

**Village of Cazenovia
Zoning Board of Appeals
November 24, 2009**

5 Members Present: Phil Byrnes, Chair; William Keiser; Jerry Munger; Sally Ryan; Howard Hart.
Also present: James Stokes, Village Attorney; John Mason; Chris Boyea; Peter Fauth; Graham Egerton;
Anne Reagan.

10 P. Byrnes called the meeting to order at 7:02 p.m.

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McDonald’s – Sign Area Variance and Second Sign Variance. P. Byrnes read the public notice
aloud. This request is to consider the application of McDonald’s USA, LLC, for an area variance to
15 allow a free-standing “monument type” business identification sign, 6 feet in height by 5 feet in width,
which would constitute a second exterior business identification sign, whereas only one such sign is
permitted under Section 180-109(H)(1)(b) of the Cazenovia Village Code. The applicant seeks this
variance in connection with its proposed new fast food restaurant with drive through service facility
located on the north side of Route 20 East, being also known as tax map parcel No. 95.3-1-2.2.

20 Chris Boyea and John Mason gave a presentation with some background on the case and explained why
they are seeking a sign variance. They have been working with the Village Planning Board for almost a
year, during which time there have been many changes. Mr. Boyea stated that this is the most in-depth
design for McDonald’s in Upstate New York. The most significant is that this is a one-of-a-kind design
25 and has been dubbed “The Cazenovia Design” and other municipalities may want copy this design. This
design has a large cornice, a stone façade with widened pillars to produce a shadow, divided light
windows, toned down earth tone awnings that are usually bright yellow. Typically, a McDonald’s
design would have upward of seven wall signs on the building. The Cazenovia Planning Board has
gotten rid of them. McDonald’s is being allowed one wall sign and it is being kept on the front of the
30 building. There is currently a pole sign in front of the building that is roughly 15 feet high. The
Planning Board has asked to change that to a monument sign. McDonald’s agreed to do that early in the
process. Mr. Boyea continued his presentation. Through the process it was discussed what the sign
would look like. It was decided that the proposed monument sign would have stone to match the stone
on the building. Therefore, McDonald’s is seeking approval to replace the pole sign with a monument
35 sign generally in the same location. The sidewalk from the new building will connect to a new sidewalk
along the street that will start a sidewalk street image.

J. Munger inquired if the M on the drawing will be yellow. Mr. Boyea answered that it has not yet been
decided if the M will be yellow or black. The M will be within the 20 square feet (the 5 ft. x 4 ft.) on the
40 top of the sign.

P. Byrnes asked if the M will be illuminated. Mr. Boyea replied that it will be externally illuminated, such as with flood lights on the ground shining onto the sign. The method of external illumination has not been decided.

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Mr. Stokes pointed out that exterior lighting is covered in the new code. The new code states that lighting should be directed downward. Mr. Stokes asked Mr. Boyea if McDonald's would agree to gooseneck or some type of downward lighting. Mr. Boyea stated that no matter what the code says as far as lighting, McDonald's will certainly comply with the code.

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S. Ryan asked if the lights would be of similar wattage as the existing sign. Mr. Boyea responded in an affirmative manner.

Mr. Stokes inquired about the size of the lettering on the building. Mr. Boyea answered that the letters will be two feet high. Mr. Stokes commented that the building sign can be any width, but not more than two feet high.

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W. Keiser asked for the complete dimensions of the sign. In a group effort, it was decided that the overall dimensions, including all framework, are 6 ft. tall by 5 ft. wide, and 12-18 in. deep, plus the depth of the stone façade.

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H. Hart noted that this Board is concerned about overall dimensions, including the background, and by that convention, this would be considered as 30 sq. ft., not 24.

Mr. Boyea remarked that the building has such muted colors and having street trees in front, it doesn't say much about McDonald's. Having the monument sign out front is their way of saying, "we are in business back here."

