



**2021-048** (continued)

- ✓ Referenced the property survey to illustrate there is no other place to safely place the sign; the sign could not be in the center of the parking lot or the north side exit. The requested placement is on the grass area along the south border adjacent to a neighbor.
- ✓ Currently there is an existing ground sign on the east edge of the parking lot adjacent to the building. If needed, the applicant would be willing to eliminate this sign and place the sign on the building; this would eliminate the first variance request.
- ✓ The hardship on the south property line consists of the grass area being 3' of the property; it would make sense to place the sign in the center of the area to not encroach on the neighboring property.
- ✓ The business is underperforming due to lack of signage; the current sign is not visible.
- ✓ Due to limited parking, the request is for the sign to be 7' in height so the sign will not be blocked by a car.
- ✓ Part of the 46-sf sign includes the physical address of the location; the address is important as competitors have similar names. Removing the address would decrease the size of the sign.
- ✓ This would not be an undesirable change to the character of the neighborhood or detriment to neighboring properties as this is a standard commercial sign.
- ✓ The height of the sign is to allow safe visibility from under the sign; the 3' setback is needed to allow cars to pull in and out of the parking lot; the over-size is needed to identify the business.
- ✓ The proposed sign meets other code criteria.
- ✓ If the sign were moved further from the road, it would be closer to the neighboring property.
- ✓ The only other placement for electric would be at the edge of the south driveway.

Chairman Elling questioned if electric has been installed. Mr. Strada stated a conduit has been installed. Mr. Strada was not involved in the electric, the owner had the driveway/parking redone and the contractor was available at the time.

Chairman Elling referred to the Union Road corridor and the adopted sign ordinance stating the request if for four variances that go against the standards. Mr. Strada stated if one item could be eliminated, they would remove the existing ground sign and place this on a wall.

Chairman Elling questioned the square footage of the sign. Code Enforcement Officer Doug Busse stated 24-sf is allowed without a variance. Chairman Elling stated this is a self-created hardship. Mr. Strada stated 32-sf is allowed with a 10' setback, however this would place the sign closer to the neighbor. The larger size is for visibility; bringing it closer to the road brings the sign away from the neighbor. 32-sf with a 10' setback or 24-sf with a 0' setback is allowed. The requested placement allows for the sign to not be up to the road or sidewalk and allows for plowing. The height variance is to allow safety for pulling in and out of the parking lot.

**2021-048** (continued)

Ms. Hicks questioned when the property was purchased. The property owner stated the property was purchased in 2015. Ms. Hicks stated when the Comprehensive Plan and Sign Ordinance for the Union Road corridor were adopted, there were legal notices and public hearings which gave residents a chance to speak. Ms. Hicks is not in favor of increasing the size of the sign and does not object to the existing sign being freestanding or on the building.

Mr. Strada questioned if removing the address from the sign would decrease the square footage of the sign. Mr. Busse stated the size is determined by the entire sign face.

The adjacent neighbor stated she is not in favor of the sign and believes this will be an eye sore. The neighbor stated she has medical transportation 2 – 3 times per week and the sign will be blinding. The placement of the sign will be misleading as to the entrance location and believes the sign should be centered with two entries on each side of the sign as other business along Union Road. The proposed placement will confuse patrons and bring cars into her driveway. The signatures that were collected are not next door to the property.

Chairman Elling requested clarification on the placement of the sign if the sign were 24-sf. Mr. Busse stated if the sign was 24-sf and 5' off the property line, the sign can officially be right up to the property line on Union Road.

Chairman Elling stated the owner does not need a variance for the placement of the sign, the variance is for a few feet away from what is allowed and a larger sign. Although the neighbor does not want a sign, it is allowed along Union Road.

Ms. Hicks explained to the neighbor that the sign would be next to the driveway. Mr. Busse reiterated the sign would be on the neighbor's side, only a few feet over from this request. Mr. Busse showed the neighbor the placement on the survey.

Chairman Elling stated he was in receipt of correspondence from the NYSDOT with no objection to the variance request along with letters of approval from property owner at 997, 965, 959, 1021, 1039, 1055, 979, 1005, and 950 Union Road.

