

Village of Cazenovia
Zoning Board of Appeals
June 30, 2009

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Present: Phil Byrnes, Chair; William Keiser; Howard Hart.

Absent: Jerry Munger, Sally Ryan.

Also present: Chris Heberle, Susan Berger, Ron Fortune.

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P. Byrnes called the meeting to order at 7:00 p.m.

P. Byrnes introduced the Board and opened the first case.

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Cazenovia College – Sign Area Variance – 25 Sullivan Street. This is to consider the application of Cazenovia College, for an area variance seeking relief from the provisions of section 109(G)(1) of the Village of Cazenovia Zoning Code, which limits the applicant to a sign not more than two square feet in area. The applicant seeks to erect a free-standing sign, four square feet in area, to identify the office use at 25 Sullivan Street. Chris Heberle and Susan Berger were on hand to represent Cazenovia College. The college is seeking relief from the provisions of section 109(G)(1) of the Village of Cazenovia Zoning Code, which limits the applicant to a sign not more than two square feet in area. The applicant seeks to erect a free-standing sign, four square feet in area, to identify the office use at 25 Sullivan Street.

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P. Byrnes noted that he has the application from Cazenovia College and a letter from Cazenovia College signed by Mr. Heberle, which he read aloud. The letter notes that the current signs at the college have been in place for up to 14 years. The signage format was developed to provide consistency while reflecting the surrounding character of the community. The 2-foot by 2-foot sign and post presently in place allows visitors and students to safely locate and identify the various college services. The dimension of two square feet per the code would require a driver to slow or stop in the middle of the road to read a building sign with such small lettering. The college believes this is a safety hazard to other drivers and pedestrians. Further, the college must be sensitive to Americans with Disabilities Act (ADA) requirements for signage at institutions of higher education. The letter requests an appeal of the decision of 5/29/09 related to Code Section 180-109(G)(1).

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P. Byrnes asked for comments from the floor.

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Mr. Heberle said that he has worked at the college for only 17 months, but he had spoken to people who had worked there upwards of 25 years. Those people said the standard was 2 feet by 2 feet and signs had been in place for at least 14 years. Mr. Heberle said this is the first time anybody at the college has heard that the signs are in violation of the code. Mr. Heberle commented that he found out there was a code violation through M&T Bank during an

assessment of the college. The bank needs the college's properties to be clear of any violations with the Village and recommended contacting the Village to get this cleared up. The college had not received any notification from the Village of any violations. Mr. Heberle repeated that the 2-foot by 2-foot sign size has been the standard for 14 years.

P. Byrnes asked if the ADA has sign standards. Ms. Berger replied that they do regarding character type. H. Hart clarified that character type means font. Ms. Berger continued that some of the buildings contain multiple services and if the sign is too small the font has to be too small and drivers double park in the street and go into the building to ask. She would like drivers to be able to read the signs from the street. Height of the signs should be at driver height. The college tries to keep the signs in character with each of the buildings. Ms. Berger stated that the college has proceeded innocently with their signs in the past. Through word of mouth, the college found out their signs were in violation so they decided to pull out this sign, follow procedure, and ask for a variance.

Ms. Berger would like the Board to keep in mind that there is no lighting in this area because it is a residential area and the college does not want lights shining in house windows.

H. Hart presented a sheet of measurements of college signs. Signs range in area from 1.5 square feet (15 Sullivan Street) to 5.8 square feet (Nickerson Street).

Mr. Heberle inquired if the zoning requirements have been intact since 1968, as some of the signs could have predated the 1968 zoning laws. P. Byrnes noted that signs that were installed prior to 1968 and have been continuously maintained can stay in place.

Mr. Heberle said that some signs have been in place 14-20 years and longer and no violations have been mentioned. P. Byrnes informed Mr. Heberle that this was brought before the Board because this is a new sign in a new location.

H. Hart pointed out that enforcement may have been erratic in the past, but the Board is not dealing with that now. This Board is dealing with the proposed sign at 25 Sullivan Street. He continued that he measured each of the signs on his sheet to the inch and four of the signs are over 5 square feet, a couple of the signs are half way in between, and then some are approximately four square feet. There are 14 signs that are all out of code. If they have been appealed, they have been given a variance. H. Hart voiced his opinion that since rezoning is coming up, this should go to the zoning committee to decide on area and to specify font and background color. Most of the signs are black and white, which he thinks are appropriate. The signs on the bookstore and the copy shop are blue and gold and he thinks they look okay in a commercial area but they do not belong in a residential area.