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H. Hart commented that he is troubled that the code says the sign shall not exceed 10 sq. ft. or 4 ft. in height. He said he has a hard time going along with this request and that it is not the ZBA's function to rewrite the code. Also, there will be more monument signs coming in the future.

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Mr. Stokes said that it is the function of the ZBA to grant variances. The Board has to evaluate the request in light of the standards and the Board has to balance the benefit to be gained by the applicant versus the detriment to the community. The Board considers each application on an individual basis.

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S. Ryan thinks that Howard is afraid that this is going to set a precedent. H. Hart said that this is the third sign in a short time and that is a lot of precedent. He would rather find out what the code will be rather than approve something that will be counter to the new code. J. Munger said the new code would not be ready until springtime.

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Mr. Boyea said that McDonald's cannot wait that long due to other time constraints with the project.

Mr. Boyea commented that McDonald's came before this Board to get rid of the pole sign and be in conformance with what the Planning Board felt was more in keeping with Cazenovia. Mr. Stokes

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responded: For the record, the pole sign is an unlawful sign. A special permit was granted for a wooden sign and the plastic sign was put there surreptitiously. There was a proceeding against the property owner as this was not a permitted sign.

90 J. Munger verified that the Board is considering three issues: a second sign, setback, and size variance.

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

95 *The location of proposed signs, one monument and one wall at the new McDonald's restaurant would cause no adverse county or intermunicipal impact. The dimensions and exact locations of the signs were not submitted to this office and we assume that the Village will require that information to be on file before any final decision is made.*

100 P. Byrnes read the resolution from the Cazenovia Village Planning Board regarding the sign:
The monument sign depicted in the drawings is not part of this approval. Approval of the monument sign is subject to the issuance of a variance by the Zoning Board of Appeals (ZBA), which must then be followed by Planning Board approval. The Planning Board hereby makes a positive recommendation to the
105 *ZBA in support of the granting of the variance for the monument sign.*

110 W. Keiser inquired about the line setback for a sign being 10 feet. Mr. Stokes answered that Section 180-109 of the code contains the setbacks for signs, where it says: All ground signs shall be at least 10 feet from the street line (front lot line) and the side lot lines. Mr. Stokes indicated that if the sign is not less than 10 feet, the sign will be conforming.

115 P. Byrnes outlined the Board's responsibility for variances according to Section 180-17 of the code: 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. 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.
120 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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130 W. Keiser asked if the Board would go through each criterion for each variance or go through the
criteria for all of the variances at the same time. P. Byrnes answered they could be done at the
same time.

P. Byrnes started to go through the criteria with the Board members. Will an undesirable change
135 be produced in the character of the neighborhood or a detriment to nearby properties be created
by the granting of the area variance? The Board agreed that Village Edge North is
predominantly commercial and the existence of a second sign and the area of the sign is not a
problem. The Board agreed that a second sign is substantial and the size of the sign is
140 substantial, but Board members did not see this as a detriment to the neighborhood. The Board
agreed that the granting of the variances would not have an adverse effect or impact on the
physical or environmental conditions in the neighborhood or district. J. Munger remarked that as
long as the lighting was compliant, it should not have much impact. Mr. Stokes stated that the
new code requires that lighting be directed downward. The Board agreed that the alleged
145 difficulty is self-created, but variances are typically self-created and that is why they need a
variance.

Mr. Stokes noted that State Environmental Quality Review (SEQR) finding is a Type II Unlisted
Action because the 10-foot setback is okay.

150 P. Byrnes made the motion to close the public hearing. W. Keiser seconded the motion. The
motion passed unanimously.

J. Munger made the following motion, which was seconded by W. Keiser: The Zoning Board of
Appeals has reviewed this application and determined that it is an “Unlisted Action” as defined
155 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 recommended that a “Negative
Declaration” be prepared and filed for this project.

