

**ZONING BOARD OF APPEALS
TOWN AND VILLAGE OF ARCADE
17 Church Street, Arcade, New York 14009
Village Office (585) 492-1111
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At a meeting of the Zoning Board of Appeals of the Town and Village of Arcade held on Monday, June 15, 2009 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York:

MEMBERS PRESENT: Jeff Snyder, Lee Ameis, Gordon Cramer, Doug Eigenbrod and Paul Sanders

MEMBERS ABSENT: None

OTHERS PRESENT: Katie Domes, James Miller, Paul Burkett, Bonnie Daunce and ZEO Marv Zielonka

The meeting was called to order at 7:00 P.M. by Chairman Jeff Snyder followed by introductions of Board Members, Zoning Enforcement Officer and Secretary.

APPROVAL OF MINUTES:

MOTION by Paul Sanders, seconded by Lee Ameis and unanimously carried, to accept the minutes of the meeting of May 18, 2009.

PUBLIC HEARING FOR AREA VARIANCE APPLICATION, PERMIT NO. 1981AV, SUBMITTED BY KATIE DOMES, REQUESTING SIGNAGE NOT IN COMPLIANCE WITH SECTION 805 (3) OF LOCAL ZONING LAW – EXCEEDS MAXIMUM ALLOWABLE SIGNAGE OF 200 SQ. FT. FOR CORNER LOT – AT BUSINESS LOCATED AT 281 MAIN STREET:

The Chairman reread the application for the benefit of the public and explained that the applicant wishes to replace all existing signs on the building now known as Domes Downtown using the same materials and maintaining the same size. The building has three sides facing the public. Local Zoning Law addresses signage on only two sides of a building. The Wyoming County Planning Board has approved this application.

MOTION by Lee Ameis, seconded by Paul Sanders and unanimously carried, to open the Public Hearing.

The Chairman asked for comments and questions from the Board and the public.

1. The Chairman stated that the back of the building opens to the municipal parking lot making this entrance the safest and most practical for use by customers. Other businesses have signs on the back of their buildings.
2. Mayor Burkett stated that the Village would like to see more signage on the back of the businesses that have entrances from the municipal parking lot. The Village has the municipal lot so that customers can park and enter from the rear thus not contributing to more congestion along Main Street. Plans to change zoning to include rear signage are presently under way.
3. The Board stated that the signs on the front and side of the building are not in dispute. Square footage for rear signs is 54 sq. feet.
4. The ZEO stated that putting a law in place for three-sided buildings facing the public would be helpful as there are additional buildings falling into this category.
5. The Mayor stated that additional signs are not being added. The existing signs are just being changed to reflect the new business. One of the existing signs advertises carpeting which is not being sold by the new business. Inappropriate signage is worse than no signage.

The Chairman asked if there were any further comments from the public. There were none.

MOTION by Paul Sanders, seconded by Lee Ameis and unanimously carried, to close the Public Hearing.

MOTION by Paul Sanders, seconded by Doug Eigenbrod and unanimously carried, to approve Area Variance Application, Permit No. 1981AV, submitted by Katie Domes, requesting signage not in compliance with Section 805 (3) of Local Zoning Law - exceeds maximum allowable signage of 200 sq. feet for corner lot – at business located at 281 Main Street.

Board Members' Reasons:

Jeff Snyder – voted yes. Any of the buildings that back up to the municipal parking lot should be allowed signage. Parking in the municipal lot is a safer alternative than Main Street and the businesses need to be identified from the rear entrances.

Lee Ameis – voted yes. Due to the back of the building being against the municipal parking lot, it is feasible to have the same signage on the front and back which would facilitate the public using the parking lot.

Doug Eigenbrod – voted yes. The municipal parking lot was put in place to encourage people not to park on Main Street when conducting business in the Village. Businesses abutting the lot with rear entrances need to be identified to encourage their usage.

Paul Sanders – voted yes. Businesses with three sides should be allowed signage on all three sides.

Gordon Cramer - voted yes. This building has had signage on all three sides for many years and it should be allowed.

AREA VARIANCE APPLICATION, SBL NO. 183.-1-51.5, SUBMITTED BY JAMES A. MILLER, REQUESTING BUILDING OF A 30' X 40' POLE BARN FOR PERSONAL STORAGE, NOT IN COMPLIANCE WITH MINIMUM SIDE LINE SETBACK OF 35 FEET, ON PROPERTY LOCATED AT 1219 ROUTE 39:

The Chairman explained the variance process and that a Public Hearing would need to be held. He then read the Criteria for Area Variance completed by the applicant (see Attachment A).

