

**TOWN OF KIRKWOOD
ZONING BOARD OF APPEALS**

October 15, 2018

A Public Hearing was held on October 15, 2018 at 7:00 p.m. at the Joseph A. Griffin Town Hall, 70 Crescent Drive, Kirkwood, NY on the application of Lester Seidel regarding property located at 50 Frances Street, Kirkwood, also known as Tax Map #162.15-2-4 and located in a Planned Unit Development (PUD) District, for an interpretation for construction of a 2,000 SF storage mall building with a 960 SF office building.

Present: Duane Travis, Chairman
Mike Maciak, Member
Cyndi French, Member
Bruce Nemcek, Member
Keegan Coughlin, Attorney
Chad Moran, Code Enforcement Officer

Absent: Ed Egan, Member, Jason Griffin, Associate Member

Chairman Travis called the meeting to order at 7:00 pm.

APPROVAL OF MINUTES:

Motion by Mike Maciak and second by Cyndi French to approve the minutes of the January 15, 2018 meeting as submitted. All voted in favor. Motion carried.

PUBLIC HEARING – LESTER SEIDEL

Chairman Travis read the notice of public hearing. Chairman Travis commented that we have the affidavit of posting by the Town Clerk, notice to property owners within 500 feet of the project, affidavit of publication in The Binghamton Press & Sun Bulletin and County Courier, and affidavit of service by mail. We have the Broome County Planning Departments 239-m comments. A Short EAF has been filed. Broome County Planning Department has reviewed the above cited case and has not identified any significant countrywide or inter-community impacts associated with the proposed project. However we make no determination as to whether the applicant meets the four (4) tests of a use variance. The Binghamton Metropolitan Transportation Study (BMTS) has no comments. The Broome County Health Department (BCHD) had no comments. The New York State Department of Transportation (NYSDOT) has no comments.

Chairman Travis opened the public hearing to public participation at 7:05 pm.

Hearing no comments, Chairman Travis closed the public hearing at 7:06 pm.

E.A.F. DETERMINATION – LESTER SEIDEL

Chairman Travis asked Attorney Keegan Coughlin if it was necessary for the Short Environmental Assessment Form (EAF) to be filed. Attorney Keegan Coughlin said no this is a type two and no action is needed.

INTERPRETATION OF ZONING ORDINANCE

Kyle Ellsworth from Keystone Associates who represents owner Les Seidel come forward to explain the project. He set up a large map with pictures for the Board to see. Mr. Ellsworth stated the owner Mr. Seidel would like to build a 2,000 SF storage mall with a 960 SF one story office space. We have provided landscaping at the entrance and around the building and the required parking spaces needed currently. Mike Maciak asked what kind of storage and how many units. Mr. Seidel said I am looking for twenty (20) units, size 10 x10. We would occupy probably four of them. Mike Maciak asked what side of the building would the doors be on, will they be on both sides of the building. Mr. Seidel said yes. Mr. Ellsworth said you would enter from the front but there will also be a driveway around the whole building. Mike Maciak said so you could double them up if someone wanted a bigger space. Mr. Ellsworth said yes and you can drive straight thru.

Mike Maciak asked will you be landscaping. Mr. Ellsworth said yes, there will be landscaping at both entrances, a sidewalk and landscaping around the building itself. Mr. Seidel said we will have a small office building also. Mike Maciak asked if the storage units would have electric. Mr. Ellsworth said yes and the office would have electric and gas.

Chairman Travis asked Code Enforcement Officer, Chad Moran what are your major concerns. Chad Moran said originally Mr. Seidel just wanted to take down the old garage and build another garage for storage of equipment. I was willing to approve that but he changed his mind and now he wants to make it an office. My concern now is mixed use and I didn't want to make a decision without checking with you. Mr. Seidel said plans changed it was more cost efficient to go this route.

Chairman Travis said this is my concern, I am talking to the Board Members mainly right now. This property is PUD - Planned Unit Development District. The personal use for this piece of property is residential. Residential property we don't usually put commercial entities on it. My other concern is we are putting three (3) principal uses on one piece of land. Which is unheard of in this town.

Mike Maciak said I disagree. You have a mechanics shop two doors up, behind it you have Cummings that has a warehouse, residential and storage, there is a dentist office and a race track. Chairman Travis stated the dentist office is in B2 district. Chairman Travis said it's B2 from the street corner to the dentist office, then it turns into PUD district. Mike Maciak asked if the notice was sent to all the neighbors. Did we hear any response from the neighbors? Chairman Travis said no.

Mr. Ellsworth asked Mr. Seidel what his plans for the house are. Mr. Seidel said we will refurbish the house. Mr. Ellsworth asked the Board what their concerns are. Cyndi French said we have three (3) concerns. Attorney Keegan Coughlin read the Code Law about PUD residential where the principal use is a residential. Keegan Coughlin said they are proposing to have one (1) residential use and two (2) commercial uses. He stated each use needs to be set up separately. The property is 1.7 acres. Chad Moran said 40,000 square feet is one (1) acre. Mike Maciak said can he combine the office and storage together. Chairman Travis said then we will still have two (2) principal uses on the property.

