

TOWN OF EAST BLOOMFIELD

Zoning Board of Appeals Minutes

April 23, 2014

Zoning Board of Appeals Members Present, Don Rimlinger, Art Babcock, Mike Long, Mark Thorn, Sonja Torpey.

Others Present: Andy Hall (CEO), Kim Rayburn (Secretary) Tom Baker (Owner) Martha Baker, Phillip Thomas

Rimlinger opened the meeting at 7:30pm and the public hearing was read and opened.

I. #TV1-14. Area Variance Review, Thomas Baker, Owner of The Furniture Doctor is requesting to erect a front porch, stairs and a handicap ramp on his existing Commercial Business as his existing business was built prior to current zoning and does not meet the Towns current set back requirements of one hundred (100) feet from the Highway right of way. Appeal of Town Code Schedule I. Lands located at 7007 Rts 5&20 Bloomfield, NY 14469 tax map # 80.00-1-45.000.

Rimlinger made a motion and Thorn seconded the motion to declare SEQR a Type II action, no further action required.

All Board members agreed, Vote was carried.

Rimlinger asked Baker to explain his proposal; Baker stated that they have existing porch/steps that do not meet the ADA requirements and also Town code regulations. The type of construction and material that is currently there is not conducive to try to bring it up to code. Baker is proposing an ADA compliant deck, In order to comply with ADA regulations he needs diameter of five (5) feet for safe turnaround of wheelchairs. Baker is proposing an eight (8) foot deck with stairs on both ends and a ramp on the west side to be able to accommodate all kinds of traffic and to provide a safer loading and unloading spot for retail. His business has changed over the years from restoration and antique sales to home furniture sales specializing in lodge, cottage and rustic furniture. He hopes that the new look of the deck with the cedar post and the new siding on the building will attract more customers and convey what type of business they are doing. He also hopes to slow more people down for the antique mile as well.

Hall stated that he has been talking to Baker about the existing entrance and provided the Board with pictures of the existing concrete steps and landing and explained that while doing the fire inspection he noticed the metal railing is broken and this entrance is not safe for the public. Handicap accessibility is nonexistent, so they would have to go through the back of the building through the stripping and storage area which is also not safe for the public, this proposed entrance would be safer for all public and it will be ADA compliant. Babcock stated that Commercial doors usually swing out and would require a five (5) foot radius, but these doors do not swing out. Hall stated that they would now have the ability to do so if Baker decides to change the doors also. Torpey asked if a wheel chair could fit through the existing doors and Baker stated it could the opening is thirty six (36) inches.

Long asked if there is a distance the building is supposed to be from the road for Emergency vehicles and will this still be met, Hall stated that there will be at least 20 feet of parking area in front of the deck and there is parking on either side of the building that could also be used for Fire trucks, ambulance etc. Hall talked with Greg Trost from the NYS DOT and he stated that they do not have any issues with this as it is out of there Right Of Way, and the building is pre-existing to setback regulations. Torpey asked about the setback measurements and Hall stated that he measured the setback from google earth and then he went to the site and measured it, the building was approximately 30.5 ± feet from the highway right of way. A full survey was not done. Babcock stated that there is an older survey from the Ontario County website dated from 1986 that shows the northeast corner of the block store at 23.8 feet to the highway right of way, he is assuming it is the same now as it was then but without doing a survey you won't have exact measurements. Babcock stated the survey would be more accurate and they should use the numbers provided on it, therefore an eight (8) foot incursion into the 23.8± would leave you with a fourteen or fifteen foot setback where one hundred (100) feet is required. Rimlinger stated that the whole building is significantly in the setback as it is pre-existing to setback requirements.

A discussion was held on the porch not becoming habitable space in the future, no enclosed walls can be built to make this an addition to the building. Baker stated it would be an open porch with a roof, cedar logs and plank floor, he may want to add screening but nothing will be walled in. Babcock asked if Baker has a designated handicap parking area now, Baker stated he does not. Babcock stated that there will need to be handicap parking and signage and asked if there was room for this on the west side near the ramp, as typically it's the shortest distance to the ramp. Baker stated there would be space and he owns the neighboring parcel as well. Babcock stated that would be fine as long as both parcels have the same owner. Hall stated that the East side is used for truck access to the back area of the building.

Rimlinger read the advisory opinion of the Planning Board, they recommend the approval of the Variance. Rimlinger closed the public hearing, as there were no comments from the public.

The Board considered the five statutory factors:

1. Undesirable change – Rimlinger stated that the porch would be closer to the road; however he and the Board felt that Baker explained the reasons for the change and they are satisfied with them. It will make the building ADA compliant and make the building look better aesthetically.
2. Alternative method – no other method would be satisfactory.
3. Substantial- the Board feels the proposed is not a substantial request due to the pre-existing setback and the need to become ADA compliant.
4. Adverse effect on physical or environmental conditions- n/a
5. Self-created- pre-existing, the property owner is changing the property setbacks but at the request of Code Enforcement Officer to become ADA compliant and to make the entrance safer for all public traffic.

ZBA Decision:

Long made a motion and Torpey seconded the motion to approve the Area Variance for Thomas Baker, Owner of The Furniture Doctor to erect an eight (8) foot deep front porch, stairs and a handicap ramp across the front of his existing Commercial Business. His existing business was built prior to current zoning and does not meet the Towns current set back requirements of one hundred (100) feet from the Highway right of way. Appeal of Town Code Schedule I. Lands located at 7007 Rts 5&20 Bloomfield, NY 14469 tax map # 80.00-1-45.000.

Whereas:

- 1. The building is pre-existing non-conforming**
- 2. Proposed porch brings the front of the Commercial Business into ADA compliance**
- 3. Proposed will make the front of the building look esthetically better without affecting the character of the neighborhood and make the entrance customer and retail friendly**
- 4. Changes will be according to the sketches provided, porch will remain unenclosed and not be converted into a conditioned Commercial space**
- 5. The change is not substantial to what is already there**
- 6. Benefit will not be achieved in another way**

Record of Vote:

Art Babcock	Aye
Mike Long	Aye
Mark Thorn	Aye
Sonja Torpey	Aye

All Board members present voted Aye. Vote was carried unanimously.

II. Discussion:

Hall informed the ZBA that the 4 month moratorium has ended and we may be receiving an application from the Dollar General for a property on 5&20. The property is zoned both AR -2 and Community Commercial of approximately 200 plus feet in depth by the road, after a subdivision the majority of the parcel will be CC leaving a smaller portion AR-2 in the back. The applicant is going to ask the Town board to zone the entire parcel CC, they can extend the district using the back line of the property to the East which is on an angle and should make the entire parcel CC. There may be a couple variances involved also.

III. Minutes of July 24, 2013

Long made a motion and Thorn seconded the motion to approve the minutes of July, 24, 2013 as written. All voting Board members present voted Aye with the exception of Rimlinger who was not present at the July 24th meeting.

IV. Meeting Adjourned

Rimlinger made a motion and Long seconded the motion to close the meeting @ 8:15 pm. All Board members present voted aye, Vote was carried unanimously.

Respectfully submitted,

Kim Rayburn

Planning & Zoning Board Secretary