The applicant stated:

1. The plot diagram indicates the proposed building would be 25 feet from the property line. The applicant stated that to be in compliance with the 35 foot requirement would put the building into a slope which he believes to be a rise of four feet.
2. To cut into the hill would cause drainage issues and the expense of building a retaining wall, hiring a bulldozer and installing drainage tile. The placement of the building is not for esthetics. A dozer will not be needed to place the building where proposed.
3. A drainage swale is on the west side of property which the applicant had to build to alleviate drainage issues. To the east of the proposed building is the septic, sand filter and lines to the back of the property.
4. Although the property is 900 feet deep, the back of the property also has a downhill slope so the building cannot be moved further back to the north.

The Board stated:

1. We have to carefully balance between what the law states and the applicant's request.
2. A member who has driven by the property stated that the rise does not look to be as much as four feet.
3. The applicant was requested to stake out the proposed site as soon as possible so that Board members can individually look it. The Chairman explained that the Board cannot visit at the same time by law.
4. The applicant was requested to provide the following additional information at the next meeting:
 - a. Distance from the corner of the house to the corner of the proposed pole barn if it is placed in compliance with the 35 feet side line requirement.
 - b. Exact grade and difference in elevation from proposed site to an area that would be in compliance.

MOTION by Doug Eigenbrod, seconded by Paul Sanders and unanimously carried, to accept as complete Area Variance Application, SBL No. 183.-1-51.5, submitted by James A. Miller, requesting building of a pole barn for personal storage not in compliance with minimum side line setback of 35 feet, on property located at 1219 Route 39, Arcade, for this Type II SEQR listed under Section 617.5 (C) 12. Further, the Board directed the Secretary to forward the application to the Wyoming County Planning Board and the Arcade Planning Board for recommendation and comment and to publish a Public Hearing to be held on Monday, July 20, 2009 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

REQUEST BY THE VILLAGE BOARD TO REVIEW PROPOSED UPDATED VILLAGE ZONING LAW:

Board Members gave the following personal opinions:

1. Page 5: Definition of the word GARAGE should include the word “secured”. The word “automobile” should be removed. A garage can be built just to store things in, not necessarily an automobile.
2. Page 5-6: Regarding definition of HOME OCCUPATION – how do you define the word “limited”? How can you enforce it?
3. Page 7: Regarding definition of MOTOR VEHICLE SERVICE STATION - Should “including any sale of vehicle accessories” be deleted? A business can sell such items without being a service station.
4. Page 17: Section 410 CR DISTRICT – Should “gravel pits” be deleted from Uses Permitted by Special Permit? There is room where farm land now exists; however does the Village want the noise, truck traffic and dust?
5. Gravel pits are also listed on Page 27 under AG DISTRICT.
6. Page 32: No. 6 Signs In R2, 8 sq. feet is too big for a residential area. Should remain at 4 sq. feet. Instead of one sign per “business”, one sign per “lot”. A husband and wife could have individual home businesses which would allow them to put up 2 individual signs if left as “business.
7. Page 45: Regarding PRIVATE SWIMMING POOLS – State/County law now requires pools over TWO feet deep to have fences. Our law presently states THREE feet. Also during discussion it was questioned why in ground pools require only a three foot fence while above ground pools require four. This is not part of our zoning, however maybe it should be looked into with the County Building Dept.
8. Page 50: Regarding Signs – As the latest variance by Katie Domes indicates, the Village needs to add a provision for signs on the back of businesses and for buildings with three sides facing the public. Also, there is no provision for signs on Village owned lots.
9. Page 59: HOME OCCUPATION – The Village may want to consider adding a provision that if a business ceases to exist for more than a year it would require a new application.
10. Page 59: PERSONAL SERVICES – Add Income Tax preparer.
11. Regarding the R3 DISTRICT: The Village might want to consider changing the requirement for 50% garages for apartment buildings. Either change to NO garages required or 100% garages required. If no garages are required the addition of a required securable storage unit of at least 150 sq. feet would be feasible to prevent toys, lawn mowers, etc. from sitting outside.

ADJOURNMENT:

There being no further business brought before the Board, the meeting adjourned at 8:13 P.M. upon **motion** by Doug Eigenbrod, seconded by Lee Ameis, and unanimously carried. The next

regular meeting of the Zoning Board of Appeals of the Town and Village of Arcade will be held on Monday, July 20, 2009 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

Respectfully submitted,

Holly L. Almeter
Secretary