160 A roll call vote was taken: W. Keiser – aye; S. Ryan - aye; J. Munger – aye; H. Hart – aye;
P. Byrnes – aye. The motion carried unanimously.

W. Keiser made the following motion, which was seconded by H. Hart: A motion to grant the
requested variance to allow a second exterior business sign to be a freestanding monument sign
165 with dimensions not to exceed 6 feet in height by 5 feet in width with the location to be as
approximately shown on the site plan approved by the Village of Cazenovia Planning Board, but
in any event, not less than 10 feet from the front property line, and on further condition that sign
lighting will be exterior lighting pointing downward onto the proposed sign in accordance with
recently amended code requirements for exterior lighting, and with the condition that the sign
170 will be as depicted on the drawing submitted by Bohler Engineering.

A roll call vote was taken: W. Keiser – aye; S. Ryan - aye; J. Munger – aye; H. Hart – aye;
P. Byrnes – aye. The motion carried unanimously.

175 P. Byrnes advised the applicants that they still need to submit final drawings, including the lighting, to the Planning Board.

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

185 P. Byrnes opened the public hearing and read the public notice. The request is for a business identification sign 4 feet in height by 5 feet in width, which would exceed the maximum height limitation of 2 feet under Section 180-109(H)(1)(b) of the Cazenovia Village Code, and which would not be attached to the building as required by Section 180-109(H)(1)(b) of the Code, and which would be located less than 3 feet from the front property line in violation of the 10-foot setback requirement of Section 180-109(H)(1)(f) of the Code. The applicant seeks these variances in connection with a new 3,500+/- square foot dental practice office to be located on a 1.004 acre parcel to be subdivided from 73 acres of land owned by Rodor, LLC, located on the south side of Route 20 at 54 Nelson Street, being also known as tax map parcel No. 95.3-1-1.11.

190 P. Byrnes noted that the Board has not received any comments from Madison County Planning Department and that any determination made at this meeting would be subject to the County's remarks.

195 Also, the application does not include a request for a second sign and therefore was not properly advertised, so Dr. Fauth will need to come before this Board again.

200 Peter Fauth came forward to make his presentation. He stated that both signs would be externally lit. One of the signs would be painted on the upper front fascia of the building. Then there would be a freestanding monument sign near the road, which would be externally lit. P. Byrnes advised Dr. Fauth that the lighting would need to be pointed downward as stated in the new regulations that recently went into effect.

205 Dr. Fauth remarked that gooseneck lights facing down would be acceptable to him. He continued that there would be soffit lights shining onto the building and directed toward the sign.

210 P. Byrnes asked how tall the lettering would be on the building. Dr. Fauth answered that the lowercase letters are 13 inches tall and the capital letters are 16 inches tall and these letters will look small from the road.

H. Hart noted that the background is considered as part of the sign size, therefore it is 2 feet. Dr. Fauth commented that it is a painted part of the building.

215 Mr. Stokes stated that the problem is that the application is for a freestanding monument sign. At the time of advertising, the application did not include any signage on the building. Now an additional variance for a second sign is needed.

220 Mr. Stokes asked Dr. Fauth to tell the Board why he needs two signs. Dr. Fauth replied that he
wants to capture traffic driving by because the building will have some trees in front of it. He
would like to have a sign out front for people to see. He does not think the sign on the building
will be enough because traffic is crazy at this location and drivers are not focusing on buildings
far back from the road.

225 P. Byrnes commented that if he was looking for a dentist, he would use other methods first, such
as the yellow pages or Google and that he would not drive around looking for signs for dentists.

230 S. Ryan said that any time there is new construction activity, most people in the area wonder
what it is. The local people pretty much know it is a dental office.

Dr. Fauth remarked that he has gotten 25 new patients in the last three weeks from the sign out
front during construction. These people were driving past and saw the sign.

235 For the record, W. Keiser asked Dr. Fauth if he takes walk-in patients. Dr. Fauth answered that
he can work with them, but rarely sees walk-in patients.