Mr. Strada stated the although the number of variances seems substantial, an electric sign is allowed at 24-sf. 8-sf of the sign is the address and not commercial advertising; this is the same with the phone number. The size request is not a great increase. The applicant is willing to drop the request for the second sign. The 3' variance could be withdrawn by moving the sign to the edge of the driveway; this does not make safety sense. In terms of the size, this is measured out by the address.

Chairman Elling stated when the town adopted the Comprehensive Plan for the Union Road corridor, it stated the size of the sign regardless of the content. The address and telephone number can be eliminated. Mr. Strada stated this would bring the sign down to 38-sf and the ask would be for an additional 6-sf.

**2021-048** (continued)

Ms. Hicks stated the applicant is also asking for a concession of the setback. The applicant could place a 6' x 4' sign, 5' off the property line with no variance. There is also the possibility of a 8' x 4' sign, with a 10' setback. Mr. Strada stated this will be closer to the neighbors building. Ms. Hicks stated correct and this would not be a 46-sf sign.

Chairman Elling stated the neighbor is upset and now is the time to compromise.

The owner of the property stated he has had a sign since 2015 and it just isn't working. While collecting neighbor signatures, no one knew there was a dentist office at the location. Patients are constantly driving by and turning around. The owner stated he cares about the neighbor and would like a compromise. The new sign would be a pole sign.

Mr. Busse stated this is a pole sign but is being requested as a ground sign with a variance to raise the height from the ground to the bottom most edge of the sign which is not what the Union Road corridor allows. Mr. Strada stated the Union Road corridor allows a pole sign up to 15'. Mr. Busse stated pedestal signs, which is a pole sign, are not permitted in the corridor. A ground sign/moment sign is permitted.

The owner questioned the 0' setback. Mr. Busse stated a 24-sf ground sign is permitted to go to the front property line.

The owner referred to adjacent businesses and their signs, stating compared to what's there, this sign will not be as bright. The owner stressed the need for the sign on Union Road. Mr. Busse stated the sign can be placed as long as it follows the design standards.

Mr. Kapuscinski questioned moving the sign to the middle of the parking lot. The owner stated the parking is so small he could not place a sign there. This is the practice area and the size is the discussion.

Mr. Kapuscinski questioned if the sign was moved more toward the center of the parking lot what are the requirements. Mr. Busse stated the setback is 5' from the property lines, the square footage of the face determines the setback from the front property line.

Mr. Strada stated 5' from the property line would be at the edge of the blacktop. The size is more important than the placement and would like to at least keep the address on the sign. Placing it on the edge is a hardship with patients parking; lowering the height is not safe.

The owner questioned if the sign was 24-sf could the sign be placed in the corner. Mr. Busse stated as long as the sign is 5' off the property line. Chairman Elling stated 0' setback to the front property line, 5' off the side, and 24-sf would not require a variance.

Mr. Strada stated there are true hardships with the size of the parking lot. If the phone number was eliminated, the ask would be for 38-sf (32-sf allowed), and the setback to the road would compromise with the setback to the neighbor. The second ground sign would be removed.

**2021-048** (continued)

The neighbor stated the majority of the businesses have the sign in the middle of the property. Chairman Elling explained the business has the right to place a sign on their property, legally without a variance.

Mr. Strada stated if the phone number is removed, the sign is 38-sf, removing the address is 32-sf; the setback would be 10', and questioned if the compromise could be from 46-sf to 38-sf and an approximate 7' setback with consideration on the address. The sign could be lowered but a car may block the sign and patients will not see the sign. It is a tight property and the sign could be lowered to 6' 6".

Chairman Elling stated the compromise being considered is: 1) 6' 6" to the bottom of the sign; 2) 7' off lot line; 3) a 38-sf sign.

Motion by Elling, seconded by Kapuscinski, to table the variance request until the September 22, 2021, meeting to allow the Zoning Board of Appeals members time to visit the property.

