

Village of Bellaire

Zoning Board of Appeals

Leslie Meyers, Chairperson

Board Members: Dan Bennett, Robert Massey, Lori Smalley and Colette Stanish

ZONING BOARD OF APPEALS MEETING MINUTES

June 21, 2017

1. **Call to Order:** Chairperson Leslie Meyers called the meeting to order at 7: 01 p.m.
2. **Roll Call Attendance**
 - Present:** Dan Bennett, Lori Smalley, Colette Stanish and Leslie Meyers
 - Absent:** Robert Massey
 - Staff Present:** Lori Lockett, Clerk/Zoning Administrator
 - Also Present:** Beth Lacy, Jan Clark, Gregg Dexter, Julia Pietrowicz, Ed Pietrowicz, Lindsey DeFever, Linda Wangbichler, Doug Fox, Trish Fox, Chris Clore, Scott Newman-Bale, Gail Howard, Jennifer Boutselis, Georgia Jean Burns, and others
3. **Approval of Agenda:** The agenda was approved as written.
Motion by Bennett, seconded by Smalley, to approve the agenda as written. Motion carried by unanimous voice vote.
4. **Approval of the April 19, 2017 Regular Meeting Minutes:** The minutes were approved as written.
Motion by Smalley, seconded by Stanish, to approve the minutes of the April 19, 2017 meeting as written. Motion carried by unanimous voice vote.
5. **Public Comment on Items Other than on the Agenda:** None presented.
6. **Old Business:** None presented.
7. **New Business:**
 - A) **Request for Variance at Parcel Number 05-41- 101 -010-116-00**
 1. **Public Hearing**
 - a) **Opening of Public Hearing**
 - 1) **Announcement of Matter to be Heard:** Chairperson Meyers opened the public hearing and announced the Village of Bellaire Zoning Board of Appeals will be reviewing a request for a dimensional variance submitted by SBC Management LLC to reduce the front setback from 25 feet to 8 feet at Parcel 05-41-010-116-00, N. Bridge Lane to construct a 36' x 108' building.
 - 2) **Summary of Standards on which decision must be based:** Chairperson Meyers explained that the Zoning Board of Appeals is required to address standards listed in the zoning ordinance and supply findings of fact. The ZBA must go through and make sure the Applicant meets the criteria set forth in the ordinance prior to being able to receive a variance.
 - b) **Determination of a Time Limit for Addressing the Board:** Chairperson Meyers explained that she and the Board were reasonable and open to allowing the public to comment as long as necessary so long as comments were not just repeated.
 - c) **Staff Report:** Clerk Lockett indicated that the staff report had been included in the Board's packets. She stated that SBC Management LLC was requesting a dimensional variance from the required setback for the parcel identified in the record on North Bridge Lane. They wish to construct a 36' x 108' building. She noted that the property is located in the Village Commons

District where the minimum front setback is 25'. SBC Management LLC is requesting that it be reduced to 8'. There is a non-conforming building on site that is currently encroaching into the right-of way. The building is used for storage of product currently being produced in the basement of the restaurant. If the variance is granted, the current building will be razed and a new building constructed. She added that they would have to go through planning commission site plan review. According to the drawing submitted, the new building will be used for storage and possibly brewing. Luckett noted that the use of the building was not a consideration before the ZBA. The dimensional variance request is currently pending. She continued and explained that the planning commission will be holding a public hearing on August 1, 2017 to consider an amendment to the zoning ordinance to allow "Brewery and Distillery" by special use in the Village Commons District and Commercial District. She explained that the board had a draft Decision and Order in their packets that would be part of the meeting this evening and become part of the minutes. The findings of fact suggested are proposed only; they may need to make changes, additions, deletions as the board deemed appropriate. Each finding must be separately approved and a final decision must be made by a motion.

