

**Village of Cazenovia
Zoning Board of Appeals
December 15, 2009**

5 Members Present: Phil Byrnes, Chair; William Keiser; Jerry Munger; Sally Ryan; Howard Hart.

Also present: James Stokes, Village Attorney; Peter Fauth.

10 P. Byrnes called the meeting to order at 7:04 p.m. and introduced the Board.

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15 P. Byrnes asked if anyone had any additions or corrections to the meeting minutes of June 30, 2009. No one did. The motion to approve the minutes as written was made by H. Hart and seconded by J. Munger. The motion carried unanimously.

20 P. Byrnes asked if anyone had any additions or corrections to the minutes of the last meeting on November 24, 2009. There were none. W. Keiser made the motion to approve the minutes as written, J. Munger seconded. The vote was unanimous and the minutes were approved.

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25 **Cazenovia Dental, Sign Variances (Freestanding, Area, Setback, and Second Sign),
54 Nelson Street**

30 P. Byrnes opened the public hearing. Dr. Fauth came forward and addressed the Board. He indicated he had attended the Village Planning Board meeting the previous evening (12/14/09) to discuss his request for two signs—one on the building and a freestanding sign. Dr. Fauth thought that the Planning Board had made a positive recommendation for the sign on the building, but the vote was 3:2 in favor of having just one sign. He is asking for approval of a second sign. His justification is that his property is 250 feet wide and that he has made a major commitment by building a 3,500 square foot building. And for the size of the property, he feels it is not unreasonable for a sign to be in the area. He would like the Board to consider that there will be only about two or three more buildings between his building and CAVAC due to the minimum lot size requirement. So there will not be many signs along that stretch of road that has a 35-45 mph speed limit. Dr. Fauth believes this sign will prevent accidents because his driveway would be marked by the sign in a congested area.

40 Dr. Fauth presented a drawing of the proposed sign. The dimensions are 4 feet 6 inches wide by 3 feet high.

J. Munger commented that it is his understanding that the Board will either approve or deny Dr. Fauth’s application to have two signs. If the Board denies the application for two signs, Dr. Fauth still has the choice of having a sign on his building or a sign out front.

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Dr. Fauth said that at last night's meeting he chose to have the sign on the building.

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Mr. Stokes informed everyone that at the present time, Dr. Fauth is entitled to one sign according to the code. At last night's Planning Board meeting, the Board approved an amendment to the elevation drawings that would allow for a sign on the front of the building. The ZBA is considering a variance for a second sign, a freestanding ground sign, which is too large according to the code, and a setback issue.

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J. Munger made an inquiry: If the Board denies the variance for the second sign, does Dr. Fauth have the choice of having the sign out front?

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Mr. Stokes replied: If the Board denies the variances, he would still be allowed to have the building-mounted sign. All variances would need to be granted in order for him to have the freestanding ground sign.

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J. Munger clarified: The Board is not here to simply approve or deny the application for more than one sign. Mr. Stokes answered that is just one of the possible variances. He reiterated that if all variances are not granted, Dr. Fauth cannot have the second sign.

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P. Byrnes asked Dr. Fauth which type of sign he thought would be more advantageous for his business. Dr. Fauth responded that the building sign would be his choice.

Dr. Fauth commented that his building sign is not pushing the maximum of 24 inches that is allowed and will not be internally lit. He feels it is tastefully done without being overbearing and then a smaller sign out front is in keeping with the Village character. He is asking for a combination of two signs, neither of which is either outlandishly large or showy. Both signs do not need to be lit, as long as one can be lit. He said that the freestanding sign would be approximately 3 feet high.

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H. Hart voiced his understanding that the Planning Board voted 3 to 2 against a second sign.

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P. Byrnes said that ultimately he is still not convinced that two signs are better than one. The code allows one sign specific to the type of business. There could be an argument that McDonald's is going to have two signs, but the type of business that McDonald's tries to bring in is drive-by traffic. Dr. Fauth had indicated at the last meeting that he is not looking to get walk-in business. The Board is in uncharted territory with Village Edge South because it is a whole new zone. What the Board decides at this meeting will have implications for the future. P. Byrnes wondered if a freestanding ground sign would be a detriment to people leaving the driveway, perhaps it would block their view of traffic on Route 20. After some discussion regarding the required setback and proposed location of a freestanding sign, it was agreed that it would not block view of traffic on Route 20.