W. Keiser expressed his opinion that something has to be standardized and set regarding changes to the zoning laws to avoid one variance after another. Numerous requests for sign variances indicate that something is wrong with the code and it needs to be corrected.

75 H. Hart made the motion that height and width measurements be made to the nearest inch. If it is
over the half inch, go to the next inch up. If it is under the half inch, go to the next inch down.
The maximum area should be four square feet (576 square inches). The background should be
white and the lettering should be black. P. Byrnes remarked that this Board cannot dictate colors
because the application is for an area variance.

80 Mr. Heberle inquired if the measurements include or exclude the supporting structure of the sign.
H. Hart replied that the code says the background is included, but the supporting structure is
excluded. He also considers the frame going around the sign as background. P. Byrnes agreed.

85 Ms. Berger said the college would welcome some standard to be noted, but not with such
specificity regarding height as to detract from the building. The college would appreciate
knowing what the expectation is going forward so there is no wondering if there is a violation.
She reiterated that it is sometimes a problem trying to fit everything on the sign.

90 H. Hart inquired if this is in the historic district. Mr. Heberle had a map of the historic district,
which he and the Board members reviewed and discussed. H. Hart noted that the west side of
Sullivan Street is in the historic district. P. Byrnes commented that the west side of Sullivan
Street will not be in the college district. It was determined that this request needs to go to the
Historic Preservation Committee (HPC) for review.

95 P. Byrnes stated that the Board can rule on the variance at this meeting, but this is not the venue
to dictate what should be put on the sign and how it should look. This Board is dealing strictly
with the size of the sign. The code does say that because it is a new sign, a permit will be needed
and this needs to go to the Planning Board for review before a permit is issued. The Planning
Board will most likely refer this application to the HPC for review.

P. Byrnes asked for any further comments from anyone. There were none.

For the record, P. Byrnes read the section of the code that deals with area variance:

100 *[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.*

105 *[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*

110 *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
 115 *and at the same time preserve and protect the character of the neighborhood and the*
health, safety and welfare of the community.

P. Byrnes and the Board went through the items point by point to be taken into account when considering a variance and discussed each one. The Board did not believe this would be an undesirable change or a detriment to nearby properties. Regarding whether the benefit sought by the applicant can be achieved by some other feasible means other than the area variance, the
 120 Board felt there was no other means. The Board believed the area variance is substantial because it is double of what is allowed, but they did not see this as a problem. The Board members did not think the area variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Regarding whether the difficulty was self-created, the Board thought that it is self-created in a sense, but they do not see that as an issue.

125 P. Byrnes noted that since were only three Board members present, the vote must be unanimous.

H. Hart made the motion that the sign, as defined in the code book, shall not exceed 24 inches in height and 24 inches in width. P. Byrnes seconded the motion. A roll call vote was taken with the following results: W. Keiser – aye, H. Hart – aye, P. Byrnes – aye. The motion carried.

130 P. Byrnes advised Mr. Heberle and Ms. Berger that this still needs to go before the Planning Board for review.

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Drake Petroleum – XtraMart – Sign Area Variance. This application is for Drake Petroleum Company, Inc., doing business as Xtra Mart, for an area variance seeking relief from the provisions of section 109(H)(1) of the Village of Cazenovia Zoning Code, which limits the
 135 applicant to one business sign, and prohibits signs closer to the street than the gasoline dispenser pumps. The applicant seeks the variance to erect a free standing monument sign, 20 square feet in area, in connection with a proposed new convenience store upon approximately 0.77 acre of land located at the northwest corner of Albany Street and Sims Lane. Ron Fortune, a representative of Drake Petroleum, was present to bring the Board up to date. Mr. Fortune said
 140 he had received a resolution from the Planning Board that said because this project is a complete teardown, a new special permit is needed. He noted that the special use permit was granted, but approval excluded the free-standing monument sign. He continued that the grading plan had been changed and the detention basin had been altered because the Department of Environmental Conservation (DEC) was involved and stormwater drainage issues needed to be addressed.
 145 There was a free-standing sign on the old site on property not owned by Drake Petroleum. The new sign will be on Drake’s property. He believes he is here with the Planning Board’s recommendation in favor of the sign. Mr. Fortune says that the strength of his argument is that

150 there are two businesses being conducted on the property. One business is gasoline sales. The other business is the items for sale inside the building. Therefore, Drake feels the need for two signs—one for each business. A sign on the building lessens frustration and is a locator. The building would be referenced by a name instead of just its location.

