

**Minutes of the Town of Perinton
Zoning Board of Appeals
Meeting of June 22, 2015**

Zoning Board Members present

Thomas Young, Chairman
Sam Space
Vincent Arcarese
John N. Moose
Melissa L. Barrett
Seana Sartori
Robin Ward Ezell

Conservation Board Members present

Chris Fredette

Town Officials present

Robert Place, Town Attorney
John Beck, Zoning Officer
Lori Stid, Zoning Board Clerk

Mr. Young called the meeting to order at 7:30 pm, introduced the Board and staff present, and explained the procedures.

NEW APPLICATIONS:

1. Gregory Smith, owner of property located at 45 Winchester Drive, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 C (2), to allow a 6 foot fence in front of the front setback (Hamilton Road) instead of a 3 foot fence.
Said property being located in a Residential B District.

Mr. Smith states that he received comments and the pine trees will remain; they will trim back enough so that they don't interfere with the installation of the fence. They wish to have this fence for privacy and noise mitigation on Hamilton. The fence will sit outside the trees. The fence will be installed at least 5' from the existing sidewalk as per the comments from the DPW.

Ms. Ezell inquires if this fence will connect/meet with the neighbor's existing wrought iron fence. The applicant states yes.

Mr. Young feels that the applicant has addressed the concerns of the DPW and the Conservation Board.

Mr. Young asked for questions or comments from the Conservation Board. Ms. Fredette states that the Conservation Board issued comments as follows:

There is a row of well-developed evergreens (blue spruce) that may be impacted by the fence installation. Are these trees to remain? Will they be impacted?

Mr. Young asked for questions or comments from CED. Mr. Beck states that CED issued comments as follows:

1. The CED Dept. has no concerns with this application, a building permit to be issued with six months.

Mr. Young asked for questions or comments from the DPW. Mr. Beck states that DPW issued comments as follows:

Applicant should adhere to the fence being installed 5' from the existing sidewalk as shown on his application.

Mr. Young asked for questions or comments from Attorney Place, and there were none.

Mr. Young asked for questions or comments from the audience, and there were none.

Mr. Moose made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-14 C (2), to allow a 6 foot fence in front of the front setback (Hamilton Road) instead of a 3 foot fence, subject to the following conditions:

1. Applicant to obtain a building permit within 6 months from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.
2. Fence shall be installed at least 5' from the existing sidewalk.

The applicant has two front yards according to Code. This fence is needed for privacy and sound mitigation from Hamilton Road. The benefit cannot be achieved in any other fashion. There should not be an undesirable change to the character of the neighborhood or nearby properties. The request is not substantial. There will not be any adverse physical or environmental effect.

Mr. Arcarese seconds the motion.

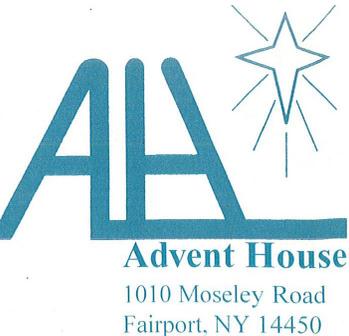
Motion carries 7 – 0.

2. Advent House, as agent for St. John of Rochester, owner of property located at 10 Wickford Way, requesting a Temporary Activity Permit under Section 208-54F, to allow a garage sale fundraiser event on August 28 and August 29, 2015. Said property being located in a Residential A District.

Vicky Deady presents the application to the ZBA as per application submitted to the Town on 5/20/15 and letter of intent as shown below:

"I came that they might have life and might have it abundantly." John 10:10

Perinton Ecumenical Ministries, Inc.



April 22, 2015

Town of Perinton Zoning Officer
1350 Turk Hill Road
Fairport, NY 14450

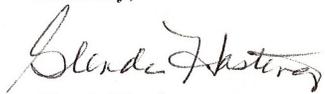
Dear Friends,

Advent House, located right here in Fairport, serves the needs of its residents who are in the last stages of a terminal illness. As there is no fee for residents, Advent House sponsors an annual Garage Sale every August as one of our major fundraisers.