- d) **Compilation of List of Exhibits:** Chairperson Meyers identified the exhibits for the record.
 - 1) Village of Bellaire Zoning Ordinance; 2) Application for a dimensional variance; 3) Aerial map with property line overlay; and, 4) Photos and 1996 survey. She indicated that she wished to add the Village of Bellaire's Master Plan dated 2008 as another exhibit. Luckett noted that the agenda had been approved as presented, Bennett agreed to amend the motion to approve the agenda to include the Master Plan, Smalley agreed to second the motion to approve the agenda as amended.
- e) **Presentation by the Applicant, Applicant's Attorney, or Other Agents:** Scott Newman-Bale appeared on behalf of SBC Management LLC and made a presentation in support of the application. He explained that currently there is an old shed on the property, a cooler that is being allowed as a non-conforming use. It encroaches four feet into the right-of-way and is not the most attractive building. They originally were planning to make repairs to the building; but it does not make sense and it would be nice to get more of the alley back. He explained that with the removal of the building there would be 12' of width added. He stated that SBC owns the land where the alley is and that because there is a 33' right of way to the village their setback is actually 58'. If this property were located in the CBD there would be no setback required. Because they would be knocking down the building to build a new one, they decided to come in with the full project now. Chairperson Meyers asked about the size of the existing building. Project manager, Chris Clore stated that it was 30' x 30' and that he would be glad to discuss construction concerns. Chairperson Meyers had questions about parking spaces and the number eliminated with the construction of the new building. Mr. Clore stated that parking stays about the same. Moving the building back will allow for some parking in front of the building. He thought that more spaces would be gained. There are 11 spaces on the plan and there are currently 11 spaces on site.
- f) **Correspondence and/or Persons Speaking in Favor of the Application:** Chairperson Meyers asked if any correspondence in favor of the request had been received. Clerk Luckett stated that a letter had been received June 7, 2017 addressed to the Bellaire Zoning Board of Appeals regarding the hearing to solicit comments and opinions regarding a dimensional variance request submitted by SBC Management LLC. Clerk Luckett proceeded to read the letter into the record.

To Whom It May Concern,

Upon reviewing the above Notice of Public Hearing of the Zoning Board of Appeals, I would like to express my view with the above case's requests. We do not agree with this Denial and in fact Haggard's' Plumbing & Heating is not at all opposed to the changes of the property and/or the request to the Zoning Board. If a property owner is fortunate enough to have the ability and the resources in this time of economical(sic) struggles to either build and/or improve their existing property, we would like to see their request granted. If (sic) would prove positive for the local, county, state and county (sic) to do all we can to improve and promote growth in any way possible. Sincerely, Haggard Plumbing & Heating.

Members of the public were given the opportunity to ask questions or comment.

Ed Pietrowicz began by asking what the building height would be. Mr. Clore explained it would be a 16' interior dimension with 2' truss on top; 18'. Mr. Pietrowicz asked if there would be sewer and water at the building. Mr. Clore said yes.

Trish Fox stated that she and her husband live down the road from Short's on the river. Their perspective is that it is a hybrid community back there; a mix of business and residential. She stated that the businesses have brought a lot to the community. Mrs. Fox noted that if they are affected, they are willing to work with it. It is where they have chosen to live.

Julia Pietrowicz asked about the direction of the building and why they would not build perpendicular to the road. Mr. Newman-Bale explained that one of the problems is that it drops off dramatically into wetlands on the back of the property. They may not be designated wetlands by the state. Backfill would have to be brought. Mr. Newman-Bale said the cost would be significant to run the building as suggested. Mrs. Pietrowicz expressed concern about the narrowness of the alley. Mr. Newman-Bale said that the alley would be wider by 12' with the new building.

Jan Clark, Ruthie's Dairy Twist, owner of property abutting the SBC property stated that the last five spaces in her lot have been used by Short's employees. Mr. Newman-Bale indicated that he did not realize that until Ms. Clark had told him recently. Ms. Clark stated that they have not complained and she realizes that their parking lot is also used when they are not open. She asked how close the new building would be to the property line. Mr. Newman-Bale stated that it would be well within the side setback. Mr. Clore said it is 5' from the side setback. He described the location in relation to two trees. On the south side, the new building would start where the existing building is located.

- g) Correspondence and/or Persons Speaking in Opposition to the Application:** Chairperson Meyers asked whether there was correspondence in opposition. Clerk Lockett indicated that there was no correspondence in opposition. Those opposed to the request were given the opportunity to speak.