P. Byrnes informed Mr. Fortune that due to the proximity to the highway, this application needed to go to Madison County for consideration and the Board is waiting for comments from them.

155 W. Keiser noted that in the code it says that gasoline station signs shall not be nearer to the street than the gasoline pumps. All ground signs shall be at least 10 feet from the street line (front lot line) and the side lot lines. Mr. Fortune said it is about 8 feet. After discussion, it was decided that the sign would be too close to the side lot line as well.

160 P. Byrnes listed the variances Drake Petroleum would need: Front lot line, side lot line, and second sign. He remarked that the public notice for this meeting was strictly for the free-standing monument sign only and that line relief was not on the agenda for this meeting. P. Byrnes noted that the Planning Board, in its meeting of 2/9/09, had recommended to ZBA that the monument sign be approved as presented.

165 Mr. Fortune voiced his understanding that he is allowed only one sign and the reason he is here is for a second sign. He continued that his application does not spell out relief from the front yard or the side yard. He believes he is replacing an existing free-standing sign that did not conform previously.

H. Hart pointed out in the code, 180-109(H)(1)(d), where it says: “*One additional shopping/business center ground sign.*”

170 P. Byrnes referred to 180-109(H)(1)(c) in the code that says: “*One additional directory sign identifying all businesses, professions, industries or other nonresidential uses conducted within a building, not exceeding 10 square feet in sign area and attached to the building.*” He asked Mr. Fortune if the sign would be attached to the building. Mr. Fortune answered he was focusing on the matter of right to have a building sign. There was an existing free-standing sign for gas only and the building was left unnamed. He continued that Drake is a reseller of gasoline. 175 Drake Petroleum does not have Drake Petroleum brand gas. There are other names for the gasoline Drake resells. It is difficult for a gasoline marketer to get a key brand as a resale product if there is no free-standing sign. He stated that the building was left unnamed previously. By leaving the building unnamed, the convenience store loses its identity completely. XtraMart is the convenience store brand. There are certain other components and 180 people from other areas know what they can get at that facility. And for safety’s sake the building needs to be identified, for example, for calling emergency services.

H. Hart argued that all of the architectural work on either side of the monument sign would be part of the background, which would make the sign 30 square feet. Mr. Fortune said the sign is an internally illuminated sign and he is dimensioning just to the script area.

185 H. Hart voiced that he has a different interpretation. The code defines a ground sign in the following manner: “*A sign which is not attached to any building and which is supported solely by one or more poles, uprights, braces or other structural elements in or on the ground.*” What is proposed is not a structural element, but a visual, aesthetic element.

190 W. Keiser suggested doing away with the bricks and just having poles. Mr. Fortune replied that poles look cold. In the nature of what the Planning Board was asking for, this sign was designed to be pleasing to the eye. The pilasters on the sign sort of match the pilasters in between the windows to carry over from the building. The pilasters were never considered as part of the square footage of the sign.

195 P. Byrnes said that since the Board is still waiting for a determination from the County, Drake Petroleum needs to return and he suggested that they rewrite their application to include front yard and side yard variance in addition to their sign area variance.

200 Board members discussed defining this as a shopping/business center so that two signs could be allowed without a variance. W. Keiser commented that there can be a convenience store without a gas station and a gas station without a convenience store. Mr. Fortune said that in other facilities the building contains other things. H. Hart stated his opinion that he considers this a shopping center.

P. Byrnes made the motion to continue this public hearing. W. Keiser seconded the motion. The motion carried and the public hearing will continue. A tentative date and time of Wednesday, July 29, 2009, at 7:00 p.m. was set.

205 P. Byrnes asked if anyone wished to make any changes to the minutes of 12/11/08. No one wanted any changes to be made. A motion was made by H. Hart, seconded by W. Keiser, and passed unanimously to approve the minutes of 12/11/08 as submitted.

The motion was made by H. Hart, seconded by W. Keiser, to adjourn the meeting. The motion carried.

210 The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

215 Marlene A. Westcott
Recording Secretary