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90 S. Ryan asked Dr. Fauth if it is his goal to get new patients, why he would prefer the building-mounted sign that would not be lit. She asked if a sign out front would have a better chance of attracting new patients. Dr. Fauth remarked that the building sign will be lit, but he is willing to leave the freestanding sign unlit. He wants the building sign to be seen by people leaving the P&C Plaza when they have time to sit and read the sign.

95 P. Byrnes wondered if Dr. Fauth would like to have a ground sign, but turn it so it is readable from the P&C Plaza.

100 J. Munger commented that Dr. Fauth has raised an important safety issue and it has changed his way of thinking. Having a sign next to the driveway so it can be seen from either direction is a significant, but not overwhelming, point for him.

105 H. Hart said he takes a different view. He noted that the Community Health Center on Route 20 has just a small ordinary highway sign on the right side going up the hill and then you cross over. Coming from Nelson, there is no sign at all. It is a medical facility and people know where they are going.

Mr. Stokes advised that the Board has an option to say that one sign is preferable, but that it be the freestanding sign. The Board could grant the variance for the freestanding sign conditioned upon there not being a building-mounted sign.

110 H. Hart asked if Dr. Fauth would then need to go back to the Planning Board. Mr. Stokes answered Dr. Fauth would need to go back to the Planning Board for the final design of the sign.

115 Mr. Stokes reminded the Board that they must be clear on which variances are being granted before a State Environmental Quality Review (SEQR) determination is made because of the difference in impact between a building-mounted sign and a freestanding sign. Then the Board should go through and discuss the criteria points before a SEQR determination is made.

120 P. Byrnes listed the variances being considered: #1 - second sign. #2 - a ground sign. #3 - setback based on the drawing. #4 - the physical size of the ground sign.

Mr. Stokes said the size of the sign should be tied in when the Board reviews the criteria for detriment on the neighborhood and the environment.

125 P. Byrnes entered into the record that the Board had received recommendations from the Madison County Planning Department. P. Byrnes read the County's comments:

130 *The proposed signs of 96 inches by 48 inches double-sided monument sign and an 18-inch by 180-1/2-inch building sign for the new Cazenovia Dental location would likely cause no adverse county or intermunicipal impact. It is unclear from the submitted site plan the exact location of the monument sign, but we assume since no area variance application was submitted that it complies with the Village's front yard setback regulations.*

P. Byrnes inquired if this needs to go back to the Madison County Planning Department again because the previous application was for a monument sign.

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Mr. Stokes noted that the GML action is site plan review, not for area variance. P. Byrnes said that no area variance was filed for setback. The original application was for a second sign and there was no discussion about a setback variance. P. Byrnes asked if this need to go back to the Madison County Planning Department, which would extend it another 30 days.

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Mr. Stokes advised that the requests need to be properly referred and the Board must wait for the County's comments or wait until 30 days passes. This Board will need to revisit these requests in January. At that time, the Board can debate and make a resolution. The Board can go through the criteria tonight and then reissue to the Madison County Planning Department.

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P. Byrnes read the requirements for an area variance:

[1] The Board may grant an area variance permitting an applicant to deviate from one or more area and/or dimensional standards set forth in these regulations for a use permitted by these regulations in the district in which a lot is located.

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[2] In making its determination, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; whether the requested area variance is substantial; whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance. The Board, in granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

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Mr. Stokes cautioned the Board to be clear which type of sign they will be discussing. The Board concurred they will be discussing the freestanding two-post sign type with the dimensions of 4 feet 6 inches with a maximum height of 3 feet.

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P. Byrnes asked Dr. Fauth if the freestanding ground sign would be illuminated. Dr. Fauth replied that it depends on the feeling of the Board, but he would like to have it illuminated between the hours of 4:00 p.m. to 11:00 p.m. P. Byrnes said that any lighting would need to meet the new lighting standard.

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Dr. Fauth had stated that the purpose of the sign is to direct patients to the driveway. Mr. Stokes questioned why the sign would need to be illuminated at night and asked Dr. Fauth if he intends

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to see patients at night. Dr. Fauth answered that sometimes he does see patients at night, but he is usually finished by 7:30 p.m.

180 H. Hart stated that an illuminated sign in a residential area is a concern to him. He also inquired if the parking lot will have lights.

