

**Meeting of the Village of Brockport Zoning Board of Appeals was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Thursday, December 1, 2016, 7:00pm.**

**PRESENT:** Chair Robert Duff, Member Eileen Ryerse, Member Laurence Vaughan, Member Sal Sciremammano, Clerk Ellen Bahr, BI/CEO Tim McElligott

**EXCUSED:** BI/CEO David Miller **ABSENT:** none

**ALSO PRESENT:** Kathy Kristansen, Joan Hamlin, Ron Staub, Marc Marcello, Heather Galetto, and Steve Santandrea

**CALL TO ORDER / PLEDGE:** Chair Duff called the meeting to order and led the Pledge of Allegiance.

Chair Duff shared comments of remembrance regarding Douglas Wolcott, a former Member of the Board. Douglas served the community and his country with an upbeat personality. Member Vaughan suggested that a page be inserted in the minutes in remembrance of Douglas Wolcott. Motion by Chair Duff, seconded by Member Sciremammano to insert a page in the minutes to read "In Memory of Douglas Wolcott", motion carries unanimously.

***In Memory of Douglas Wolcott***

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**REVIEW OF MEETING MINUTES:** Chair Duff called for a motion to approve the last meeting minutes.

→ Member Sciremammano moved, Member Vaughan seconded, unanimously carried to approve the minutes of the meeting held July 7, 2016 as written.

**NEXT MEETING:** Thursday, January 5, 2017 at 7:00pm, or if necessary, February 2, 2017.

**CORRESPONDENCE:** none

**NEW BUSINESS (PUBLIC HEARING):**

1. Name: Marcello Enterprises, LLC  
58 Main BBQ & Brew
- Address: 58 N. Main St.
- Tax Map ID #: 069.37-1-22.2
- Zoning: Business Use District
- Parcel Size: .25 acre (72.69'f x 158.68'd)
- Property Class: 421
- Purpose: Area Variance – install flush mounted 24" letters to front face of building  
58 Main BBQ & Brew  
( & discuss future sign changes - update info on east & west sides)
- Zoning Ordinance: Chapter 43-5(B):

*One wall sign, which may be illuminated, upon the front façade of a building for each permitted use or activity. (1) Said sign in the aggregate shall not exceed two square feet in area for each linear foot of public frontage. If a use is on a corner, then one sign may be placed on each façade of an occupancy which faces upon a parking area, and if such building is more than 100 feet distant from the nearest street to the rear of the property, then such sign may be five square feet in area for each linear foot. (2) Such sign shall not project more than 14 inches beyond the building façade on which or in front of which it is displayed, shall be at least nine feet above the sidewalk, and shall not be higher than the highest point of the parapet or façade of the building.*

**Applicant Presentation:**

Chair Duff read aloud the five New York State criteria regarding a variance application:

1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
2. whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
3. whether the requested area variance is substantial;
4. whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district;
5. whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the Board of appeals, but shall not necessarily preclude the granting of the area variance.

Chair Duff asked the applicant to present his application. M. Marcello explained that, in doing a face-lift to the entire building, and to make a more professional presence in the North Main Street business district, they removed an awning in poor repair from the front of the building leaving front façade (facing west) blank. His initial understanding was that all he needed was a sign permit but two days later BI/CEO Miller told him that in light of the two existing signs on the north and south sides of his building he would need to apply for a variance from the permitted limits for signage. M. Marcello noted that he already purchased the 24" letters for \$1,800, with no refund available. He noted that he is replacing a very long awning in disrepair with a sign that is shorter in length than the awning was; that he is trying to improve the look of the business area with substantial improvements to the building inside and out and he needs a sign on the front of his building to allow out of town travelers identify the nature of the business as they drive by.

**Open Public Hearing:**

Chair Duff asked for a motion to open the public hearing to allow for other comments.

→ Member Vaughan moved, Member Sciremammano seconded, unanimously carried that the regular meeting be closed and the public hearing be opened.

**Public Comment:**

- Ron Staub of 4 Laurie Crescent (a Planning Board member) said as a Planning Board member, M. Marcello appeared before him twice in the recent past and both times he found him to be honest and forthright in his dealing with the Board.