Our intention is to alert the Village of Fairport and Town of Perinton support services such as the Town of Perinton Zoning Officer to the increased traffic flow that might occur on Friday, August 28, 2015 from 9:30 a.m. to 6:00 p.m. and Saturday, August 29, 2015 from 9:30 a.m. to 4:00 p.m. at St. John of Rochester, 8 Wickford Way, Fairport. No parking signs will be posted along the road and we will have a staff of volunteers to handle security and parking issues for those two days. Last year we worked with the Town of Perinton and able to successfully handle the parking and traffic volume issues that have occurred during 9:00 a.m. to 1:00 p.m. on the Friday morning of the sale. Parking will occur in the St. John of Rochester parking lot and the church front lawn for volunteers, if necessary. The Advent House staff and volunteers are responsible for setup and cleanup from 8/24/15 to 8/31/15.

The Advent House staff and volunteers are blessed to be part of such a caring community. We are appreciative of your support and encouragement. If there are additional actions that we should take to plan for a smooth sale, please contact Vicki Deady at 223-6112. We look forward to working with you to ensure a safe and successful fundraiser for the Advent House.

Sincerely,


Glenda Hastings
Director


Vicki Deady
Development Coordinator

They have had this event in the past years at the Advent House and the last few years at the VFW. It has become cost prohibitive to rent out tents for the event and wish to hold inside so that they are able to better raise more funds without so much cost to hold the event. They will use the gym and the front ½ of the classrooms.

Mr. Young states that the application states that St. John of Rochester gave them permission to park on the grass for overflow parking. Ms. Deady states that it is right directly in front of the buildings; she doesn't think they will need that, but if they do, they will use it for volunteers. They might have the volunteers park at the Advent House and then carpool.

Mr. Young inquired how they obtain the orange pylons from the town as was described in the application. Mr. Beck states that the applicant may coordinate that with the DPW. It is not a condition of approval.

Mr. Young states that the application was very thorough, and Perinton Volunteer Ambulance, Monroe County Sheriff's Office, the Fairport Police Dept, and the neighbors have been notified. He feels that Bushnell's Basin Fire Dept should be notified; the application shows Fairport Fire Dept. Ms. Deady states that she will do that; although she thinks she has already notified all of the Fire Dept's in the area.

Mr. Space inquired if they will have volunteers assist with parking. The applicant states that they will have a security company assist with parking; there is a staff of people and they all wear matching t-shirts.

Mr. Arcarese inquired how many people they expect to attend. The applicant states about 300 – 400 people. The VFW had about 165 parking spaces. They will create parking spots here using the orange cones.

Ms. Barrett inquires where they will collect the items they will sell. The applicant states that they have done that in the past at the Advent House and it is very disruptive to the house. They would like to collect items during the summer and store in the Church.

Ms. Sartori inquires if this is the first event for this sale at this location, and the applicant states yes.

Ms. Ezell feels that the application is very thorough. She inquires if St. John is one way; will they keep it that way for this event? The applicant states yes.

Mr. Young asked for questions or comments from the Conservation Board. Ms. Fredette states that the Conservation Board has no environmental concerns with this application.

Mr. Young asked for questions or comments from CED. Mr. Beck states that CED issued comments as follows:

1. There is to be no parking along Rt.31 and Wickford Way, No parking signs or traffic cones should be in place to ensure there will be no parking along these roads.

Mr. Beck states that DPW has no concerns with this request.

Mr. Young asked for questions or comments from Attorney Place. Mr. Place states that a SEQR determination is required.

Mr. Young asked for questions or comments from the audience, and there were none.

Ms. Ezell made a motion to grant a Negative Declaration of SEQR. There will be adequate parking for this use. This location is a church and will be able to adequately handle the parking that is proposed for this use. This use will not alter the character of the neighborhood or nearby properties. This use will not alter the view of any adjacent property; they are putting up one tent. This use will not create a hazard to the health, safety, or general welfare of the community.

Mr. Space seconds the motion.

Motion carries 7 – 0.

Ms. Ezell made a motion to grant a Temporary Activity Permit under Section 208-54F, to allow a garage sale fundraiser event on August 28 and August 29, 2015, subject to the following conditions:

1. There is to be no parking along Rt.31 and/or Wickford Way. No parking signs or traffic cones should be in place to ensure there will be no parking along these roads.
2. This permit is valid for 8/28/15 and 8/29/15. If the applicant wishes to hold this event again next year, they are required to submit an application to the Zoning Board of Appeals requesting a renewal.

