



**TOWN OF HENRIETTA
ZONING BOARD OF APPEALS
JUNE 27, 2007
AGENDA**

**Robert Steidle, Chairman
Robert Barley, Jr.
Kenneth Breese
Douglas Levey
David MacIntyre
Andrew Malcolm
Beth Mossworth**

Marc Duclos, Zoning Board Attorney

WORKSHOP: 6:00 P.M.

PUBLIC HEARINGS: 7:00 P.M.

PUBLIC HEARING APPLICATIONS:

1. Application 07-052 of Petsmart
2. Application 07-053 of Petsmart
3. Application 07-054 of Petsmart
4. Application 07-055 of Petsmart
5. Application 07-065 of Mark Winzenried
6. Application 07-066 of Jane Klimek
7. Application 07-067 of Dorschel Infiniti
8. Application 07-068 of Forest Creek Equity Co.
9. Application 07-069 of Forest Creek Equity Co.
10. Application 07-070 of Forest Creek Equity Co.
11. Application 07-071 of CVS Pharmacy
12. Application 07-072 of CVS Pharmacy
13. Application 07-073 of Fair and Expo Center
14. Application 07-075 of TGI Fridays
15. Application 07-076 of 1555 Jefferson Road, LLC
16. Application 07-077 of American Rentals, LLC dba Volvo Rents
17. Application 07-078 of American Rentals, LLC dba Volvo Rents

MINUTES:

 **Minutes of May 23, 2007 (Copy Enclosed)**

ADJOURNED HEARINGS:

 **None**

PURSUANT TO CALL A MEETING OF THE ZONING BOARD OF APPEALS OF THE TOWN OF HENRIETTA, COUNTY OF MONROE, STATE OF NEW YORK, HELD AT THE HENRIETTA TOWN HALL, 475 CALKINS ROAD, HENRIETTA, NEW YORK ON THE 27TH DAY OF JUNE, 2007 AT 7:00 P.M.

MEMBERS PRESENT

Robert Steidle, Chairperson
Kenneth Breese
Douglas Levey
David MacIntyre
Andrew Malcolm
Beth Mossworth

MEMBERS ABSENT

Robert Barley, Jr.

Marc Duclos, Attorney

On motion of Mr. Malcolm, seconded by Mr. Breese, the minutes of the meeting of May 23, 2007 were approved.

AYES: Steidle, Breese, Levey, Malcolm, Mossworth
NOES: None
ABSTAIN: MacIntyre

CARRIED

The following notice was published in the *Henrietta Post* on June 20, 2007. It read as follows: "A public hearing will be held on Wednesday, June 27, 2007 at 7:00 P.M. in the Henrietta Town Hall, 475 Calkins Road, Henrietta, New York before the Zoning Board of Appeals of the Town of Henrietta regarding the following applications: 07-052, 07-053, 07-054, 07-055, 07-065, 07-066, 07-067, 07-068, 07-069, 07-070, 07-071, 07-072, 07-073, 07-075, 07-076, 07-077 and 07-078."

On motion of Mr. Breese, seconded by Mr. MacIntyre, Applications 07-052, 07-053, 07-054, 07-055, 07-067, 07-068, 07-069, 07-070, 07-071, 07-072, 07-073, 07-077 and 07-078 were declared Type II Actions under Section 617.5(c)(10) of the State Environmental Quality Review Act (SEQRA).

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

On motion of Mr. Breese, seconded by Mr. MacIntyre, Applications 07-065, 07-066 and 07-075 were declared Type II Actions under Section 617.5(c)(12) of the State Environmental Quality Review Act (SEQRA).

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

On motion of Mr. Breese, seconded by Mr. MacIntyre, Application 07-076 was declared an Unlisted Action under Section 617.7(c)(viii) of the State Environmental Quality Review Act (SEQRA).

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-052 of Petsmart requesting a variance for 254.1 sq.ft. of signage, whereas only 250 sq.ft. is allowed by code on property located at 790 Jefferson Road.