Lindsey DeFever expressed his concern about the parking. He thought that there were more than 11 cars in the area. He said he has seen them 2 to 3 cars deep. If the doors are in front, there will not be any parking there. Mr. Newman-Bale said that spots in front of the door were not included. There will be a gap for the doors. Mr. Newman-Bale said that parking is addressed in the code. He indicated that they will be netting zero parking spots out and that Short's own parking within 300' of the site. They have a vacant lot plus additional land. Mr. Pietrowicz asked if the parking was for employees or clients. Mr. Newman-Bale stated that in the Central Business District there are zero requirements for parking. Mr. DeFever explained that he has to carry boxes to customers who cannot find spaces to park near his store. He sees people parking in front of their own stores. He encourages his tenants to park as far away as they can. He parks further away. Mr. DeFever believes that his business suffers because people are not able to find parking. While there may be parking on the north end of town, if it were not for Mortensen's there would be no parking on the south.

Mr. Newman-Bale was asked about the number of employees working at Short's. He reported that they had 150 employees at which 80 are in Bellaire over the peak season. They have 30 per shift.

Mr. Pietrowicz suggested that people were struggling with the parking. There may be the net/net with employee parking, there is the summer traffic, guests and clients and there is still a shortage of parking.

Chairperson Meyers reminded all that the matter before the zoning board was whether they could have the variance to build the building, not what are their parking issues.

Mrs. Pietrowicz suggested that if they moved the building back, they would gain more parking. Chairperson Meyers suggested it might not be on their property. Mrs. Pietrowicz suggested that it would be more costly but they would have room. They could do something more positive by not getting a variance and adding more parking.

Mr. DeFever suggested that the village core has changed; the town has changed since the code was written originally.

Mr. Pietrowicz acknowledged that the Shorts have done tremendous things for the town. At the same time, the growth has caused a parking problem. Mr. Pietrowicz explained that they had to place a sign on the spots behind their building because Short's customers kept taking the spots. Customers park there when the office has closed.

Mrs. Fox suggested that the parking was an issue for the village, not for the zoning board.

Chairperson Meyers added that even if the variance is granted, it does not mean the building will be built. They still must go through the planning commission and address the issues being raised. Their request tonight is whether they can move forward with the application process.

A member of the public asked where they were going to put all of the snow. Chairperson Meyers indicated that was not a question being addressed.

Gail Howard stated that she was no longer a village property owner but that she had been coming up since she was 6 years of age. She has seen this town change and thinks it is wonderful that Short's is bringing people in however, there needs to be more businesses than only Short's. She thought they would have an opportunity to get grants or something else so that they could build the building sideways instead of parallel. They could use the space for parking for their employees. Mrs. Howard stated that she now comes as a visitor and cannot find a parking spot. She added that she drove around twice until she was able to find a parking spot. As a visitor to town, she would like to be able to shop, without parking she will not. If it too much of a hassle to find parking, she will shop somewhere else. This may not be the issue at this time but Short's must backup and think how they will be able to accommodate the parking for their customers without taking parking away from storeowners, potential storeowners, and customers and making people happier.

Board member Smalley noted that anyone not talking about the setback should go to the August 1 meeting. The meeting tonight is only dealing with the setback.

Mr. Pietrowicz suggested that the board needed to hear the questions about the building being parallel to the alley or perpendicular to the alley. There is 140' of width on that lot. Mr. Newman-Bale noted that the building is parallel to the alley. Mr. Pietrowicz acknowledged the way it was designed. The question is why can't you flip it. Mr. Pietrowicz suggested that the setback was not the only issue.

There was discussion between board member Smalley and Chairperson Meyers about the appropriate meeting to discuss concerns about traffic and parking.

There was a question about the referenced August 1 meeting. Clerk Luckett explained that the meeting on August 1 was the next regular meeting of the planning commission. There will be public hearing before that meeting on the potential amendment to the zoning ordinance to allow brewery and distillery in the Village Commons District and Commercial District by special use permit. Currently the uses are only allowed in the Manufacturing District by right. Clerk Luckett explained where the district is located.

Mrs. Pietrowicz suggested that a variance setback is requested when you have no alternative for the building.

Board member Smalley explained that as she saw it the building is currently within the alley. Because they are grandfathered in, the building can stay. The new building would have to comply with zoning. They are saying that 25' is too far back because of the drop off.

Mr. Fox said that the concern is parking but you cannot restrict a businesses' growth.

Mr. Newman-Bale was asked whether parcels had to be contiguous in order to brew. He indicated that they did. They could not brew off site without another license.

