**0TOWN OF SHANDAKEN ZONING BOARD OF APPEALS**

***MINUTES FOR PUBLIC HEARING & REGULAR MONTHLY MEETING* 12/19/12**

The public hearing was opened by Acting Chairman Reiss at 7:35 PM with the Pledge of Allegiance to the Flag. The Secretary called the roll, advised that a quorum was present and that the meeting could commence.

ROLL CALL:

*Gary Guglielmetti Present*

*Tom Hickey-Chair Absent*

*Keith Johnson Present*

*Joe Michaels Present*

*Rolf Reiss Present*

*Roll Call Summary: 4 present, 1 Absent*

*Also Present: Eric Hoffmeister, Wilfred Nolte, Jack Zand, John Wasylek, Bernard Handzel, Beth Waterman, Barbara Vilela, Rod Futerfas, Susan Robertson, Nancy Howell, Holly George-Warren.*

Acting Chair Rolf Reiss opened the public hearing on the Phoenicia Library.

Case 2012-12 Phoenicia Library PO Box 555 Phoenicia, NY SBL# 14.13-3-4 Zoned HC. Requesting five (5) variances to renovate and add additional space to existing library located at 48 Main St. Phoenicia, NY.

Attorney Jack Zand brought up the response from the Ulster County Planning Board and their suggestion the ZBA contact the SAFARI group regarding their meetings. Acting Chair Rolf Reiss indicated that according to the Town Supervisor there is no official determination or recommendations from SAFARI.

Secretary read letter from attorney Rod Futerfas (on file).

Architect John Wasylek presented a model of the library project, showing the main entrance, the handicap ramp and the interior of what the library will look like when completed.

Eric Hoffmeister commented that the model should indicate the closeness to the neighboring properties. He indicates to service the new addition it would require standing on the neighbor’s property, and if the board grants these variances they are basically giving permission for people to trespass on the neighbor’s property. Acting Chair Rolf Reiss indicated that is not in the board’s purveyance. Mr. Hoffmeister understands this but a court can grant the right to use the neighbor’s property to maintain the existing building but not the new addition. Acting Chair Rolf Reiss indicated that is not the case according to the town’s attorney. Mr. Hoffmeister indicated that if this happens they will file an Article 78 because they will be giving rights to his property. He indicates the Zoning Law

Section 77-21D states “Variances shall not be issued within any designated floodway if any ncrease in flood levels during the base flood discharge would result.” Mr. Hoffmeister indicates that by blocking the alleyway would increase the flow of water down Main St. Acting Chair indicated that this would be an issue for the Flood Plain Administrator to address. Mr. Wasylek indicated that the new design does meet with NYS Fire Code. Acting Chair Rolf Reiss indicated that Mr. Nolte did erect a wall between his store and the liquor store and this would also appear to impede the water flow down Main St. in a similar way to the library. Mr. Wasylek addressed the issues of the amount of space between the buildings in reference to the ability to fight a fire. Mr. Hoffmeister indicated that the library does not have access to the back of the building. Attorney Jack Zand indicated the NYS Fire Codes does not overrule the setback requirement. He indicated the whole concept of the SAFARI Committee was to address the floodway coming down Main St. and the County Planning Board suggested the board await their evaluation. Acting Chair Reiss indicated that the County Planning Board suggested they contact them. Acting Chair Reiss indicated that since no decisions have been made by the SAFARI group, this is something that would have to be addressed down the line. Mr. Zand asked if the ZBA would wait for the SAFARI decision before they make a decision on the library. Acting Chair Reiss indicated “no, they would not”. Acting Chair Reiss addressed the self-created hardship issue. He indicates these are area variances and not use variances and the board can grant area variances that are considered self-created. In summation

Since the library is planning to replace more than 50% of the structure they need to come into compliance with the Americans with Disabilities Act. They are also adding approximately twenty-four (24) feet in length to the back, and approximately seven feet on the west side to accommodate the ramp and elevator; The new addition on the back would not be as close to the neighboring property line as the front of the building is. The density covereage would go from twenty-three (23) percent to thirty-six (36) percent, approximately one-third (1/3) the original size. The other issue is the parking variance.The determination was that an additional three to four (3-4) parking spaces would be needed. The library would not be able to accommodate this but this is the same condition for the majority of the town. Most of the business located in town rely on on-street parking or the town rented parking lot across the street. Mr. Hoffmeister brought up the fact that employees of the library tend to park on Main St. Liz Potter indicated that they addressed that issue with the employees to park in the municipal lot.

Acting Chair Reiss made a motion to close the public hearing. Seconded by member Joe Michaels, all members present in favor.

Acting Chair Rolf Reiss opened the regular meeting

Acting Chair Reiss indicated that he has reviewed the requests, and believes these are the minimum requests to properly serve the community, and that the library has shown sensitivity for the neighbors by reducing the size of the addition,

Especially on the south side where neighbors have substantial additions, the library itself in citing the survey that indicated the library was too small has addressed this issue.

Acting Chair Rolf Reiss made a motion to grant the requested variances and declares it a Type II SEQRA requiring no further review. Seconded by member Joe Michaels.

Roll Call Vote:

Gary Guglielmetti: No- Member feels that our zoning code is one of the most restrictive that he has seen. However, we as a board are there to give relief. In the past if everyone was on board with the plan there would be no problems.

The concern is the additional 24 feet and the water run-off is going to go to the neighbors adjacent property.

Joe Michaels: Yes Member feels there is a demonstrated community need and that it is in the best interest of the community and is a benefit. As far as the water issue, without a detailed study done there is no way to know what the result will be on the effects of decreasing the space in the alleyway will have on Main St. This can vary storm by storm.

Rolf Reiss: Yes

Keith Johnson: Yes Member feels this was an issue created by the fire and it is enough of a benefit to the community to grant the variances

3 Yes 1 No

Mr. Nolte approached the board and indicated that the board is wrong and he will take this higher.

New Business: Case 2012-13 Gabrielle Stutman 116 Round Hill Rd. Dobbs Ferry, NY requesting a side yard variance for property located at 15 Lilly Ave. Phoenicia, NY SBL# 13.6-2-8, Zoned R1.5

Barbara Villella is here representing Ms. Stutman. She indicated that this is for a deck located on the side yard. She also owns the adjacent piece of property. The deck does not protrude any further into the front yard.

Motion made by Acting Chair Rolf Reiss to move this case to a public hearing. Seconded by member Keith Johnson, all members present in favor.

Other Business: Acting Chair Rolf Reiss made a motion to accept November’s minutes as presented. Seconded by member Gary Guglielmetti, all members present in favor.

There being no further business a motion was made by Joe Michaels to adjourn. Seconded by member Gary Guglielmetti, all members present in favor.

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