This request is consistent with Section 208-54. The use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts. The public health, safety, general welfare or order of the Town will not be adversely affected by the proposed use in its location. The use will be in general harmony with and promote the general purposes and intent of the most recent Comprehensive Plan of the Town and the Zoning Ordinance. The proposed use will not interfere with the preservation of the general character of the neighborhood in which such building is to be placed or use is to be conducted and that the proposed use will, in fact, be compatible with its surroundings and with the character of the neighborhood and of the community in general, particularly with regard to visibility, scale and overall appearance. The physical characteristics and topography of the proposed site make it suitable for the proposed special use. The proposed special use provides sufficient landscaping and/or other forms of buffering to protect surrounding land uses. The property has sufficient, appropriate and adequate area for

the use, as well as reasonably anticipated operation thereof. Access to facilities is adequate for the estimated vehicular and pedestrian traffic generated by the proposed use on public streets and sidewalks, so as to assure public safety and to avoid traffic congestion.

Mr. Space seconds the motion.

Motion carries 7 – 0.

3. Paul McNally, owner of property located at 40 Kings Lacey Way, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 C (2), to allow a six foot fence in front of the front setback (Pittsford Palmyra Road) instead of a 3 foot fence. Said property being located in a Residential A District.

Paul McNally presented the application to the Board. He has two front yards according to Code. They wish to have it for privacy and for their very active dog. They also hope it will keep deer out.

The Board members feel the application is through and have no questions or comments.

Mr. Young asked for questions or comments from the Conservation Board. Ms. Fredette states that the Conservation Board has no environmental concerns with this application.

Mr. Young asked for questions or comments from CED. Ms. Stid states that CED issued comments as follows:

1. The CED Dept. has no concerns with this application, a building permit to be issued with six months.

Ms. Stid states that DPW has no comment on this request.

Mr. Young asked for questions or comments from Attorney Place, and there were none.

Mr. Young asked for questions or comments from the audience, and there were none.

Mr. Arcarese made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-14 C (2), to allow a six foot fence in front of the front setback (Pittsford Palmyra Road), instead of a 3 foot fence, subject to the following conditions:

1. Applicant to obtain a building permit within 6 months from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.

There are two front yards according to Code. There is no other way to obtain the benefit being sought for privacy and for safety of the pet. There will not be an undesirable change to the character of the neighborhood. This is not a substantial request. There will not be any adverse physical or environmental effects caused by granting this variance.

Mr. Moose seconds the motion.

Motion carries 7 – 0.

4. Costich Engineering, as agent for Chosen Spot, LLC (Dixon Schwabl Advertising), owner of properties located at 1591 Moseley Road – tax id #193.02-1-8.22 and 1595 Moseley Road – tax id #193.02-1-8.21, requesting the following variances of the Town of Perinton Zoning Ordinance:

1. Section 208-42 D, to allow an addition (8500 sq. ft.) to the existing building to be 23 feet from the front property line instead 85 feet.
2. Section 208-16 C (1) (c), to allow the landscaping buffer to be 20 feet instead of 40 feet.
3. Section 208-16 C (2) to allow the front setback of the parking area to be 23 feet instead of 85 feet.

Said property being located in a Restricted Business District.

Mr. Montalto, Costich Engineering, presented the application to the Board, as per letter of intent as shown below: With him is Dave Hanlon, Architect.



0209

Project No. 2188

**COSTICH
ENGINEERING, P.C.**

May 22, 2015



Ms. Lori Stid
Planning Board Secretary
Town of Perinton
1350 Turk Hill Road
Fairport, New York 14450

Re: Dixon-Schwabl Expansion
1595 Moseley Road
Zoning Board of Appeals Application

Dear Lori:

On behalf of our client, Dixon-Schwabl Advertising, we are submitting materials to the Zoning Board of Appeals of the approval of area variances for the above referenced project. We are requesting the project be added to the Zoning Board of Appeals June 22nd, 2015 agenda for area variance approvals.

The property is located on the west side of Moseley Road approximately 600 feet north of the intersection of NYS-Rt. 96. The project is located on approximately 3.6 acres of land which is zoned Restricted Business. Since the development of the property in 2001, Dixon-Schwabl has experience growth and is seeking to expand their existing facility to accommodate their growth.

