

**Town of Fishkill  
Zoning Board of Appeals  
June 16, 2009**

**Minutes**

**Members Present**

Barry Silverstein-Chairman  
Marc Breimer-Alternate  
Al Campanaro-Alternate

**Members Absent**

Maureen Kangas-Vice Chairman  
Ronald Critelli  
Lynne Raver  
MaryAnn Leenig

**Other Officials Present**

Janis Gomez Anderson, Esq. – ZBA Attorney

---

Notice of Appeal Hearing has been published in the Poughkeepsie Journal, The Southern Dutchess News and The Beacon Free Press. Notified of the variance requests were the Town Board, Town Planning Board, Dutchess County Department of Planning, The Building Inspector and the surrounding property owners.

---

The meeting of the Zoning Board of Appeals was called to order at 7:10 p.m. by the Chairman. He made announcements regarding the no smoking policy and the emergency exits and fire procedures. The Chairman informed those present of the procedures regarding the ZBA.

The Chairman announced that Alternate Members Marc Breimer and Al Campanaro were on the Board for this meeting with full voting rights.

## **Minutes**

Chairman Silverstein called for comments or corrections to the minutes of the March 2009 meeting. Hearing none, he called for a motion to accept the minutes as written.

Marc Breimer made the motion to accept the minutes as written from the March 17, 2009 meeting.

Al Campanaro seconded.

Motion Carried

Barry Silverstein - Aye

Marc Breimer - Aye

Al Campanaro - Aye

## **Communications**

The Chairman read a communication from the Town of Fishkill Planning Board advising that the ZBA shall take no action regarding the Frank Antioco application until a Land Use Development Permit has been submitted to the Planning Board.

## **New Business**

Grid Number: 6155-00-870580      Address: 600 Westage Business Center Dr  
Application Number ZB09-004, submitted by Tom Walsh from Sign Language, for the Mid Hudson Medical Group, requesting a 1) 15 sq. ft. variance for a wall mounted building sign on the front of the building and a 2) 66 sq. ft. variance to install a second wall mounted sign on the side of the building. The total square footage for both signs is 132 sq. ft. where 51 sq. ft. is the maximum allowed in a PSC Zoning District.

Chairman Silverstein read communications from the following:

The DC Department of Planning citing this as a matter of local concern.

The NYS Thruway authority stating they have no objection to this project.

The Town of Fishkill Planning Board requesting additional information before giving an informed response. They requested the following:

1. Full and complete details of what a "halo" lit sign looks like.
2. Justification for the second sign
3. Full and complete details of the signage that currently exists at the site.

Chairman Silverstein commented that his interpretation of the letter is that the Planning Board is requesting the signage at 600 Westage and not the entire site. Janis Gomez Anderson advised that the statement regarding the current signage is not clear. The Chairman advised that the ZBA will interpret it as only building 600.

The Mid Hudson Medical Group also sent a letter to the ZBA waiving any conflict of interest as Van DeWater & Van DeWater represents both the ZBA (Janis Gomez Anderson) and The Mid Hudson Medical Group (John Gifford).

The Chairman made a motion for the resolution to waive the conflict of interest regarding Janis Gomez Anderson representing the ZBA.

Al Campanaro seconded

Motion Carried

Janis Gomez Anderson advised the Board that the size of the variance was larger than originally indicated. It was discovered that the Building Inspector neglected to include the logo in the original calculation. The actual size of the sign, including the logo is 85.5 sq. ft. The first variance request is now 33.9 sq. ft. and the second sign variance request is now 85.5 sq. ft. for a total of 119.4 sq. ft. variance.

The Chairman called for a representative. Tom Walsh, Sign Language, Deborah Okamura, Director of Support Services, MHMG and Katherine Weir, COO, MHMG presented to the Board. Mr. Walsh advised the Board that the application contained a presentation of halo lit channel letter signs. The letters are individually attached to the façade. He described “halo” as an opaque metal material with the lighting being inside the letter. The light reflects off of the building and creates a shadow around the letter. Mr. Walsh stated that the Hudson Valley Volvo dealership on Route 9 has halo lighting.

Mr. Walsh commented that the comparison of the logo to the letters was not in proportion and that Joel Petrus advised that the logo was not considered part of the sign, which was why he did not include it. Janis Gomez Anderson stated that she spoke with Mr. Petrus and confirmed that the logo was supposed to be included. Ms. Gomez Anderson advised that she and Mr. Petrus calculated the square footage of the logo separately and added it to the square footage of the sign.

Mr. Walsh continued and advised that the reason for the variance was using half of the square footage allowed to create two signs, they would be very small, or one sign on the front and no second sign. With visibility on two sides of the building, the second sign is very important to the MHMG.

Deborah Okamura commented that they were also trying to keep the sign in scale with the building. Mr. Walsh commented that they worked with different sizes. The size they chose was about half of the size of the banner that is currently affixed to the building.

Chairman Silverstein asked what the necessity was for the second sign. Mr. Walsh stated that visibility is a key factor for any business. Deborah Okamura commented that they have patients that come from the Newburgh area. They advise them to take I-84 and they will see the building.

Al Campanaro commented that Westage should have a sign placed by the exits on I-84 along with the food and gas signs. Chairman Silverstein and Marc Breimer both commented that it probably would not be allowed. Ms. Okamura commented that they would love to have a sign at the entrance to the Westage Business Center.

Mr. Walsh reminded the Board that the location of the building is in the rear of the property and the only way to see the sign over the entrance is to be on-site. The Chairman stated that to justify going against the sign code the Board needs to know what is the hardship or condition makes it necessary for the second sign. Just to be seen off of I-84 is more of an advertisement.

