

At a meeting of the Zoning Board of Appeals of the Village of East Aurora, New York, held at the Village Hall, East Aurora, New York on the 11<sup>th</sup> day of January 2018

PRESENT:

John Spooner, Chairman  
Michael Campanella, Vice Chairman  
John Pagliaccio  
Molly Flynn  
Michael Croft  
Bruce Mitchell, Alternate

ABSENT:

ALSO PRESENT:

William Kramer, Code Enforcement Officer  
Nancy Burkhardt, Deputy Village Clerk  
Michael Wall, T.Y. Lin, McDonald's,  
17 Ernst Place East Aurora, NY 14052  
Camryn Collins, Flexlume Signs, Shoe Dept,  
123 Grey Street East Aurora, NY 14052  
Matthew Oates, Benderson Development,  
123 Grey Street East Aurora, NY 14052

Chairman John Spooner opened the meeting at 6:00 PM. Chairman Spooner requested a motion to approve the minutes from December 14<sup>th</sup>, 2017. Member Michael Campanella motioned to approve the minutes, seconded by Member Molly Flynn, with one change submitted by Member Michael Croft. Approved with a majority vote and one abstention by Member Croft. Member Campanella made a motion to close the meeting at 6:01 PM. Seconded by Member Flynn.

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IN THE MATTER OF THE APPLICATION OF

**T.Y Lin (on behalf of McDonald's) – 17 Ernst Place Section §209-5D: revolving, moving, fluttering, internally lit, internally illuminated, back-lit or flashing signs are prohibited; §209-7B(3): any sign may be illuminated, but only by a steady, non flashing external light; §209-7B(2)(a) Freestanding signs are not to be higher than 10'; 209-10F(1): Menu Boards are not higher than 6'**

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Chairman, John Spooner opened the meeting at 6:15 pm and introduced the (6) members of the Zoning Board of Appeals which constitutes a quorum.

IT APPEARING that all parties entitled to notice pursuant to statute were given due and timely notice of the hearing in this matter as it appears from an affidavit of mailing filed herein and made a part of the record in this matter and that the required notice of hearing was published in the official newspaper of the Village of East Aurora on January 4<sup>th</sup>, 2018 as it appears from the affidavit of publication filed herein and made a part of the record in this proceeding; and findings.

Chairman John Spooner requested Code Enforcement Officer, William Kramer, to read the denial letter sent to T.Y. Lin (on behalf of McDonald's):

1. The denial letter from the Code Enforcement Officer dated December 11<sup>th</sup>, 2017 stating that relief is needed from Village Code Sections §209-5D: revolving, moving, fluttering, internally lit, internally illuminated, back-lit or flashing signs are prohibited; §209-7B(3): any sign may be illuminated, but only by a steady, non flashing external light; §209-7B(2)(a) Freestanding signs are not to be higher than 10'; 209-10F(1): Menu Boards are not higher than 6'
2. The letter of appeal from T.Y. Lin (on behalf of McDonald's):, was read aloud by CEO Bill Kramer and made a part of the record. (see attached exhibit A as requested by Chairman)

IT APPEARING that this matter was not referred to the Erie County Division of Planning with Erie County giving no recommendation.

Chairman Spooner asked if there were any other communications received on the matter. CEO Bill Kramer responded 'No'.

Chairman Spooner asked Mike Wall from the Rochester branch of T.Y. Lin to present his case to the Zoning Board of Appeals on behalf of McDonald's.

Mr. Wall explained the variances requested are to accompany the development plan for a redesign submitted by the franchise owners. It is an older McDonald's and the owners are seeking to refresh the exterior and interior. The variance requested for the signage is the minimum by McDonald's corporate standards in order to maintain economic viability.

Member Flynn inquired if the two 'M's' are within the size code, and if it is only the backlit portion requiring for a variance, to which Mr. Wall affirmed.

Member Croft asked if the 'M's' light in front of the operation is turned off at night? Mr. Wall replied 'yes', and further explained the menu boards will be the same height the current singular board is currently set at. There already a pre-browse menu board installed at this location, the pre-browse will be replaced with an internally lit sign. While there will be greater illumination from this new board, the lighting is designed to only illuminate forward to the car sitting before the signage, it does not cast lighting away from the sign.

Member Flynn asked with the new menu boards and signage if the total lighting will be more or less than what is currently output at this location? Mr. Wall responded the proposed redesign will definitely be less output than what is there now, and the total area of the menu boards will be less than a 5% total increase in area signage.

Chairman Spooner closed the hearing at 6:32 pm.

Chairman, Spooner called the meeting back into order at 7:16 PM and read the following findings for T.Y. Lin for McDonald's at 17 Ernst Place.

1. 17 Ernst Place is in a CM District. The McDonald's building was constructed in 1980.

