

Village of Central Square ZBA Meeting

December 16, 2010

Attendance: Chairman Mike Sperling, Board Member Bob Loran, Board Member Jack Monica, Board Member Deborah Worlock, Village Attorney Kevin Caraccioli, Mayor Murphy, Trustee John Urbaniak, Trustee Kathy Wildrick, Trustee Ken Sherman, Secretary Brandy Warren-Hickman, and Citizen Brian Gristwood of Central Square Farm & Lawn.

Mike Sperling leads the Pledge of Allegiance.

Mike Sperling makes a Motion to open the meeting at 7:12 p.m.

Mike Sperling asks if there are any public comments. Mayor Murphy asks if we should post pone the hearing since Mr. Donald Penoyer & his attorney John Langey didn't show up tonight (even though they were notified of the new date). Kevin Caraccioli says that because we are going into a new year it would be impractical to recess (this meeting, not the issue) again. The Zoning Board has to make a decision within 62 days of the public hearing. In November the Board was prepared to give its decision, but the issue of the area variance vs. the usage variance has come up thus extending the time. Kevin is confident that Mr. Penoyer and his attorney received the message to come to the meeting tonight.

Jack would like to know if why we can't just table this issue since the applicant and or his attorney has cancelled twice prior and now this third time they did not show up to a meeting being held to discuss this issue. Kevin responds by saying that we should set a new date. If they do not show up again then the Board will make a decision without the applicant present.

Mike Sperling makes a motion to hold the rescheduled hearing on Jan 11, 2011 at 7 p.m. with the stipulation that Mr. Penoyer and his legal representation are to be present, as no further adjournments will be granted in this matter. Jack Monica seconds the motion. Board polled, all in favor. Note: Board member Tyler Gervaise is not present tonight.

The signing of the Resolution and submitting the issue of Mr. Penoyer's sign to the Oswego County Planning Board is on hold until we have the Hearing for the Area Variance (that was supposed to take place tonight, but is now rescheduled for 1/11/11).

Mike Sperling makes a motion to close the public hearing at 7:27 p.m. and makes a motion to open the Board meeting at 7:27 p.m. Deborah Worlock seconds the motion.

Mike Sperling asks Kevin if the ZBA is still the lead agency on this issue now that we are reviewing the original application and determination. Kevin states that this issue falls under a Type 2 action of SEQR [State Environmental Quality Review] & doesn't require another review, but for purposes of covering all bases relating to SEQR we will declare ourselves the lead agency.

Mike Sperling asks Kevin Caraccioli for clarification on AREA variance vs. USAGE variance. The application in 2010 didn't state usage or area variance whereas the original 2007 application specified area variance.

Kevin Caraccioli explains that area variance includes the building not just the sign/billboard itself.

Jack Monica asks if there's no area in Central Square allowed to put up a billboard then how can the ZBA grant an area variance in this matter. Especially since a time and temperature display is located on a sign not on a building.

Mike Sperling wonders why this is not a usage variance because we are determining the USE of the sign not where he's putting it on his building.

Kevin Caraccioli explains that instead of requiring an applicant to meet specific test such as those imposed for issuance of a use variance, the applicant simply applies for an area variance. The ZBA is required to consider 2 factors an area variance determination: 1) the benefit to the applicant if the variance is granted, and 2) the detriment to the neighborhood or community's health, safety and general welfare if the variance is granted. 5 factors should be taken into consideration in determining a use variance but can be applied to an area variance when determining the detriment to the community. 1) an undesirable change in the character of the community 2) the benefit sought by the applicant 3) whether the requested area variance is substantial 4) whether the proposed variance will have an adverse effect on the physical conditions of the neighborhood 5) whether the alleged difficulty was self-created. The important thing to remember when considering either variance is that a person applying for a variance has to really be hurt by the zoning regulations, not merely inconvenienced.

He also explains that Mr. Penoyer needs an area variance to affix the sign to his building because the time and temperature display has morphed into a business of advertising for other businesses with bright flashing lights and messages. Any other

use beyond time, temperature and promotion of his own business (Dignity Plus) will turn the sign into a billboard.

Kevin Caraccioli encourages the Board to read the attachment to the May 27, 2010 letter from John Langey in preparation for the next meeting because that describes the criteria he is applying for this time.

Kevin says that the 2007 decision by the Board allowed a broadly defined area variance allowing time, temperature and message relating to Dignity Plus.

Kevin Caraccioli says this Board is entitled to impose conditions on the area variance if they decide to grant it and that the Resolution will reflect every detail of those conditions. Whereas, in 2007 we did not prepare and submit a Resolution into record.

Mike Sperling asks the Board if there are any further questions. There are not.

Mike Sperling makes a motion to approve the November 16, 2010 minutes and corresponding exhibits. Bob Loran seconds the motion. Board polled, all in favor. Note: Board member Tyler Gervaise is not present tonight.

Mike Sperling makes a motion to close the meeting at 8:02 p.m. Jack Monica seconds the motion.

Respectfully submitted,

Brandy Warren-Hickman, Secretary