Mrs. Pietrowicz asked about the reasons for granting a variance to the setback.

Clerk Luckett was asked to read the standards for the public. Clerk Luckett read,

Section 9.04 Dimensional Variances: To obtain a variance from the dimensional requirements of this Ordinance (area, setback, frontage, height, bulk, density or other dimensional requirements) the applicant must demonstrate that a practical difficulty exists by showing all of the following:

- a. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and not due to applicant's personal or economic hardship.
- b. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
- c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome
- d. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners.
- e. That the requested variance will not cause an adverse impact on surrounding property, property Values, or the use and enjoyment of property in the neighborhood or zoning district.

Chairperson Meyers asked if there were any new questions that had not been addressed.

Mr. Pietrowicz asked if the Applicant had a price tag difference for locating the building other than parallel. Mr. Newman-Bale explained that even going back another 4' tripled the cost of the footings. Mr. Clore added that the building would then have to be on stilts. Mrs. Pietrowicz said that building on stilts, they could then build within the current setback. The request cannot be due to economic considerations.

Ms. Clark indicated that when she looked earlier along the back of the property, there was water to the edge. As it is right now, once you get past the parking lot, that property is useless. She spoke about a neighbor's driveway and stated that she had no idea how much fill had to be brought in to build a driveway down to his house.

Jenny Boutselis, owner of Mrs. B's addressed the board. She expressed her concerns about parking and the water with a distillery. Mr. Newman-Bale clarified which water and said there would be no difference. Mrs. Boutselis is worried about the cast iron pipes under the alley. Mr. Newman-Bale said that they would not be changing anything that would affect the water. Mr. Clore noted that the lines are down the center of the alley and that the company has done many upgrades.

Mr. Newman-Bale addressed the parking. He explained that they have done what they could to preserve the parking. They have acquired lots. It may not be the best use of the property, but it is what they have. He thought that the government parking lots are greatly underutilized after hours. People do not know they can park there after hours and on weekends. He stated that they have bought other property for parking. They do not disregard the parking issue. They try to do everything they can.

Chairperson Meyers asked if there was anything else.

Mrs. Boutselis asked about long-term thinking of the town and who are the people planning what the town will look like in 20 years. This is really what this is about. Short's is huge, we all love Short's and having the people come to Short's. Somebody ought to be thinking what we want to be represented here, just beer? The town has old buildings and a theater that are charming. The building she and her husband restored was built in 1833. There are things in the town steeped in history. Short's does have buildings that have an historic look to them. They are trying to preserve buildings. She thought the new building should look historic.

Mr. Newman-Bale added that all of the buildings purchased have been jacked up, except for the original building, which is part of why the current project started. He noted the back half of the Short's brewpub is sinking; there is a visible crack.

Georgia Burns said that she has lived in the village for 83 years and was born in the house Mrs. Boutselis has her store in; it was her grandparent's house. Her father and uncle owned the hardware where Short's is. She knows the town. It was supposed to be a Victorian village. It doesn't look like a Victorian village at Short's, but downtown Detroit. She does not like the metal on the front. It may be fine for a brewery but not for anything else. When she can't find a place to park because the town has turned into "booze and tattoos" it is a bit discouraging.

Chairperson Meyers closed the correspondence and public comment in opposition at 7:42 p.m.

- h) Rebuttal by the Applicant, Applicant's Attorney or Other Agents:** In response to comments in opposition, Mr. Newman-Bale stated that they are actively trying to work on the parking whether on site or slightly further away. They have worked on that with every location purchased. The buildings purchased have been stabilized. They may have fallen down. The Tiffany Building was close to falling down when they acquired it. From an historic point of view, they have restored the building to look original. Restoring added a six-figure sum to the construction. They try to stay historical as much as possible.

Mrs. Fox supported the comments agreeing that they had brought the building back and it helped the village. There was discussion between Mrs. Fox and Mrs. Burns about the business competition.

Chairperson Meyers asked for final comments. There was a question about what the building would be made of. It was not known. Chairperson Meyers clarified that the request was for a 17' variance for the building to be located 8' off the right-of-way.

The location of the building was clarified for Mrs. Boutselis.