An 8,500 square-foot addition to the existing 11,588 square-foot building is to be added to the eastern wing of the building. Expansion of the parking areas will provide an additional 39 parking spaces bringing the number of parking spaces provided to 119 for the site.

The project obtained site plan approval from the Planning Board at its March 7th, 2001 hearing for the facility. The original site plan consisted of a total of 19,588 square-feet of office space and 71 parking spaces for the site. The 19,588 square-feet of office space was planned to be in two buildings. An 11,588 square-foot building for Dixon-Schwabl and an additional 8,000 square-foot building for another user/tenant had been planned for the property. Since the original development of the site, business growth has led to obtaining site plan approval for expansion of the parking facilities to 78 parking spaces in 2009. Continued growth experienced by Dixon-Schwabl has led to the decision to forgo future plans of the development of a separate building and to utilize the entire site for their use.

The building expansion and parking area reconfiguration has been planned so to be best suited to the characteristics of the site and to respect the Limited Development District (LDD) boundaries on the site. The landscaping elements, site lighting and building materials from the existing site and building are to be carried over to the expansion project.

ENGINEERING • LAND PLANNING • SURVEYING
Costich Engineering, P.C., Inc. • 217 Lake Avenue • Rochester, New York 14608
585-458-3020 • 585-458-2731 (Fax) • www.costich.com

Dixon-Schwabl is seeking relief from the following code sections:

1. §208-42 D. to allow the front setback of the building to be 23' where the code requires 85'.
2. §208-16 C.(1)(C) to allow the landscape buffer area to be 20' where the code requires 40'.
3. §208-16 C.(2) to allow the front setback of the parking area to be 23' where the code requires 85'.

The presence of LDD on the site limits the practical area in which a building expansion can be constructed to the eastern side of the existing building. The existing eastern building line is currently set at the required 85' building setback. The drive isle for the parking area east of the building is currently setback 45' from the Right-of-Way.

Dixon-Schwabl has taken great pride in their facility and looks forward to the continued success of their operation in Perinton that the granting of the necessary area variances for their facility expansion will afford them.

Separate application has being made to the Planning Board and is scheduled to be heard at their June 3rd hearing to obtain site plan approval associated with the building expansion.

With regards to the factors to be considered in granting these variances we offer the following:

A. *Whether the variations requested are substantial in relation to the requirement set forth in the zoning ordinance;*

We do not believe the variances being requested to be substantial. The Right-of-Way configuration is larger in the project area thereby reducing the distance available for the setback distance from the property line however the distance from the roadway to the proposed building front and parking area is in excess of 50'.

B. *Whether an undesirable change will be produced in the character of the neighborhood or whether a detriment to adjoining properties will be created, if the variance is granted;*

No undesirable change in the neighborhood character or detriment to adjoining properties will be created in granting this variance. The expansion of the building will utilize similar architectural style and materials as the existing building. The eastern façade will be enhanced with additional glazing to enhance the visual appearance of the building face that will be present along the roadway. The expansion project has been designed around the site topography rather than the site around the expansion allowing for a project that fits the site and area.

C. *Whether the benefit sought by the applicant can be achieved by some reasonable, alternate method, other than a variance;*

Due to the LDD boundary configurations on the site there is no practical building and parking expansion alternative that would not create the need for area variances.

D. *Whether the alleged difficulty was self created;*

Although the decision to expand at the current facility is self created the LDD and space constraints with the site are not self created.

E. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The expansion project has been designed to blend into the topography of the site as well as to be a continuation of the existing building architecture. The facility will continue to operate as it does today.

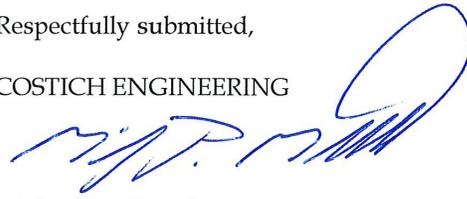
To aid in your review attached please find the following:

- Twelve (12) Copies of this Letter of Intent
- Twelve (12) Copies of the Commercial Area Variance Application
- Twelve (12) Copies of
 - Existing Features/Demolition Plan (Sheet VA100)
 - Site & Pavement Marking Plan (Sheet CA100)
 - Utility, Grading & Erosion Control Plan (Sheet CA110)
 - Landscape & Lighting Plan (Sheet LA120)
- Twelve (12) Reduced Copies of the 2001 Site Plan
- Twelve (12) Reduced Copies of the 2009 Parking Expansion Plan
- Twelve (12) Copies of the Building Elevations
- Twelve (12) Copies of the Short Environmental Assessment Form
- One (1) Copy of the Authorization to Make Application Form
- One (1) Commercial Area Variance Application Fee Check in the amount of \$100.00

We look forward to appearing before the Board at its' June 22nd hearing. In the meantime if you should have any comments, questions or require additional information please contact our office.

