

Minutes of a regular meeting of the Johnson City
Zoning Board of Appeals held on July 10, 2023 at
7:30pm at Village Hall, 243 Main Street, Johnson
City, New York.

Present: Edward Mazanek, Chairman
Leonard Sas, Vice Chairman
Donald Slota

Also Present: Keegan Coughlin, Village Attorney
Randy Shear, Code Enforcement Officer
Kim Cunningham, Zoning Board Clerk

Absent: Dr. Steve Holowinski
Christopher Brown

A work session was held at 7:00pm.

Attorney Coughlin and the Board discussed the applications.

Attorney Coughlin advised it was determined that this is more akin to a wall sign than it is a freestanding pylon sign because it is on the surface of a landscaped wall albeit a hill. There is a previous variance at this property when it was Kaufman's to allow 6 wall signs not to exceed a certain footage that this sign clearly exceeds. Additionally, because it is a unique sign in that it is not something that definitions of allowed signs fully contemplate. But it is a wall sign.

Attorney Coughlin added there are some recommended conditions to point out that if this variance if approved, would be limited to a landscaping sign and not allow someone else, or Dick's, in the future to take that gigantic sign and slap it on the face of the building because we would then have some precedent setting issues. From the intent here, it's really to have, rather than grass and trees that need consistent maintenance, they wanted to do turf with the House of Sport logo. It is effectively a landscaping plan that because it displays a commercial message, it is technically a sign.

Attorney Coughlin and the Board discussed:

- SWPPP
- Turf sign preparation
- Comments on project
- Legal analysis
- Not to exceed 12,000 sq ft
- Sign is 3,200 sq ft

Chairman Mazanek called the meeting to order at 7:33pm.

Chairman Mazanek advised where the fire exits are located.

MINUTES

A motion to approve the minutes of the June 12, 2023 regular meeting was made by Mr. Sas and seconded by Mr. Slota. The motion carried with all present voting in the affirmative.



PRIVILEGE OF THE FLOOR

Chairman Mazanek opened the privilege of the floor. There were no attendees at the meeting who wished to speak, therefore, Chairman Mazanek closed the privilege of the floor.

COMMUNICATIONS – None

OLD BUSINESS

629 Harry L Drive – Spark JC, LLC

Public Hearing & Review for Dick's House of Sports Sign Area Variance

Chairman Mazanek opened the public hearing.

There were no one who wished to speak.

The Board had no questions.

Chairman Mazanek closed the public hearing.

Chairman Mazanek read the Variance Request, 239-R and Department Head Comments and Planning Staff Recommendation.

Variance Request:

The following area variance is being requested from the Zoning Board of Appeals (ZBA) by Spark JC LLC for proposed signage at the Dick's House of Sports located at 629 Harry L. Drive:

- Section 300-52.5 Table 52-6: Increase the size of a wall sign to be constructed on the proposed permeable turf wall adjacent to the building.

The overall project is the redevelopment of the existing mall, which has already undergone extensive review. This application is a modification of the landscaping and signage for the Dick's Sporting Goods location to create a more aesthetically pleasing, green-compliant design for signage. The Project includes removing existing mulch, planting, and topsoil, preparation of the bank and installation of 2-3" of crushed stone subbase, and installation of approximately 12,000 square feet of artificial turf with embedded Dick's House of Sports logo.

239-R and Department Head Comments:

The project was routed to Broome County Planning for 239-review as well as department heads for comment. The applicant's proposal does not require further review under SEQRA as the project has been reviewed in great detail during the site plan review process. The application has been sent to Broome County for 239 Review and the following comments were received:

- 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. However, we have the following comments:
 - The variance seems substantial. Clear documentation of the particularly unique site and project circumstances justifying such a variance is recommended to avoid a precedent resulting in unintended consequences elsewhere, particularly in the General Commercial District.



Department head comments are detailed below:

- Public Services – I looked into the potential SWPPP impacts and I believe they will be negligible. From a runoff standpoint, this is the same as laying down landscape fabric before you've established grass on a new site. As long as it's properly pinned, this will provide a runoff improvement along that slope. I do not need a SWPPP update.
- DPW, Water Department, Fire Department & Police Department – No compelling interest.
- Code Enforcement – The landscaped sign shall be maintained in good condition.

Planning Staff Recommendation

On June 27, 2023, with the support of Planning Department staff, the Planning Board voted to recommend ZBA approval of the requested sign area variance with all department head comments and any stipulations added by the Village's legal team regarding the sign's maintenance. Granting the requested variance will not have negative impacts on the surrounding uses, including the historic district, recreational uses and natural environment.

Chairman Mazanek stated the Board had some additional conditions to the memo:

- The sign may be installed flat on the ground of the hill located immediately adjacent to the southeasterly corner of the current Dick's House of Sport building.
- The sign shall not be located or connected to any building, façade of any building, or structure designed for the purposes of displaying a sign(s), other than the flat surface of the hill with proper attachment.
- The sign shall be composed of landscaping material in a form and layout not to exceed approximately 3,200 sq ft.
- If the sign is removed, the applicant shall restore the site where the sign was located with an approved landscape plan.
- Whenever possible, each condition of this granting of a conditional variance shall be interpreted in such manner as to be effective and valid under applicable law, but if any condition is held to be prohibited by or invalid, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of this conditional variance.

Chairman Mazanek reviewed the five-point criteria for an area variance.

- Whether or not there is an undesirable change in the character of the neighborhood or a detriment to nearby properties by the granting of this variance.

Chairman Mazanek responded likely not as the change would be aesthetic and likely will not lose as much topsoil due to the slope of the bank.

Attorney Coughlin added, specifically, related to the neighborhood itself, this is a rehabilitation of a former mall that is surrounded by commercial properties where this sign would be facing and any impact of this sign size would be mitigated by the fact that it is not directly visible from nearby residences, it is really for display in a commercial area. The Board agreed.

- Whether the benefit sought by the applicant can be achieved by some method which would be feasible for the applicant to pursue but would not require a variance.

Attorney Coughlin stated you could say that for any sign on this hill of the landscaping style to indicate it is tied to the use. It is a sporting goods store and it's going to be a turf field and you could



say no, but they could do a smaller sign theoretically, but that type of a sign on this hill wouldn't necessarily be visible. The Board agreed.

- Whether the area variance is substantial.

Chairman Mazanek responded yes.

- Whether the proposed variance will have an adverse effect on the physical or environmental characteristics in the neighborhood.

Attorney Coughlin said you could say no there with the public works comments received. The Board agreed.

- Whether the alleged difficulty is self-created.

Attorney Coughlin advised the technical analysis of it being self-created, you could say yes, although the Village Code does not really contemplate landscaping signs so it could be an argument for a no, so that would fall in the middle as well. The Board agreed. Attorney Coughlin confirmed there is a limit of wall signs, but they have not exceeded their allowed number of wall signs due the previous variance that was authorized back when building was owned by or used by Kaufmans.

Chairman Mazanek asked for a motion to approve the wall sign not to exceed 3,200 sq ft.

A motion to approve the area variance for a wall sign at 601-629 Harry L Drive, House of Sport including Department Head Comments and stipulations was made by Mr. Mazanek and seconded by Mr. Slota.

Motion Carried— Vote:

Yes – 3 (Sas, Slota, Mazanek) No – 0 Absent – 2 (Holowinski, Brown)

NEW BUSINESS – None

ADJOURNMENT

A motion to adjourn the meeting was made by Chairman Mazanek. The motion passed with all those present voting in the affirmative.

The meeting was adjourned at 7:42pm.

Respectfully submitted,

Kim Cunningham
Zoning Board Clerk