Board member Bennett explained that village has a parking lot behind the bar and has negotiated with the county to use their parking lots after 5:00 p.m. He believes parking is a problem, but it is a problem for the village council, not for this body today. He noted that the village council received a report the other day that the bike path has increased revenues by 1.2 million dollars. The bike path is known all over the world. There was one time when a local business had 56 bikes out on the trail. He added that the DDA is also working hard for improvements in the town.

i) **Closing of the Public Hearing:** The public hearing was closed at 7:49 p.m. and the Zoning Board went into deliberations.

2. **Deliberations (Will Include Findings of Fact):** Chairperson Meyers began by stating that she had reviewed the Master Plan. It was brought up earlier, do we plan. Of course, the community plans. The plan goes back to 2008. Something came loud and clear to her. The least amount to accomplish the goal. The goal for Short's is to build this building so they can continue to expand and enhance their business. However, she stated, everyone is right; why isn't the building going perpendicular. She stated that she lived on the river and soils and grades could change drastically. She reviewed the village goals in the master plan including: to preserve the unique beauty of Bellaire by protecting that small town character and maintaining the overall clean and healthy living environment. To protect the health, safety, and welfare and promote a diverse business environment. To encourage downtown business and corridor owners to upgrade the appearance of their homes and businesses. She continued stating that the master plan states a natural environment goal to protect our natural resources. In her mind, filling the land or cantilevering was not going to preserve that natural environment. It would have a negative impact on the river and send unnecessary sediment down to her house to deal with. There are areas not meant to be built on. The plan encourages a land use pattern that is oriented to and respects the natural features and water resources. To protect land resources and water quality related to the lakes and streams. To continue and encourage natural use of wetlands for ground water recharge and storm water holding areas. To protect our lake and our river shoreline. Therefore, she thought it appropriate to bring into the exhibits that the master plan tells the board to protect and preserve this unique, natural environment to the best of our ability. She has concerns just like all in the room. This is what she took from the master plan when she did her review. The master plan addresses why the building cannot be put where they would not need to ask for the variance. Chairperson Meyers asked what their alternative is. She said that it is scary; just like the variance is scary to those here for a lot of different reasons.

Board member Stanish stated that she is all for improving Bellaire but had a question about the property. She asked about the clearing of trees on the site where they would build. Mr. Clore stated they would have to take at least one tree out; the rest are shrubs, wild trees, and bushes. They would have to clear a little land, maybe 5%; the majority is already parking lot. The west edge would require more work. The clearing would be necessary to construct the building; not that the building would be in that area. The materials would grow back in. Mrs. Stanish asked how far to the drop off. According to Mr. Clore at some points, it is 10 to 15 feet, at other points it is 2 to 3 feet as it tightens up along the edge. She asked whether the ground would be stabilized. Mr. Clore stated that the plan is to have a flat roof with capture system; roof drains off the back will control the location of the run off to stop soil erosion.

Board member Smalley indicated that she did not have any questions.

Board member Bennett did not have any questions or comments.

Chairperson Meyers asked about considerations of saving the legal non-conforming building on site. The existing building is 30' x 30'. The new building is 4 times that size. She asked if they had to go that big. Mr. Newman-Bale responded discussions internally were to push the building back. A similar size with an overhang. The cost for planning and preparing is the same. When they looked at this site, financially this was the minimum size that made sense and it is probably still not large enough. It did not make sense other than to remove the other building. Chairperson Meyers asked whether they really needed it to be 4 times the size of the building they have now. Mr. Newman-Bale responded that they did not do this building, they would just leave the current building as it is.

Board member Bennett said that the current building is an eyesore that he would help remove.

Deliberations moved to a review of the **General Findings of Fact**.

1. The Board finds that the property is currently zoning Village Commons under the current Village of Bellaire Zoning Ordinance, Article 4, Section 4.04.

ZBA agreed with the finding

2. The Board finds that Article 4, Section 4.01D.1, provides:

The intent of this zoning district is to recognize the fact that central portions of the Village are not separated into homogeneous land uses. The Village developed with various land uses adjacent to one another out of necessity and prevailing development patterns at their time of development. This district recognizes this “mixed-use” characteristic of the Village Commons and is designed to authorize land uses, in combination with associated accessory buildings and uses, that insure compatibility between residential and more intensive land uses.