Mr. Ellsworth suggested what if we split the parcel and rezone it for commercial. Chairman Travis said that is an option but you would have to go to the Town Board and ask them to determine the use for the other parcel. Cyndi French asked will they allow two (2) separate uses. Mike Maciak said they have to, it's two (2) separate parcels. Cyndi French said yes but it's (2) separate business uses on one parcel. Lester Seidel said you have Cummings up there so I don't see what the problem is. Chairman Travis stated there is no way I see to justify a use variance to change this whole parcel to commercial.

A lengthy discussion followed including different scenarios on the three (3) uses, discussions about the possibility of demolition of the house, asking for a conditional approval and asking for approval of an accessory building in front of the residence. It was finally decided they could tear down the old garage and combine a new garage with an office. They will have no storage mall. The office/garage will be an accessory building to the residence. The building will be equal distance to the house and the road so they won't have to come back to the board for an area variance. The option is also still open to go to Town Board to split the parcel.

Keegan Coughlin explained to the board tonight you can either deny their application for an interpretation or the applicant can decide to withdraw his application. It was decided the applicant would withdraw his application for the interpretation. The applicant will turn in a revised building permit for an accessory building to Chad Moran.

A Public Hearing was held on October 15, 2018 at 7:50 p.m. at the Joseph A. Griffin Town Hall, 70 Crescent Drive, Kirkwood, NY on the application of Michael Rogers regarding property located at 490 Loughlin Road, Kirkwood, also known as Tax Map #130.03-1-2 and located in an Residence (R) District, for an area variance to construct a 40' x 30' Morton pole barn.

PUBLIC HEARING – MICHAEL ROGERS

Chairman Travis read the notice of public hearing. Chairman Travis commented that we have the affidavit of posting by the Town Clerk, notice to property owners within 500 feet of the project, affidavit of publication in The Binghamton Press & Sun Bulletin and County Courier, and affidavit of service by mail. We have the Broome County Planning Departments 239-m comments. A Short EAF has been filed. Broome County Planning Department has reviewed the above cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project. The Broome County Health Department (BCHD) has no comments. Broome County Department of Public Works (DPW) has no comments. The New York State Department of Transportation (NYSDOT) has no comments.

Chairman Travis opened the public hearing to public participation at 7:50 pm.

Hearing no comments, Chairman Travis closed the public hearing at 7:52 pm.

E.A.F. DETERMINATION – MICHAEL ROGERS

Chairman Travis asked Attorney Keegan Coughlin if it was necessary for the Short Environmental Assessment Form (EAF) to be filed. Attorney Keegan Coughlin said no this is a type two and no action is needed.

AREA VARIANCE – MICHAEL ROGERS

Chairman Travis ask the woman in the audience to introduce herself. She said I am Mike's wife, Ingrid. He could not be here tonight. Chairman Travis stated the pole barn would be used for storage, as a garage and cars. Mike Maciak said the property is twenty three (23) acres. Chairman Travis said the concern Chad Moran had is the pole barn is in front of the house. The house has two (2) front yards. Mike Maciak said I see it as they can take a left and go to the pole barn. Chairman Travis said this goes back to what we have done in the past. Mike Maciak said no this goes by a house with a lot of acres. It makes since to put it on the left. This house was build twenty (20) plus years ago. Mrs. Rogers said the house was built in 1979-1980. Chairman Travis said I have a resolution, they could attach it to the existing structure. Mike Maciak said no, the house has

windows all the way around it so why would they want to attach anything to it. And you have a church across the street. Chairman Travis said this board has not giving anyone approval in this town. Mrs. Rogers said there is a brand new house up the road with a garage in front of it. Mike Maciak said the bottom line is it's their property and the nearest residence is 1,000-2,000 feet away. Mrs. Rogers stated we have no neighbors close to us. Mike Maciak said I have a hard time telling anyone they can't put something on twenty three (23) of land that would improve the neighborhood. Cyndi French said how about if you put the awning on the back side of the house. If you did this it would give us about an extra ten (10) feet.

Chairman Travis stated we will now review the area variance criteria as follows:

1. Whether benefit can be achieved by other means feasible to applicant? Board: Some Board Members said Yes and some said No.
2. Undesirable change in neighborhood character or to nearby properties? Board: No.
3. Whether the request is substantial? Board: No
4. Whether the request will have adverse physical or environmental effects? Board: No.
5. Whether alleged difficulty is self-created? Board: No.

The board discussed different options to try to approve the variance. The house is approximately 357 feet from the road and the problem is the pole barn is approximately 300 feet from the road. Attorney Keegan Coughlin stated just to be clear the variance is from the part closest to the road because the Code says the part closest to the road is what is supposed to be in line with the house.

Chairman Travis asked the board if anyone had any further questions.

Hearing none, Chairman Travis asked for a motion to either approve or disapprove the area variance as submitted.

Motion by Mike Maciak and second by Bruce Nemcek to grant the area variance of forty (40) feet from the front set back of the house for an accessory structure because of the size and slope of the parcel and distance the accessory building will be from the road.

Roll Call Vote:	Mike Maciak	Yes
	Cyndi French	Yes
	Bruce Nemcek	Yes
	Duane Travis	No

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Motion carried.

OTHER BUSINESS:

Hearing no other business or comments, Chairman Travis asked for a motion to adjourn.

Motion by Cyndi French and second by Mike Maciak to adjourn the meeting. The meeting was adjourned at 8:25 pm.

Respectfully Submitted,

Lori A Garvey, Secretary
Zoning Board of Appeals