

**TOWN OF KIRKWOOD
ZONING BOARD OF APPEALS**

June 17, 2019

A Public Hearing was held on June 17, 2019 at 7:00 p.m. at the Joseph A. Griffin Town Hall, 70 Crescent Drive, Kirkwood, NY on the application of Ziliang Lin, dba Zillion Management, Inc., regarding property located at 957 NYS Route 11 in the Town of Kirkwood known as Tax Map No. 162.04-1-13 and located in a Residence Multi District, for an Area Variance to place an 8' X 8' gazebo in front of the Wright Motel to improve the appearance of motel.

Present: Duane Travis, Chairman
Mike Maciak, Member
Bruce Nemcek, Member

Other Present: Keegan Coughlin, Attorney

Absent: Ed Egan, Member
Cyndi French, Member
Marc Latini, Associate Member

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

APPROVAL OF MINUTES:

Motion by Mike Maciak and second by Bruce Nemcek to approve the minutes of the February 19, 2019 meeting as submitted. All voted in favor. Motion carried.

PUBLIC HEARING:

Chairman Travis read the notice of public hearing. Chairman Travis commented that we have the affidavit of posting by the Town Clerk on the sign board, the affidavit of publication in the Press & Sun Bulletin and the Country Courier, and affidavit of service by mail to property owners within 500 feet. The Broome County Planning Department 239 comments were received. Chairman Travis read the following into the record: The 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 case file was routed to the New York State Department of Transportation for review. Enclosed are comments from the NYSDOT that need to be addressed. The NYSDOT commented that we have reviewed the material for the above-referenced proposal. Please note that nothing may be placed within the State right-of-way, including the gazebo or any other items. Please direct the applicant to contact the NYSDOT Broome Residency if assistance is needed in locating the highway boundary. Chairman Travis stated there is no EAF because this is a Type II proceeding.

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

Mr. Ziliang Lin, property owner, explained that this makes the motel more beautiful. It is where people go to smoke.

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

Chairman Travis asked Mr. Lin if he understood why Mr. Moran cited him on the gazebo and explained that the Town's Zoning Code says that you are not to put any accessory buildings in front of the main building. Mr. Lin

said he understood. Chairman Travis stated that is why he cited you and had you apply for an area variance. Mr. Lin understood.

Mike Maciak asked if he got the gazebo from the church and Mr. Lin stated no, he bought it brand new. Mike asked if it came from the church next door and Mr. Lin stated no. It is brand new, he bought it from PA. Mike stated he thought it said it came from the church and Mr. Lin explained that the church had one before but they took it down.

Bruce Nemcek asked what does a gazebo use for a foundation and Mr. Lin explained it is a block foundation around it.

Mike Maciak asked if they use it for a smoke area instead of in the rooms and Mr. Lin stated yes.

Bruce Nemcek stated that one comment here is it is a landscaping device and Mr. Lin stated that is the main purpose of it and the people found out they could smoke there, which is much better for him because the smoke doesn't go in the building.

Chairman Travis commented they have planted flowers around it and it is very nice.

Bruce Nemcek commented being more of a landscape structure it is pretty tolerable. Chairman Travis stated it is 68 feet off the road. It is not on DOT's right-of-way. Bruce Nemcek commented that we are usually worried about a big garage out in front of the house, this is a tiny little thing, so far back from the road.

Chairman Travis reviewed the area variance criteria as follows:

1. Whether benefit can be achieved by other means feasible to applicant? Board: No, they can't go out back because all the doors are in the front. There is no place on the end of the building without it being in the side setback area.
2. Undesirable change in neighborhood character or to nearby properties? Board: No, it enhances the property.
3. Whether the request is substantial? Board: No, it is not a permanent structure, it is an accessory structure.
4. Whether the request will have adverse physical or environmental effects? Board: No.
5. Whether alleged difficulty is self-created? Board: Yes, but most of the time it is.

Motion by Bruce Nemcek and second by Mike Maciak to grant the area variance.

Roll Call Vote:	Mike Maciak	Yes
	Bruce Nemcek	Yes
	Duane Travis	Yes

Motion carried.

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Motion by Mike Maciak and second by Bruce Nemcek to adjourn the meeting. The meeting was adjourned at 7:13 pm.

Respectfully Submitted,

Mary Kay Sullivan, Acting Secretary
Zoning Board of Appeals