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- BI/CEO McElligott offered a point of clarification that M. Marcello "got the cart before the horse" by not applying for a sign permit prior to purchasing the signage material.
- Chair Duff asked the Board for their comments on the criteria to be considered:
  - o Would there be any detriment to the neighborhood properties or an undesirable change by the granting of the area variance?
    - Member Sciremammano said it would brighten the area
    - Member Ryerse said it would be a good change
    - Member Vaughan asked if it would have LED lighting. M. Marcello said "Yes". Member Vaughan noted that a variance for signage was granted to the The Stoneyard in the recent past.
    - Chair Duff noted that the ZBA Board faced a similar situation for Rite Aid; the Board adjusted the size of the signage in light of the depth of the setback.
  - o Are there unique conditions about the building compared to other buildings on the street that requires signage exceeding the allowable total? Can the benefit sought by the applicant be achieved by some other way?
    - M. Marcello noted that the sign he is requesting is in proportion to the size of the frontage. Previously there was a 50 foot purple awning. He stated that without a sign on the front of the building, drivers would not know the nature of the business.
    - Member Sciremammano – No
    - Member Ryerse – No
    - Member Vaughan – No
  - o Is the variance substantial?
    - M. Marcello showed an upcoming print ad with the sign letters superimposed over the building to give the Board a sense of the installation of the letters.
    - Member Sciremammano – No
    - Member Ryerse – No
    - Member Vaughan – It is the right fit.
  - o Will this have an adverse impact on the district?
    - Member Sciremammano – No negatives only see a positive impact.
    - Member Ryerse – No
    - Member Vaughan – No
  - o Was the alleged difficulty self-created?
    - Member Sciremammano – This wasn't the owners' intent.
    - Member Ryerse – No
    - Member Vaughan – No

Chair Duff asked if a denial would adversely affect the business. M. Marcello stated the business might not be hurt but it might miss potential customers traveling through, like parents during college graduation.

Chair Duff read the sign regulations from Ch 43-5(B) and asked the size of the proposed sign. M. Marcello noted the letters are 24" in height; at that size he estimated 64 feet in length would be required.

BI/CEO McElligott stated that if Marc did not have the two existing signs on the north and south sides of his building he would be OK; that he is allowed 110 square feet and there is 180 square feet currently.

Discussion was held regarding calculations for signage for front versus side facades. Member Sciremammano noted that regulations Ch 43-4 (Residential) does not pertain. BI/CEO McElligott noted that this is apples versus oranges regarding front versus side signage allowances. M. Marcello acknowledged that the Building and Code Enforcement office does a lot of good for the village but he is frustrated with the process.

Chair Duff noted the ZBA is here to help while; acknowledging the Code, the Board's focus is to address the unanticipated situations. Chair Duff asked if the applicant would like an adjournment until next month. Member Vaughan noted that there is nothing in the code to prevent three signs. BI/CEO McElligott noted the agenda may have caused confusion with the reference to future sign changes and changes to the east and west sides as the sides of the building actually face north and south. He further noted that the issue before the Board is the signage for the front façade.

**Close Public Hearing:**

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Chair Duff asked for a motion to close the public hearing.

→ Member Vaughan moved, Member Ryerse seconded, to close the public hearing and re-open the regular meeting; carried unanimously.

**Board Discussion / Decision:**

Chair Duff asked the Board for comments or questions. There were no further comments or questions.

Chair Duff asked for a motion as to a decision.

→ Member Sciremammano moved, Member Ryerse seconded to approve an area variance for Marcello Enterprises, LLC for 58 Main BBQ & Brew to install flush mounted 24 " letters to the front face of the building at 58 North Main Street.

Roll call vote:

Member Sciremammano	Aye
Member Ryerse	Aye
Member Vaughan	Aye
Member Duff	Aye

The motion carries unanimously with four votes in favor, 0 opposed.

2. Name: Lifetime Assistance, Inc.  
 Address: 15 Evelyn Drive  
 Tax Map ID #: 069.10-3-63.22  
 Zoning: Residential Use District  
 Parcel Size: 0.77 acre (163.14'f x 206.63'd)  
 Property Class: 642  
 Purpose: Special Permit - dumpster  
 Zoning Ordinance: Chapter 21-5

*Within exclusively used residential property, no dumpsters shall be used for the collection or storage of garbage or rubbish. However, any proposed and/or existing trash dumpsters within residential neighborhoods or residentially used property which are in existence prior to the adoption of this chapter are permitted as long as the property owner obtains a special residential dumpster use permit granted by the Zoning Board of Appeals."*

**Applicant Presentation:**

Chair Duff read Chapter 21-5 Special Permit – dumpster for residential property and noted that this issue has come before the Board in the recent past. Chair Duff asked the applicant to present their application.

Heather Galetto, representing Lifetime Assistance, said the facility houses 12 residents in addition to staff for a total of 18 people. She stated that Lifetime Assistance was unaware that they could not have a dumpster. The dumpster is located at the side of the house facing an unimproved lot and is enclosed by a nice fence. The Chair asked if she had any other comments. Heather noted the ease of having one unit picked up by the service provider from the fenced in area versus having the staff drag several wheeled units out to the curb every week.

