

**VILLAGE OF MONROE  
ZONING BOARD OF APPEALS  
MEETING  
AUGUST 9, 2016  
MINUTES**

**PRESENT:** Acting Chairman Vitarelli, Members Margotta, McCarthy and Zuckerman;  
Assistant Building Inspector Cocks; Richard B. Golden, Esq.

**ABSENT:** Chairman Baum

Acting Chairman Vitarelli called the meeting to order at 8:00pm with the Pledge of Allegiance to the flag.

**1. James Impallaria – Area Variances (233-5-15)**

**The applicant was not present**

The application of James Impallaria, pursuant to the Village of Monroe Zoning Law, Section 200-24 (H) for an area variance to permit the construction of 10' x 16' open deck attached to the rear of the main dwelling unit with less than the required minimum rear setback. The proposed rear setback is 14' from the property line, not the required minimum setback of 44'. A second variance is sought pursuant to the Village of Monroe Zoning Law, Section 200-22 (c) for an area variance to construct an 8' x 51' roofed front porch addition attached to the main dwelling unit with a 30' front setback, not the required 40' as indicated in the Table of Bulk Requirements. The property, which is the subject of said action by the Board, is located in an SR20 Zoning District and is identified as Section 233, Block 5, Lot 15 on the tax map of the Village of Monroe and is also known as the address 27 McGarrah Road.

Acting Chairman Vitarelli advised that this application had to be pulled from the agenda because it fell under the restrictions imposed by the Board of Trustees under the Building Moratorium.

**2. Copy Center, Inc. – Area Variances (202-1-3)**

**Present: David Niemotko of David Niemotko Architects, PC**

Application of Copy Center, Inc., pursuant to the Village of Monroe Zoning Law, Section 200-17, Schedule II, Table of Bulk Requirements, Use Group "r", for area variances to permit the construction of a free-standing sign with less than the required minimum front and side setbacks. The proposed front setback is 18' from the property line and the proposed side setback is 5'. The required minimum front setback is 60' and the required minimum side

setback is 50'. The property, which is the subject of said action by the Board, is located in a GB Zoning District and is identified as Section 202, Block 1, Lot 3 on the tax map of the Village of Monroe and is also known as the address 412 North Main Street.

Member Zuckerman disclosed that the home he and his wife own and reside in is within 300 feet of 412 North Main Street. Member Zuckerman said that he could be fair and impartial in any determination. Mr. Niemotko, representative of the applicant, agreed that Member Zuckerman should stay on for the appeal.

The Acting Chairman advised Mr. Niemotko that because there were only four Board members at the meeting, in the event of a tie vote an application would, by law, be denied. Mr. Niemotko had the option to postpone his appearance another month when there might or might not be a full board. Mr. Niemotko chose to proceed with the hearing.

Acting Chairman Vitarelli noted for the record that this application was referred to the Orange County Department of Planning pursuant to General Municipal Law L, M and N. The County: 1) Advised that the new sign location should be acceptable to the New York State Department of Transportation; and 2) Remanded this application for local determination.

Secretary Doherty said that the certificates of mailing had been received in a timely fashion.

Mr. Niemotko began by saying that this is the applicant's second application to the Zoning Board of Appeals. In the first the free-standing sign had been located on the south side of the driveway. Subsequently O&R installed a utility pole where that sign was going to be. Mr. Niemotko then relocated the sign to the north side of the driveway with a 10' setback from the property line to the front of the sign or 15' to the sign pole (since the sign pole is in the center of the sign). The applicant submitted a second application showing the new location of the free-standing sign on the north side of the driveway.

Discussion ensued about the variance being sought. Should it be measured from the property line or the street line? According to Village Code §200-50 the distance should be measured from the street line. The Board agreed that the variance being sought is for a sign 20' from the street. Mr. Niemotko emphasized that the setback would be 25' from the sign pole.