ZBA agreed with the finding

3. The Board finds that Lot Line, Front is defined in Article 2, Section 2.02 as follows:

Lot Line, Front –In the case of an interior lot, the boundary line of the lot immediately adjacent to the street right-of-way upon which the lot fronts; in the case of a corner lot, the front lot line shall be the boundary line of the lot immediately adjacent to the street right-of- way that the driveway enters from or the designated front entrance to the home.

ZBA agreed with the finding

4. The Board finds that the Article 4, Section 4.03 Schedule of Regulations states as follows:

Zoning District	District Name	Minimum Lot Area		Maximum Height of Structure (h) (j)		Minimum Setbacks (a) (i)			Minimum dwelling width (b)
		Area	Width	Stories	Feet	Front	Side	Rear	Feet
VC	Village Commons	6,000 sf	50'	3	35'	25'	5' (c)	25'	20' (k)

ZBA agreed with the finding

5. The Board finds that the applicant, SBC Management LLC, is the owner of the property.

ZBA agreed with the finding

6. The Board finds that the Applicant desires a 17 feet variance from the 25 feet setback requirement to accommodate the construction of a 36' x 108' building.

ZBA agreed with the finding

7. The Board finds that under Article 9, Section 9.04.C. The Zoning Board of Appeals shall have the power to authorize specific variances from the requirements of this Ordinance if it finds based upon competent, material, and substantial evidence following a public hearing that all of the applicable standards provided in this section have been met.

ZBA agreed with the finding

Findings of Fact under Section 9.04.C.1. Dimensional Variances

The Board makes the following findings of fact as required by Section 9.04.C.1 of the zoning ordinance for each of the following standards listed in that section:

- a. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and not due to applicant's personal or economic hardship.

The Board reviewed the suggested first finding and corrected the drop off at the rear of the building. Mr. Clore stated that it drops of 4' to 6' at the ridge. Chairperson Meyers requested that the board come back to this consideration

The Board considered the second proposed finding.

The Board finds that beyond the building envelope the property is heavily wooded with wetlands as it slopes to the Intermediate River. (Photographs)

ZBA agreed with this finding

The Board reviewed a third proposed finding that the shape and topography of the property dictate the building envelope that may be used without the Applicant incurring the additional and likely significant expense of filling the site. Chairperson Meyers expressed her concern with reference to expense. The board is not to be looking at cost. She requested that the board return to this finding.

The Board reviewed the fourth proposed finding.

The Board finds that filling the area may affect the wetlands and involve numerous regulatory obstacles in order for the Applicant to build on this site.

ZBA agreed with this finding

- b. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

1. The Board finds that the need for the variance is due to the topography of the parcel.

ZBA agreed with this finding

2. The Board finds that the property tapers to the Intermediate River, is heavily wooded and wet beyond the building envelope.

ZBA agreed with this finding

- c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

1. The Board finds that North Bridge Lane, a 33' alley, is over the easterly portion of the property.

ZBA agreed with this finding

2. The Board finds that the zoning ordinance requires a front setback of 25' from the right of way.

ZBA agreed with the finding

3. The Board finds that application of the 25' front setback reduces depth of the building envelope and limits potential use of the property.

ZBA agreed with the finding

4. The Board finds that strict compliance of the 25' setback will require the property to be filled to create a level building site.

ZBA agreed with the finding

5. The Board finds that the current structure on site is non-conforming in that it is within the right of way and does not meet current setback requirements.

ZBA agreed with the finding

6. The Board finds the requested variance would result in a new structure being out of the right of way and more conforming.

ZBA agreed with the finding

Chairperson Meyers stated that she still had an issue with the size of the building. Does the building have to be almost 400 square feet when the current is only 900 square feet? Board member Stanish suggested that if it was not built large enough, they would want to come back in 2 to 3 years to build some more. Chairperson Meyers said they would come back to the board. The Board has the right to grant less than what is requested. They want a variance of 17' for 108'. She asked if anyone else had concerns. No other member did.

- d. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners.

1. The Board finds that granting the requested variance will allow the Applicant to remove the nonconforming structure and maximize the use of the building envelope on the property.

ZBA agreed with this finding

2. The Board finds that a lesser variance would likely necessitate a reduction of depth of the building and limit the scope of the building.

ZBA agreed with this finding

3. The Board finds that a lesser variance could result in the need to fill and re-grade the site.

ZBA agreed with this finding

- e. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

1. The Board finds that granting the requested variance will allow for development of the site without the need to clear, fill, and re-grade the site.

