola/carport structure and was not issued the permit but was
81 referred to the ZBA for an area variance. Applicant applied and came to the Board where he also
82 raised the issue that he did not think this structure would be subject to the setback requirements
83 which it is on the agenda tonight as an interpretation. In terms of what the Board's powers and
84 authorities are, Stout said what he thinks the applicant is really asking for is to overturn the
85 determination of the code enforcement officer that a variance was needed. The Board could
86 consider that and either agree or disagree after a public hearing. If they agree it would be the end

87 of the inquiry. If the Board disagrees and deny the appeal, then in the alternative, they would
88 consider the area variance and whether or not the applicant would be entitled to relief under it.
89 Stout said the next step would be for him to review the application and view the property. If the
90 Board feels the application is complete, the public hearing could be scheduled tonight for next
91 month and consider both the appeal for the code enforcement officer's determination as to what
92 the structure is. Depending on the outcome, the Board would consider whether an area variance
93 should be granted simultaneously.
94 Litts asked whether the terms should be defined.
95 Stout said the Code Enforcement Officer has already done that. The Board's obligation is to
96 agree or overrule that determination. Once he has reviewed the file, he can discuss with the
97 Board what the ZBA's legal perspective is on it. An interpretation of the code cannot be rendered
98 without going through the process.
99 A **Motion** was made by Paul Gargiulo, seconded by William Brown to set the public hearing for
100 June 16, 2019 at 7:30PM. All ayes.
101 The Board went into executive session to receive legal advice from counsel.
102

103 **Minutes to Approve:** April 11, 2019
104

105 A **Motion** to approve the minutes of April 11, 2019 Zoning Board Meeting was made by Russell
106 Gilmore, seconded by William Brown. Four ayes (Litts absent 04/11/19).
107

108 A **Motion** to adjourn was made by William Brown, seconded by Alan Hartman, at 7:52 PM. All
109 ayes.
110 The Board went into executive session.
111