

EXTRACT FROM
MINUTES OF A REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF
THE VILLAGE OF ELMSFORD

Wednesday, December 6, 2023, 7:00 P.M.

PRESENT: Chairman David Perilli
Member Carl Satori
Member Anthony Rizzo
Member Justin Datino

ABSENT: Member Michael Eannazzo

ALSO PRESENT: Village Administrator Michael Mills
Building Inspector Antonio Capicotto
Village Attorney Daniel Pozin

Self-Storage Facility – 15 & 19 West Main Street

After due discussion and deliberation, further consideration and review, on motion by Member _____, seconded by Member _____, and carried, the following resolution was adopted:

WHEREAS, Bhavesh Patel and Elmsford Real Estate, LLC are collectively the “Applicant” is the Applicant with respect to the proposed redevelopment of certain property known as 15 & 19 West Main Street, Elmsford New York, which property is designated on the Village’s tax assessment map as Section 5, Sheet 20, Block 15, Lots 1&2, (the “Property”) and located in the Village’s B Zoning District; and

WHEREAS, in connection with Applicant’s proposal to re-develop the Property with a 5 story self-storage building the Applicant is seeking the following area variance from the provisions of the Elmsford Zoning Code: § 335-19 C. – Insufficient Parking (126 parking spaces required, 12 proposed); and

WHEREAS, a public hearing on the application was opened on February 15, 2023, and continued on September 20, 2023, October 18, 2023, and thereafter on December 6, 2023, at which times all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, on motion by Member _____ and seconded by Member _____, and carried, the public hearing was closed on December 6, 2023; and

WHEREAS, the Village of Elmsford Zoning Board of Appeals (“ZBA”) finds the following:

1. No public comments were received by the ZBA during the public hearing.

2. In determining whether to grant the requested area variance, the ZBA is obligated to “take into consideration the benefit to the Applicant if the variances are granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.” Village Law §7-712-b(3)(b). In balancing the benefit to the Applicant against the detriment, if any, to the neighborhood, the ZBA must consider the statutory criteria set forth in Village Law §7-712-b(3)(b). That statute provides in part that:

“In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.”

Is the variance substantial?

The Applicant is seeking a substantial reduction in the parking requirement. Notably though, the Applicant has demonstrated that the overall volume of traffic to and from the proposed self-storage business does not merit the required number of parking spaces with the actual need being significantly less than that required by Code.

Is the hardship self-created?

The Applicant’s desire to replace the existing buildings with a self-storage facility is clearly self-created. The ZBA does note, however, that this factor does not, in and of itself, preclude the granting of relief.

Could the necessity for the variance be obviated by other feasible alternatives?

The Applicant cannot achieve the benefit it is seeking by any other method other than to obtain the requested variances.

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

No comments were received from the public raising any concerns, nor was any evidence presented to the ZBA as to whether the granting of the requested variance will adversely affect or impact the physical or environmental conditions in the surrounding neighborhood or Zoning District, and in fact, the Applicant has demonstrated that the proposed building and use will be a vast improvement over the existing motel and car wash facilities currently operating on the Property.

Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of a variance.

No evidence was presented to the ZBA which would substantiate an undesirable change in the character of the neighborhood or detriment to nearby properties by the granting of the requested area variance.

Balancing test.

Taking into consideration the nature of the variances, as well as the fact that no evidence was produced which would lead the ZBA to conclude that there would be any adverse effect on the environment, neighborhood or Zoning District, we conclude that the benefit to the Applicant by granting the requested variance outweighs any detriment to the nearby properties and the surrounding community by allowing the Applicant to proceed with the project as proposed.

SEQRA.

In accordance with Article 8 of the State Environmental Conservation Law and 6 NYCRR Part 617, the ZBA has determined that the Project constitutes an Unlisted Action under the New York State Environmental Quality Review Act (“SEQRA”).

NOW THEREFORE, BE IT

RESOLVED, that In accordance with Article 8 of the State Environmental Conservation Law and 6 NYCRR Part 617, and based upon the review of the Full EAF, and Parts 2 and 3 thereof, and all other application materials that were prepared for this action, the Zoning Board of Appeals hereby adopts a Negative Declaration for the proposed action and determines that the proposed action will not have a significant adverse impact upon the environment as it will not have an adverse impact upon the character of the area, nor will it result in an adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, or result in a material conflict with the Village’s current plans or goals; and be it further

RESOLVED, that the application of Bhavesh Patel and Elmsford Real Estate, LLC to the Village of Elmsford Zoning Board of Appeals for a variance of the parking requirement as shown on its submission to the Zoning Board of Appeals at Property located in the B Zoning District which Property is known as 15 & 19 West Main Street and which property is designated on the Tax Map of the Village of Elmsford as Section 5, Sheet 20, Block 15, Lots 1 & 2, be and the same is hereby **GRANTED**.

Vote: Member Sartori
Member Datino
Member Rizzo
Chairman Perilli
Member Eannazzo