**Open Public Hearing:**

Chair Duff asked for a motion to open the public hearing to allow for other comment.

→ Member Vaughan moved, Member Sciremammano seconded, that the regular meeting be closed and the public hearing be opened; unanimously carried.

**Public Comment:**

Joan Hamlin of 50 Park Avenue asked when the dumpster was put in. Heather responded that she is a fairly recent employee but the house has been in operation since 1991. Joan noted that the Building and Code Enforcement office confirmed that the code relating to dumpsters was amended in June of 2009.

Member Sciremammano asked the purpose of the two free standing flip top units that are at the curb at the front of the house. Heather stated that those are the recycle bins.

Kathy Kristansen of 270 Main Street (a Village Board member) asked if there have been any comments from the neighbors. Heather said none they are aware of.

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Member Vaughan shared that he looks at this as an institutional setting even though it is a residential house at a dead end street. He noted that currently there is one refuse unit versus the potential of 15 totes if a dumpster were not in use. He noted that the dumpster is on the north property line and is fenced in. He observed that the Village did not record the presence of dumpsters that were in use when the code was rewritten.

Member Ryerse had no comment.

Member Sciremammano noted that the fencing enclosing the dumpster is such that one could not tell it was for a dumpster.

Chair Duff noted that precedence had been set that requests for a dumpster have been denied for residential settings but that pre-existing units have been allowed. He stated that the Board needs records to show a contractor has been servicing this dumpster prior to the enactment of the code. He suggested that service agreements or billing records would establish this. Ms. Galetto stated that their business office could provide this information.

Member Vaughan suggested aerial photography of the area might be useful in documenting the presence of the dumpster in prior years.

Chair Duff stated that the public hearing will remain open until the next meeting is held. The dumpster can still be in use without penalty. He instructed Ms. Galetto to bring evidence of use to the next meeting. The applicant will be notified if there is a meeting in January or February 2017.

The application is tabled at this time.

*\*\*NOTE 1/5/17: Lifetime Assistance withdrew their application prior to the January 5, 2017 meeting. They have chosen to forgo the use of a dumpster and switch to totes. They have submitted their intent in writing to the Building & Codes Office\*\**

3. Name: Samuel A. Santandrea  
 Winston Woods Apartments  
 Address: South Avenue  
 Tax Map ID #: 068.20-3-27  
 Zoning: Residential Use District  
 Parcel Size: 3.80 acres  
 Property Class: 411  
 Purpose: Special Permit - dumpster  
 Zoning Ordinance: Chapter 21-5

*Within exclusively used residential property, no dumpsters shall be used for the collection or storage of garbage or rubbish. However, any proposed and/or existing trash dumpsters within residential neighborhoods or residentially used property which are in existence prior to the adoption of this chapter are permitted as long as the property owner obtains a special residential dumpster use permit granted by the Zoning Board of Appeals."*

**Applicant Presentation:**

Chair Duff asked the applicant to present their application.

S. Santandrea said that he and his father built the units in 1974 and has had a dumpster from the beginning. He stated that they have a contract with Suburban Disposal as of 2009.

**Open Public Hearing:**

Chair Duff asked for a motion to open the public hearing to allow for other comment.

→ Member Vaughn moved, Member Ryerse seconded, unanimously carried that the regular meeting be closed and the public hearing be opened.

**Public Comment:**

Ron Staub of 4 Laurie Crescent (a Planning Board member) attested that there was a dumpster in place when he lived there in 1975.

Kathy Kristansen of 270 Main Street (a Village Board member) suggested he should submit a copy of an invoice prior to June of 2009.

BI/CEO McElligott observed that the dumpster is not on S. Santandrea's property and recommended

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he appear before the Village Board to rectify where the dumpster can be located. The land being used is a village park and the dumpster is on park land. Discussion was held. BI/CEO McElligott noted that Google maps show the dumpster totally off their site and restated that S. Santandrea should go before the Village Board to resolve the issue. S. Santandrea noted that when they built the units they planned for 1.5 cars per unit but now he estimated it is two cars per unit.

Chair Duff stated that the public hearing will remain open until the next meeting is held. The applicant will be notified if there is a meeting in January or February 2017.

The application is tabled at this time.

**Adjournment:**

Chair Duff asked for a motion to adjourn.

→ Member Sciremammano moved, Member Ryerse seconded, unanimously carried that the meeting be adjourned at 8:15 pm.

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Ellen Bahr, Clerk