Ayes: All

Noes: None

Motion Carried

**2020-049**

Request of New Hope Methodist Church for renewal of a variance for property located at 2846 Seneca Street to construct a LED sign within 500' of residential property (LED signs not permitted within 500' of residential zoning)

Denise Knight was present on behalf of the applicant and stated the sign has been up for a year and was not aware there was a yearly renewal.

Chairman Elling stated renewals are in place because not everyone follows the rules on the sign ordinance; Saturday at 4am the sign at the church was not turned off. LED signs have a code they must abide by. Code Enforcement Officer Doug Busse stated LED signs must be shut off at the close of business, there are scrolling and timing regulations.

Ms. Knight stated the sign company set up the sign and she was unaware she was in violation. Mr. Busse stated Ms. Knight should contact the sign company for assistance. The Code Enforcement Office will be checking on all signs.

Chairman Elling stated the sign company was made aware last year of the regulations. Lack of compliance could potentially result in the sign being removed.

Motion by Elling, seconded by Hughes, to close the public hearing and table the renewal request until the December 1, 2021, meeting to allow the applicant time to comply with the code.

Ayes: All

Noes: None

Motion Carried

**2021-046**

Request of Lee Shainbroun c/o Applegate Dental for a variance for property located at 2177 Union Road to construct a 660-sf addition with 24' front yard setback on Woodbine Avenue and no parking setback on Woodbine Avenue (40' front yard setback required; 10' parking setback required)

Patrick Sheedy with Carmina Wood Morris was present on behalf of the applicant and stated the building is approximately 2,300-sf. The proposal does not call for any exterior improvements other than restriping the parking lot. The request for the 24' front yard setback along Woodbine Avenue is due to the building being on a corner lot. The parking lot will be restriped and made safer for visitors.

Chairman Elling stated he was in receipt of correspondence from the NYSDOT with no objection to the variance request, noting if any proposed work is located in the state highway right-of-way, a highway work permit will be required, along with letters of approval from property owner at 1343, 2193, and 2185 Union Road and 29 Woodbine Avenue.

Ms. Hicks questioned if the signage will be removed and stated any new signs will have to follow the sign code. Mr. Sheedy stated he understands this and no sign is being removed now.

No comments were received from the public.

Motion by Elling, seconded by Greenan, to close the public hearing and grant a variance for property located at 2177 Union Road to construct a 660-sf addition with 24' front yard setback on Woodbine Avenue and no parking setback on Woodbine Avenue.

Ayes: All

Noes: None

Motion Carried

**2021-047**

Request of Robert Jemiolo for a variance for property located at 3377 Clinton Street allow outdoor live music (outdoor live music not permitted)

The applicant was not present.

Motion by Elling, seconded by Hicks, to table the item until the end of the meeting.

Ayes: All

Noes: None

Motion Carried

**NEW BUSINESS**

**2021-051**

Request of Michael Broad for a variance for property located at 223 Fawn Trail to construct a covered porch with 24' front yard setback (30' front yard setback required)

Mr. Broad stated he would like a variance for a porch covering over an existing front porch.

Chairman Elling questioned if the request has been completed. Mr. Broad stated this was an existing porch and he has already built on top of it; the Building Inspector allowed him to build on top of it.

Chairman Elling questioned if the Building Inspector gave permission. Mr. Broad stated the building inspector didn't tell him anything.

Ms. Hicks questioned why the cover was constructed before the meeting. Mr. Broad stated he thought the meeting was a week earlier and proceeded because of siding on the house being installed.

Chairman Elling stated he was in receipt of letters of approval from property owners at 238, 232, 224, 221, and 215 Fawn Trail and 160 Sunrise Terrace.

Ms. Hicks questioned if there is any recourse for residents who complete their project before the variance is granted. Code Enforcement Officer Doug Busse stated when any work is done before a building permit is issued the building permit fee is doubled and this will be applied to this applicant.

No comments were received from the public.

Motion by Elling, seconded by Greenan, to close the public hearing and grant a variance for property located at 223 Fawn Trail to construct a covered porch with 24' front yard setback.