 ***This application was reserved for determination of correct square footage after taking account the Zoning Board's decision dated 6/27/07.***

Application 07-053 of Petsmart requesting a variance for a second wall sign reading "Grooming" (12.35 sq.ft.), whereas only one wall sign is allowed by code on property located at 790 Jefferson Road.

On motion to deny by Mr. MacIntyre, seconded by Mr. Breese, it was RESOLVED THAT Application 07-053 of Petsmart be denied.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-054 of Petsmart requesting a variance for a third wall sign reading "Banfield" (17.72 sq.ft.), whereas only one wall sign is allowed by code on property located at 790 Jefferson Road.

On motion to approve by Mrs. Mossworth, seconded by Mr. Levey, it was RESOLVED THAT Application 07-054 of Petsmart be approved.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-055 of Petsmart requesting a variance for a fourth wall sign reading "Petshotel" (11.96 sq.ft.), whereas only one wall sign is allowed by code on property located at 790 Jefferson Road.

On motion to approve by Mrs. Mossworth, seconded by Mr. Levey, it was RESOLVED THAT Application 07-055 of Petsmart be approved.

AYES: Steidle, Levey, Malcolm, Mossworth
NOES: Breese, MacIntyre
ABSTAIN: None

CARRIED

Application 07-065 of Mark Winzenried requesting a variance for a 21 ft. front setback, whereas 40 ft. is required by code to build a 22' x 24.2' garage on property located at 101 Feasel Drive.

On motion to deny by Mr. Levey, seconded by Mrs. Mossworth, it was RESOLVED THAT Application 07-065 of Mark Winzenried be denied based on the following findings of fact:

☐ Setback requested is substantial, out of character with the neighborhood, and would cause a visual impairment of the corner.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-066 of Jane Klimek requesting a variance for a 1½ ft. rear setback, whereas 10 ft. is required by code to build a 10' x 20' deck on property located at 79 Charissa Run.

On motion to approve by Mr. MacIntyre, seconded by Mr. Levey, it was RESOLVED THAT Application 07-066 of Jane Klimek be approved.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth

NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-067 of Dorschel Infiniti requesting a variance for a third wall sign reading "Dorschel" (15" x 6'8"), whereas two are allowed by code on property located at 3855 West Henrietta Road.

On motion to deny by Mr. Levey, seconded by Mr. MacIntyre, it was RESOLVED THAT Application 07-067 of Dorschel Infiniti be denied based on the following findings of fact:

- Sign is redundant to signs located nearby.***
- Sign is not visible nor located near the Infiniti sign as a reason stated in the application.***

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-068 of Forest Creek Equity Co. requesting a variance for a 76 sq.ft. sign reading "Berkshire Park", whereas 32 sq.ft. is allowed by code on property located at Berkshire Park (south corner of Scottsville-West Henrietta Road and Harrogate Crossing).

On motion to approve by Mr. Levey, seconded by Mr. Breese, it was RESOLVED THAT Application 07-068 of Forest Creek Equity Co. be approved with the following stipulations and based on the following findings of fact:

Stipulations:

- That the square footage of sign be limited to 64 sq.ft. and the supporting structure be reduced proportionally.

Findings of Fact:

- The size requested is substantial.
- Is out of character with the neighborhood.
- And the hardship was self-created.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth

NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-069 of Forest Creek Equity Co. requesting a variance for a second sign reading "Berkshire Park", whereas only one sign is allowed by code on property located at Berkshire Park (northeast corner of Scottsville-West Henrietta Road and Harrogate Crossing).

On motion to approve by Mrs. Mossworth, seconded by Mr. Malcolm, it was RESOLVED THAT Application 07-069 of Forest Creek Equity Co. be approved.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-070 of Forest Creek Equity Co. requesting a variance for a 76 sq.ft. sign (for second sign "Berkshire Park" - Application 07-069), whereas 32 sq.ft. is allowed by code on property located at Berkshire Park (northeast corner of Scottsville-West Henrietta Road and Harrogate Crossing).

On motion to approve by Mr. Levey, seconded by Mr. Breese, it was RESOLVED THAT Application 07-070 of Forest Creek Equity Co. be approved with the following stipulations and based on the following findings of fact:

Stipulations:

- That the square footage of sign be limited to 64 sq.ft. and the supporting structure be reduced proportionally.