240 J. Munger said that the sign setback is only 3 feet from the property line according to the
drawings. He inquired about the distance from the curb to the property line. Dr. Fauth replied
that he is not sure, but if there is a regulation, he does not have a problem with going back
farther. P. Byrnes noted that 10 feet is the requirement for a sign setback. Dr. Fauth responded
that he can only move the sign back just so far because of the driveway curve.

245 J. Munger inquired if the 10-foot setback requirement is from the front edge of the sign.
Mr. Stokes answered yes. Dr. Fauth looked at the drawings and said he did not see a problem
with a 10-foot setback.

J. Munger asked if the highway is the boundary for the property line. Mr. Stokes answered yes.

250 S. Ryan wondered if Dr. Fauth had the monument sign, would he still need the sign on the
building. Dr. Fauth remarked: The more visibility the better. He believes that in this economic
climate he needs more visibility. He believes a lot of people are driving to Manlius and Syracuse
for a dentist and he needs every advantage to succeed in business.

255 P. Byrnes noted that the sign request has not gone before the Planning Board yet and that
Dr. Fauth would need to do that.

260 Mr. Stokes stated that when the Planning Board approved the elevation drawings for the
building, there was no sign on the building, therefore, Dr. Fauth would need to amend his
application and go to the Planning Board.

H. Hart clarified that the pedestal of the monument sign is 12 inches high and the width of the pillars is another 12 inches, which makes the sign 7-1/2 feet wide by 4 feet high. H. Hart observed that this request needs to go to the Planning Board and the Planning Board has been known to make modifications to contents of signs in the past.

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P. Byrnes let Dr. Fauth know that if the Board were to grant a variance tonight, the request would still need to go before the Planning Board with the details and verbiage of the sign. Also, comments from the Madison County Planning Department have not yet been received. The County has 30 days to reply and they are still within that time frame. P. Byrnes advised Dr. Fauth to go to the Planning Board and start that process and the Zoning Board of Appeals (ZBA) can convene at a later date to discuss this request again.

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Mr. Stokes informed Dr. Fauth that if the Planning Board had seen the sign at the time the drawings were approved, they would have made a recommendation then.

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P. Byrnes read into the record a letter received from Charles Macaulay:

I will be out of town and therefore unable to attend your public hearing regarding Cazenovia Dental's application for a variance to allow for additional signage at their new location on Nelson Street.

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I would like the record to state that I am opposed to this application. My opposition to their site plan is well documented. Observing the actual construction of the site has not changed my mind—In my view it sure has the look and feel of suburban character rather than the "Village Residential" character that is called for in the comprehensive plan. (See page 161 of the plan). Adding a monument sign would only enhance the suburbanization of the Village Edge South district (it would look too much like the route 92/Enders Rd section of Manlius) and I fear would set the standard for future growth that would encourage development quite contrary to our ultimate goal to protect and enhance our unique village character.

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Thank you for your time and attention.

Sincerely,

Charles Macaulay

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P. Byrnes asked if a State Environmental Quality Review (SEQR) finding needs to be made tonight. Mr. Stokes replied that the application needs to be amended before a SEQR determination can be made. He advised the Board to adjourn this meeting and then another meeting notice can be published.

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The motion was made by J. Munger and was seconded by P. Byrnes to adjourn this meeting until 7:00 p.m. on December 15, 2009. The motion carried unanimously.

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P. Byrnes asked if anyone had any additions or corrections to the meeting minutes of July 29, 2009. No one did. The motion to approve the minutes as written was made by P. Byrnes and seconded by W. Keiser. The motion carried unanimously.

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The motion was made by J. Munger, seconded by P. Byrnes, to adjourn the meeting. The motion carried. The meeting was adjourned at 8:08 p.m.

Respectfully submitted,

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Marlene A. Westcott
Recording Secretary