Respectfully submitted,

COSTICH ENGINEERING



Michael P. Montalto

Enclosures

cc: Michael Schwabl
David Hanlon
Kevin Bragg

Mr. Montalto states that the Planning Board granted final site plan approval on 6/3/15. He reviewed the grading of the property and the proposed landscaping that the Planning Board approved. He states that the two lots will become one lot.

Mr. Young states that the Planning Board issued comments as follows on this request:

The Planning Board recommends approval of the aforementioned variances

1-3) The Planning Board recommends approval of the aforementioned variance because the request is adequate for the application. The proposed site plan is the best design available given the constraints on the site. The applicant has maximized their parking and building requirements without encroaching on the LDD. As a result of this design, the building and parking are closer to Moseley Road. There appears to be no safety issues with these requests. There is a change in elevation from Moseley Road that will help mitigate the Building proximity to Moseley Road. In addition, there is proposed landscape mitigation in the area to soften the Building elevations and Parking closest to Moseley Road.

Mr. Young asked for questions or comments from the Conservation Board. Ms. Fredette states that this applicant has appeared before our board twice regarding this application. The PCB is in favor of granting these variances, specifically:

- Building, landscaping amendments, and parking siting conforms to existing topography and are out of LDD.

Mr. Young asked for questions or comments from CED. Mr. Beck states that CED issued comments as follows:

1. The applicant received final site plan approval from the Planning Board on June 3, 2015.
2. The CED Dept. has no concerns with this application, a building permit to be issued with one year.

The Board members feel that this is a very thorough application and thank Mr. Montalto for the effort that has been put in to this application request. They support the variances being requested. This project fits the site nicely and will be a good compliment to the existing structure. This is a successful business in the Town of Perinton. The Planning Board supports the variances being requested.

Mr. Space made a motion to grant a Negative Declaration of SEQR.

There will be adequate parking at this site. Granting these variances will not alter the character of the neighborhood or nearby properties. Granting these variances will not create a hazard to the health, safety, or general welfare of the community. There will not be any adverse physical or environmental effects caused by granting the variances.

Ms. Ezell seconds the motion.

Motion carries 7 – 0.

Mr. Space made a motion to grant the following variances of the Town of Perinton Zoning Ordinance:

1. Section 208-42 D, to allow an addition (8500 sq. ft.) to the existing building to be 23 feet from the front property line instead 85 feet,
2. Section 208-16 C (1) (c), to allow the landscaping buffer to be 20 feet instead of 40 feet,
3. Section 208-16 C (2) to allow the front setback of the parking area to be 23 feet instead of 85 feet, all subject to the following conditions:

1. Applicant to obtain a building permit within one year from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.

Findings of fact are that the proposed site plan is the best design available given the constraints on the site. The applicant has maximized their parking and building requirements without encroaching on the LDD. As a result of this design, the building and parking are closer to Moseley Road. There appears to be no safety issues with these requests. There is a change in elevation from Moseley Road that will help mitigate the building proximity to Moseley Road. In addition, there is proposed landscape mitigation in the area to soften the building elevations and parking closest to Moseley Road. Findings of fact are also as were stated in the letter of intent from the applicant, dated and received by the Town on 5/22/15, which is a part of the record.

Ms. Ezell seconds the motion.

Motion carries 7 – 0.

Discussion:

Ms. Fredette states that there is a scout in the audience. Roy West introduced himself to the Board and staff members. He is from Troop 207.

Minutes – 5/18/15

Mr. Young made a motion to approve the minutes of 5/18/15 as submitted.

Mr. Arcarese seconds the motion.

Motion carries 6 – 0, with one abstention of Ms. Sartori, due to absence.

There being no further business before the Board, the meeting adjourned at 8:11 PM.

Respectfully Submitted,

Lori L. Stid, Clerk