Findings of Fact:

- The size requested is substantial.
- Is out of character with the neighborhood.
- And the hardship was self-created.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-071 of CVS Pharmacy requesting a variance for a pole sign of 152.5 sq.ft., whereas 100 sq.ft. is allowed by code on property located at 2550 East Henrietta Road.

On motion to deny by Mr. MacIntyre, seconded by Mr. Breese, it was RESOLVED THAT Application 07-071 of CVS Pharmacy be denied.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-072 of CVS Pharmacy requesting a variance to remove two-sided "Drive-thru" sign from pole sign and install electronic reader board sign in its place on property located at 2550 East Henrietta Road.

On motion to deny by Mr. MacIntyre, seconded by Mr. Breese, it was RESOLVED THAT Application 07-072 of CVS Pharmacy be denied based on the following findings of fact:

The sign would be out of character with the rest of the sign.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-073 of Fair and Expo Center requesting a variance for a second ground sign, whereas only one ground sign is allowed by code on property located at 2811 East Henrietta Road.

On motion to approve by Mr. MacIntyre, seconded by Mr. Malcolm, it was RESOLVED THAT Application 07-073 of Fair and Expo Center be approved.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-075 of TGI Fridays requesting a variance for a 80' front setback, whereas 100' is required by code to construct a 5,818 sq.ft. TGI Fridays restaurant on property located at 720 Jefferson Road (at Market Square).

On motion to deny by Mrs. Mossworth, seconded by Mr. Levey, it was RESOLVED THAT Application 07-075 of TGI Fridays be denied with the following factual findings:

- ☞ The applicant failed to make a showing why they are unable to position the building in the same manner as Red Robin who is their immediate neighbor. Therefore, the board finds that the benefit can be achieved by other feasible means.***
- ☞ None of the other out parcels in the development are closer to Jefferson Road than 100 feet. As a result, the board finds that the variance requested would create an undesirable change in the neighborhood.***
- ☞ The request is substantial in that if granted it would constitute a 20% reduction of the setback permitted by the Town Code.***
- ☞ The applicant purchased the property with the current zoning regulations in place, therefore the alleged difficulty is self-created.***

AYES: Steidle, Breese, Levey, MacIntyre, Mossworth
NOES: Malcolm
ABSTAIN: None

CARRIED

Application 07-076 of 1555 Jefferson Road, LLC requesting a land-use variance to construct proposed industrial buildings on residential R115 zoned property located at 1555 Jefferson Road.

On motion to approve by Mr. Steidle, seconded by Mrs. Mossworth, it was RESOLVED THAT Application 07-076 of 1555 Jefferson Road, LLC be approved with the stipulation that the landscape buffer on the west side be 15 feet and the board will recommend to the Planning Board a larger buffer along Castle Road.

AYES: Steidle, Breese, Malcolm, Mossworth
NOES: Levey, MacIntyre
ABSTAIN: None

CARRIED

Application 07-077 of American Rentals, LLC dba Volvo Rents requesting a variance for a second wall sign reading “Volvo Rents”, whereas only one wall sign is allowed by code on property located at 299 Jefferson Road.

On motion to approve by Mr. Malcolm, seconded by Mr. Levey, it was RESOLVED THAT Application 07-077 of American Rentals, LLC dba Volvo Rents be approved.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

Application 07-078 of American Rentals, LLC dba Volvo Rents requesting a third wall sign reading “Materials Division”, whereas only one wall sign is allowed by code on property located at 299 Jefferson Road.

On motion to approve by Mr. Malcolm, seconded by Mr. Levey, it was RESOLVED THAT Application 07-078 of American Rentals, LLC dba Volvo Rents be approved.

AYES: Steidle, Breese, Levey, MacIntyre, Malcolm, Mossworth
NOES: None
ABSTAIN: None

UNANIMOUSLY CARRIED

On motion of Mr. MacIntyre, seconded by Mr. Breese, it was agreed that the meeting be adjourned at 10:14 P.M.

Respectfully Submitted,

Robert Steidle
Chairperson

RS/tm