185 J. Munger commented that it is not fair to call Village Edge South residential when the zoning ordinance allows restaurants, offices, motels, hotels, planned developments, including the combination of uses otherwise permitted, etc. It allows residential, but no more so than it allows commercial development. He thinks the Board is going in the wrong direction if it starts thinking of this as residential. He said he brought this up because this is the first round of things happening on the south side of Route 20.

190 Dr. Fauth said that his little sign would be miniscule and that the Board should be more concerned about the plaza across the street that has big signs shining 24/7.

195 P. Byrnes turned the discussion back to the criteria points. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?

H. Hart expressed his opinion that it is an undesirable change and it is a detriment to the neighborhood as it exists now and, more importantly, to the neighborhood as it is planned to be. He sees no imperative reason for a second sign.

200 Dr. Fauth said that the sign is for the safety of the community and that outweighs anything else.

P. Byrnes mentioned that he would be more in favor of a freestanding ground sign if there was no sign on the building. He does not see the need for two signs to identify the dental office.

205 J. Munger informed the Board of his opinion that due to the size and type of sign that Dr. Fauth is proposing, he does not believe it would be a detriment to the neighborhood or even the future development of the neighborhood.

210 S. Ryan voiced that as each item comes before the Board, it is looked at differently. What the Board is doing here today will impact on the future of what is going to happen in that area. It is important to have people want to come and build in our town so the town grows and this Board's purpose is to guide that growth. She does not feel this is a detriment and she agrees with the safety issue.

215 W. Keiser views the sign as quite beneficial as a location indicator and agrees with the safety issue. He observed that if CAVAC is going to have a two-post ground sign, this would go with the flow as far as the design of the area.

220 P. Byrnes moved on to the next point: Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

H. Hart believes it would be a course of action to trade one sign for the other to come back into conformance of one sign.

225 J. Munger remarked that if the reasoning for proposing the second sign is to attract customers, he thinks there are other avenues that Dr. Fauth could use that would be effective as there are all kinds of advertising methods available, such as the phone book or the local papers.

230 W. Keiser said that he agrees with J. Munger as far as Dr. Fauth making himself known with advertising.

P. Byrnes moved on to the next point: Whether the requested area variance is substantial.

235 H. Hart expressed that this one and subsequent ones will be substantial and out of the spirit of the Comprehensive Plan.

240 P. Byrnes continued to the next point: Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. It was the consensus of the Board that the proposed sign would not have an adverse effect or impact.

245 P. Byrnes moved to the next point: Whether the alleged difficulty was self-created. P. Byrnes answered, yes, it is self-created by the desire for a second sign. The rest of the Board members agreed.

Mr. Stokes told the Board that it is their job to weigh all the factors together as a whole and either grant or deny the variances. In order to be consistent with the variance, the Board would grant a negative declaration under SEQR.

250 P. Byrnes made the motion to close the public hearing. H. Hart seconded the motion. The motion carried unanimously.

255 J. Munger made the motion to grant the following variances: 1) Allow a second sign. 2) Allow a freestanding two-post ground sign that may be illuminated dusk to close of business. 3) Allow the dimensions of 4 feet 6 inches in width between the posts and 3 feet in height (from ground level to top of the sign) conditioned upon the approval of the Planning Board of the final design elements in terms of color, lettering and materials. 4) Allow the sign to be within 3 feet of the property line as shown on the drawing dated 9/14/09, drawing AS1.3. J. Munger included SEQR in his motion. The Board has reviewed this application and determined that it is an “Unlisted Action” as defined by the New York State Environmental Quality Review Act (SEQR) and since no other Agency is involved, nor will the approval of this application have any significant adverse effect upon the environment, no further SEQR action is required. Therefore, it is

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recommended that a “Negative Declaration” be prepared and filed for this project. J. Munger added to his motion that the granting of these variances is contingent upon Madison County Planning Department’s recommendations.

The motion was seconded by W. Keiser. P. Byrnes called for a vote on the motion. The vote was: S. Ryan – aye; W. Keiser – aye; J. Munger – aye; H. Hart – nay; P. Byrnes – nay. The motion carried 3 in favor and 2 opposed.

P. Byrnes asked if this request will need to go back to the Planning Board. Mr. Stokes replied yes, it does.

Mr. Stokes said that no sign construction should take place until Madison County Planning Department’s report is received.

The motion was made by J. Munger, seconded by W. Keiser, to adjourn the meeting. The motion carried. The meeting was adjourned at 8:12 p.m.

Respectfully submitted,

Marlene A. Westcott
Recording Secretary