Deborah Okamura commented that many people don't know if they have the whole building or just a part of it. The second side of the building also serves as a handicapped entrance. Marc Breimer stated that it was a good point.

Mr. Walsh began to discuss the fact that smaller buildings are allowed the same size signs per linear foot. The Chairman interrupted him and advised that he did not want to discuss the sign law with him. Ms. Okamura commented that the Board was only interested in why they needed the signs. Chairman Silverstein commented that it didn't appear that anything was going to be built directly behind them or to the left of the building. Ms. Weir commented that it was more for the people once they are in the complex.

Marc Breimer stated that part of the difficulty is that there is more than one entrance into the complex and trying to navigate to the correct building, we need to make allowances to avoid people getting lost.

Al Campanaro commented that drivers traveling on I-84 aren't going to see the sign unless they are looking for it.

Ms. Okamura reminded the Board that they aren't looking to advertise the medical group. It is more for directional help once on the premises and reminding people that they have the entire building and not just a portion of it.

Chairman Silverstein commented that the halo lighting was a concern to him, not seeing a sample of it, until it was compared to the Volvo dealership. He commented that he now understands how it will look. He stated that even though Westage is a commercial property, the building is set in the rear of the property. The ZBA does not have to be concerned with residents. The sign law was written to avoid garish signs. Marc Breimer agreed and commented that the halo sign has a classy look to it.

Marc Breimer asked if the small monument sign posted at the entrance was a temporary sign. Mr. Walsh stated that is a directional sign. Ms. Weir commented that the sign says "patient parking".

Chairman Silverstein stated that he does not have a problem voting at this meeting if the other Board Members agree. He asked if the Public Hearing should be closed first and then the deliberation. Ms. Gomez Anderson stated that they could close the Hearing, discuss it and vote on it.

The Chairman made the motion to Close the Public Hearing

Marc Breimer seconded

Motion Carried

Barry Silverstein - Aye

Marc Breimer - Aye

Al Campanaro - Aye

The Chairman asked if the Board wanted to discuss the application and vote on it at this meeting. All Members agreed. The Chairman asked the attorney what she would need for the vote. Ms. Gomez Anderson stated that she needed Part II of the SEQRA for herself and the Chairman to sign, and then to deliberate before the vote.

### **Deliberations**

09-004 - MHMG

The Chairman stated that he has no problem with the variance requests. This is a commercial district. His main concern was the second sign but it is not for advertisement purposes but for guidance once in the complex. Adding that to the fact there is parking on the side of the building where the second sign will be located. It is also where the handicapped parking is and is the handicapped entrance and location of the labs.

Marc Breimer commented that this is a commercial area. There are no quality of life issues regarding lighting or signage. He commented that there is a justification for the second sign as it will help guide people around the complex.

Al Campanaro stated that the signage will help with directional issues on the site especially for those not familiar with the complex. As long as the signs are not protrusive and bother the neighboring businesses.

Janis Gomez Anderson advised the Board that they need to recess to allow her time to complete the necessary forms and SEQRA, as no environmental issues were raised during the discussion. Ms. Gomez Anderson presented the second page of the EAF for the Chairman to sign. She advised that the form states that there are no negative environmental impacts with respect that the granting of a variance is varying the Town's adopted law. Allowing a variance in the case would not create a material conflict between the current plans or goals as officially adopted by the Town. Ms. Anderson advised the Board that although the application was submitted as two variance requests, the Board can put both on one vote as if it was presented as a single sign area variance.

Al Campanaro asked if approving the variance request would set precedence for future applications. Chairman Silverstein advised that every variance has the potential to set precedence. The ZBA looks at each case and does not use past variances in its determinations. Using the Dutchess Mall as an example, he commented that brightly lit signs in the south portion near residential houses would be a different circumstance than this structure that would not have the same impact. The Chairman noted that anytime a variance is granted for any reason, a future applicant can use it as part of their application. The Chairman commented that one example was a gas station that was allowed to have certain signage and another that was in a residential area was not because of the impact that it would have on the residents. Mr. Campanaro commented that being set back off of Route 9 makes a difference. Janis Gomez Anderson stated that the facts from this Hearing are included in the record of findings.

Marc Breimer stated that this variance request seems reasonable considering the physical location of the building.

Ms. Gomez Anderson asked if the Board want to recess for her to prepare the documentation needed.

Chairman Silverstein called for a motion to recess the ZBA Meeting.

Marc Breimer made the motion to recess

Chairman Silverstein seconded

Motion Carried

ZBA Meeting recessed at 7:33pm

Chairman Silverstein called for a motion to reconvene the ZBA Meeting.

Marc Breimer made the motion to reconvene

Chairman Silverstein seconded

Motion Carried

ZBA Meeting reconvened at 8:20pm

### **Negative Declaration**

Marc Breimer made the motion to accept the Negative Declaration

Al Campanaro seconded

Motion Carried

Barry Silverstein - Aye

Marc Breimer - Aye

Al Campanaro - Aye

**Vote**

09-004 Mid Hudson Medical Group

Variance for 119.6 sq. ft. total signage

Marc Breimer made the motion to Grant the variance request

Al Campanaro seconded

Motion Carried

Barry Silverstein - Aye

Marc Breimer - Aye

Al Campanaro - Aye

Chairman Silverstein called any additional business. Hearing none, he called for a motion to Adjourn the ZBA Meeting.

Marc Breimer made the motion to Adjourn the ZBA Meeting

Chairman Silverstein seconded

Motion Carried

Meeting Adjourned at 8:24 p.m.

Respectfully Submitted

Nancy Fitzgerald-Lecker

ZBA Clerk