Acting Chairman Vitarelli said that in the past the board always accommodated a setback as low as 15' because the code as it is written requires a setback of 60'. We never held anybody to 60'.

Member McCarthy asked why Mr. Niemotko couldn't put up a sign back at the retaining wall? Mr. Niemotko responded that it was over 180' back from the road. Member

McCarthy said there's clear visibility from the street. Mr. Niemotoko responded by saying that every commercial businesses would like their signs closer to the street. While people familiar with this neighborhood may see an open area if they looked up that way, others who would come to have copies done or prints made might not know to look up at the building for a sign. So he asked that the Board consider moving the sign closer to the street.

Mr. Niemotko said that in picking a location for the sign he had to avoid the drainage structures (shown as circles with a "D" on the site plan). Because of the drainage structures and the utility pole previously mentioned this is the only location for the sign that will work. He cannot put the sign further up the hill. Mr. Niemotko felt this was a reasonable request given the gas stations across the street.

Assistant Building Inspector Jim Cocks said that in the revised code (which is in the process of being adopted) the setback would be 17'.

Acting Chairman Vitarelli noted that this is a difficult piece of property. They can't slide the sign back because of the utility pole. Mr. Niemotko pointed out that they have a 50' wide front yard with a driveway that is 24', leaving only 16' on the sides. He said it was placed in the most practical location, especially with it being 20' back from the street. Member Zuckerman said that the strongest argument you could make is that it needs to be visible to the traffic coming along Route 208. Member McCarthy pointed out that there are two gasoline stations in the neighborhood so it really doesn't destroy the character of the neighborhood.

Acting Chairman Vitarelli opened the public hearing up to the public; no one from the public was in attendance.

On a motion made by Member Zuckerman and seconded by Member McCarthy, it was unanimously: **Resolved to close the Public Hearing.**

**Ayes – 4**

**Nays – 0**

**Absent/Abstaining – Chairman Baum (Absent)**

On a motion made by Member Margotta and seconded by Member Zuckerman, it was unanimously: **Resolved that the Zoning Board of Appeals declare itself lead Agency, type this application as an unlisted action, and issue a negative declaration under SEQRA.**

**Ayes – 4**

**Nays – 0**

**Absent/Abstaining – Chairman Baum (Absent)**

On a motion made by Member Margotta and seconded by Member Zuckerman, it was unanimously: **Resolved to approve the setbacks requested of 20' from the street line and 5' from the side property line, conditioned on no objections being received from the NYS DOT within a reasonable period of time after the request.**

**Ayes – 4**

**Nays – 0**

**Absent/Abstaining – Chairman Baum (Absent)**

#### **ADOPTION OF MINUTES FROM JUNE 14, 2016 MEETING**

On a motion made by Member Zuckerman and seconded by Member Margotta, it was: **Resolved that the minutes be adopted.**

**Ayes – 3**

**Nays – 0**

**Absent or Abstaining – Chairman Baum (Absent) and Member McCarthy (Abstaining)**

#### **ADOPTION OF DECISION FOR CUMBERLAND FARMS, INC. – AREA VARIANCES**

On a motion made by Member Zuckerman and seconded by Member Margotta, it was unanimously: **Resolved that the decision be adopted.**

**Ayes – 4**

**Nays – 0**

**Absent/Abstaining – Chairman Baum (Absent)**

#### **CHANGE IN APPLICATION DEADLINE**

Acting Chairman Vitarelli tabled this until the next meeting when Chairman Baum would be present for discussion.

**ADJOURNMENT:**

On a motion by Member Margotta, seconded by Member McCarthy, with all in favor, **there being no further business, the meeting was adjourned at 9:00pm.**

**Ayes – 4**

**Nays – 0**

**Absent or Abstaining – Chairman Baum (Absent)**

Respectfully submitted,

A handwritten signature in cursive script that reads "Elizabeth A. Doherty".

Elizabeth Doherty  
ZBA Secretary