ZBA agreed with this finding

2. The Board finds that granting the variance will allow for the construction of a building that will have a positive impact on the property value on the site and adjacent zoning districts.

ZBA agreed with this finding

The Board reviewed and corrected the first finding under Section 9.04.C.1.

The Board finds that the property rapidly drops off at least 4 to 6 feet at the rear of the proposed building envelope (Application and Site Plan)

ZBA agreed with this finding

The Board reviewed the proposed finding that the shape and topography of the property dictate the building envelope that may be used without the Applicant incurring the additional and likely significant expense of filling the site. Chairperson Meyers expressed her dislike with this finding and requested it be stricken. The Board agreed.

Discussion moved to conditions. Chairperson Meyers stated there was great merit for their case but that she wanted to see the size of the building reduced. She acknowledged that she would not likely win that argument. She continued that while it was not in their purview, the Board has the right to put any conditions on a variance that the Board so chooses that are in the best interest of the residents and community. Chairperson Meyers indicated that the last thing she wanted to see was the existing building being taken down and another pole building going up. She does not want to see a standard pole building that would be in a farm field in an alley seen by lots and lots of people. She understands that something other than a pole barn costs more money but cost was not a problem. Chairperson Meyers suggested that a condition that the building not be a standard pole structure, that there would be some architectural design added to the building that would benefit the community. It is something that could be directed to the planning commission.

Board member Stanish asked Mr. Newman-Bale if the structure was going to be a pole barn or something like that. He responded that he could not answer fully because they did not know what they could do with the building yet. Currently, the plan is a masonry foundation with a metal top. Mr. Clore said that the part of the building is for a cooler. The face on the alley way can be more presentable. Mr. Newman-Bale suggested that they have a bigger benefit than anyone to make sure the building is attractive. There was discussion about the overgrowth covering the back of the building.

Clerk Lockett suggested that the Board might not want to consider a condition that is beyond the scope of the zoning ordinance and that the planning commission does not have the ability to address. She informed the Board that architectural standards are no longer in the zoning ordinance. There used to be a consideration that a structure had to resemble surrounding structures. The planning commission considered this too subjective and left it up to the individual property owner. If the Board wanted to put a condition on the variance, they should reference the section in the zoning ordinance.

Chairperson Meyers stated that she did not view conditions that way. She believed that the Board has the right to impose a condition because they are asking for something from the Board. She said she would not worry about it.

Board member Smalley said she preferred that it not be a pole barn. Board member Stanish indicated they would have something different on the front. Board member Bennett stated that they were requesting a variance; there are already several pole barns in the village that have been allowed. He would like to see the old building taken down and that there are several buildings around town that could be fixed up or taken down. He expressed his concern about youth being able to find jobs in this town and appreciation for Short's bringing jobs into this town. People need jobs. The environment does not need to suffer. He trusts in what Short's has done.

3. Motion for a Decision:

Chairperson Meyers requested a motion to approve the application based on the general findings of fact and findings of fact under Section 9.04.C.1, Dimensional Variances, including 5 exhibits. Board member Bennett made the motion, which was supported by board member Stanish.

Discussion on the motion occurred. Chairperson Meyers informed the audience that she would be voting no. She had intended to support the request but after listening concluded that the request is bigger than it needed to be. First, the Applicant said they would be more than happy to keep the building as it is at one fourth of the size. Second, she did not get support to guarantee that there would not be another pole building brought into town. If we are going to follow through with the integrity of the master plan and keep the beauty of a small town, it does not include pole barns.

Roll call vote: Bennett – yes; Stanish – yes; Smalley – yes; Meyers – no.

Motion passed.

Chairperson Meyers thanked the public for attending. She assured them that the Board listened; encouraged attendance at the planning commission meeting on August 1; and encouraged the public to be part of the process when the planning commission gets ready to address the master plan.

8. Correspondence/Reports: None presented.

9. Adjournment: Motion by Board member Smalley, supported by Board member Stanish to adjourn. Meeting adjourned at 8:26 p.m.

Minutes compiled by:
Lori Lockett, Clerk/Zoning Administrator & Recording Secretary

Approved: _____
Leslie Meyers, Chairperson

Date: _____