Ayes: All

Noes: None

Motion Carried

**2021-052**

Request of Christopher Freeman for a variance for property located at 3 Summit Meadow Avenue to erect a 6' fence in front and side yard on corner lot (4' maximum height allowed)

Mr. Freeman stated he would like the current fence extended to the corner of his house to enclose belongings.

Chairman Elling stated he was in receipt of letters of approval from property owners at 255, 254, 250, 11, 6, 246, and 258 Summit Meadow Avenue.

No comments were received from the public.

Motion by Elling, seconded by Hughes, to close the public hearing and grant a variance for property located at 3 Summit Meadow Avenue to erect a 6' fence in front and side yard on corner lot.

Ayes: All

Noes: None

Motion Carried

**2021-053**

Request of Lauer-Manguso & Associates Architects for a variance for property located at 310 Orchard Park Road to construct a building with: 1) 0' front yard setback; 2) 0' side yard setback; 3) 5' and 3.5' parking setback; 4) 1' sign setback (40' front yard setback required; 5' side yard setback required; 10' parking setback required; 10' sign setback required)

Robert Blood with Lauer-Manguso & Associates Architects was present on behalf of the applicant and presented the following:

- ✓ The proposal is for an 1,800-sf restaurant
- ✓ The site is an odd shape but a desirable location
- ✓ An insurance building is currently in the middle of the site; the plan calls for the building to be removed and construct the new building as close to Orchard Park Road as possible. The 0' setback is not along the entire front and occurs at two points. When considering the 0' setback, it should be noted this is 0' from the footing and/or overhangs. The building would be approximately 40' from the road and aligns with the KeyBank canopy structures.
- ✓ The side yard setback plan shows 0' in the back and 20' in the front. The average setback is 10'
- ✓ The parking setback is 5' along the Goodyear property and would be screened with landscaping. The side by KeyBank is at 3' 6" and the distance to their curb results in a 10' landscape median between the two areas.
- ✓ The pole sign would be set back 1' from the right-of-way; moving to 10' would require the removal of a parking space. The sign aligns with the neighboring sign.

Code Enforcement Officer Doug Busse stated there are no issues with the project from the Code Enforcement Office as fire, parking, drive lanes requirements were all met. An agreement is in the works with KeyBank to connect for access.

No comments were received from the public.

Motion by Elling, seconded by Hughes, to close the public hearing and grant a variance for property located at 310 Orchard Park Road to construct a building with: 1) 0' front yard setback; 2) 0' side yard setback; 3) 5' and 3.5' parking setback; 4) 1' sign setback.

Ayes: All

Noes: None

Motion Carried

**OLD BUSINESS**

**2021-047**

Request of Robert Jemiolo for a variance for property located at 3377 Clinton Street allow outdoor live music (outdoor live music not permitted)

The petitioner was not present



**2021-047** (continued)

A neighbor stated his objection to the variance and expressed concerns with the noise, and stated Mr. Jemiolo does not normally follow the rules. The neighbor questioned why the applicant consistently does not show up to the meetings and presented signatures from neighbors in opposition to the variance.

Chairman Elling stated the application has dates for events to be held in August and Septemeber. The Zoning Board of Appeals can not grant something that has passed. The last meeting was tabled due to the NYSDOT correspondance not being received. There are issues that need to be worked out with the NYSDOT. The NYSDOT has provided corespondance requesting the variance not be issued until the front parking is closed off.

Code Enforcement Officer Doug Busse stated he has spoken to Mr. Jemiolo regarding the front parking many times. A one time event applies for a Special Event Permit; multiple times require a variance.

Chairman Elling referred to the neighbor's petition which states granting the variance would have a negative effect on the neighborhood, the quality of life, excess noise, and potential decline in property values. Residents at 3361, 3348, and 3388 Clinton Street and 75, 39, and 20 Inter Drive.

Motion by Hughes, seconded by Greenan, to close the public hearing and table the variance request until the September 22, 2021, meeting.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Elling, seconded by Kapuscinski, to adjourn the meeting at 7:39 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M. Kobler  
Town Clerk/Zoning Board Secretary