2. There are presently several internally lit signs located at 17 Ernst Place and in the general neighborhood.
3. The purpose of these signs is to advertise and direct customers to the proper venue at this business. The menu and pre-browse signs will change base on menu changes, but have no video applications and shall not flash or blink.
4. Corporate signage branding requires internally lit signs at all their locations. The total size of the menu board will be 46% smaller than the present menu board.
5. The sign code changes in 2007 to prohibit internally lit signs.
6. The request for this variance will not change the character of the neighborhood nor is it a self-created hardship.
7. The two new signs will be 1.5 feet taller than required by code.
8. The proposed variance is the minimum variance which will prevent the practical difficulty herein without violating the spirit and intent of the zoning code.
9. This request for variance is not substantial.
10. There were 30 notices sent out and there were 0 responses.
11. This is a Type II action under SEQR.

Michael Campanella made a motion to accept the proposed findings and to **GRANT** a variance. The motion was seconded by Molly Flynn with unanimous approval.

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**IN THE MATTER OF THE APPLICATION OF  
93NYRPT, LLC (Benderson Development) – 123 Grey Street - REHEARING  
§165-4B: the maximum allowable lighting per acre at 60,000 Lumens**

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Chairman Spooner called to order the rehearing for Benderson Development at 6:35 PM.

Mr. Oates stepped forward to present the further information gathered by Benderson Development's lighting consultant since the initial hearing in December:

- The increase in overall lumens at the Grey Street Shopping Plaza will not have any light spillover 50-60 feet outside of each of the proposed LED lights.
- There will be no registering outside of the immediate area; the LED lights are dark sky compliant.
- The covered canopy will be staying 'as is' in many regards, except for being extended out in the proposed areas to create a more unified look throughout the plaza.
- Lighting will be installed in the newly landscaped garden beds.
- Benderson Development is working with their electrician to have their lights be on timers to be turned off near the residential areas of the plaza at a set time each evening.

- Benderson is working with a contractor to generate a quote to have the entire plaza upgraded to LED lighting within the near future. While this is only the first step, starting with this current project and going forward, everything will be LED, so it is only the existing fixtures requiring for an upgrade.

Chairman Spooner closed the hearing at 6:50pm.

Chairman, Spooner called the meeting back into order at 7:34 PM and read the following findings for Benderson Plaza at 123 Grey Street.

1. 123 Grey St. is a plaza in a C District totaling 20.96 acres in size.
2. The proposed additional lighting would be located in the expanded pedestrian walkways along the front of the existing storefronts.
3. The proposed plan calls for 10 new light standards which will increase the lumens per acre from 149,944 to 154,317 lumens per acre, an increase of .03 percent per an acre.
4. The proposed additional fixtures will meet all other lighting code requirements.
5. The new fixtures and LED lights will zero out 50'-60' from the fixture with no light spill off the property.
6. The request for this variance will not change the character of the neighborhood.
7. The proposed variance is the minimum variance which will prevent the practical difficulty herein without violating the spirit and intent of the zoning code.
8. This request for variance is not substantial, but will improve pedestrian safety near the stores in the plaza.
9. There were 49 notices sent out and there were 5 responses who were concerned about the proposed new lighting.
10. This is a Type II action under SEQR.

John Pagliaccio made a motion to accept the proposed findings and to **GRANT** a variance. The motion was seconded by Michael Croft with unanimous approval.

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**IN THE MATTER OF THE APPLICATION OF  
Camryn Collins, Flexlume Signs (on behalf of Shoe Dept) – 123 Grey Street  
§285209-5D: revolving, moving, fluttering, internally lit, internally illuminated, back-lit or  
flashing signs are prohibited; §209-7B(3): any sign may be illuminated, but only by a  
steady, non flashing external light**

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Chairman, John Spooner opened the hearing at 6:51 PM.

IT APPEARING that all parties entitled to notice pursuant to statute were given due and timely notice of the hearing in this matter as it appears from an affidavit of mailing filed herein and

made a part of the record in this matter and that the required notice of hearing was published in the official newspaper of the Village of East Aurora on January 4<sup>th</sup>, 2018 as it appears from the affidavit of publication filed herein and made a part of the record in this proceeding; and findings.

Chairman John Spooner requested Code Enforcement Officer, William Kramer to read the denial letter sent to Flexlume Signs (on behalf of Shoe Dept):

1. The denial letter from the Code Enforcement Officer dated December 12<sup>th</sup>, 2017 stating that relief is needed from Village Code Sections §209-5D: revolving, moving, fluttering, internally lit, internally illuminated, back-lit or flashing signs are prohibited; §209-7B(3): any sign may be illuminated, but only by a steady, non flashing external light.
2. The letter of appeal from Flexlume Signs (on behalf of Shoe Dept, was read aloud by CEO Bill Kramer and made a part of the record.

IT APPEARING that this matter was not referred to the Erie County Division of Planning with Erie County giving no recommendation.

Chairman, John Spooner asked for Camryn Collins to present the case on behalf of Shoe Dept.

Ms. Collins stated the Shoe Dept is requesting the variance in order to have a presence amongst all the similar signage located in the plaza. It is a new store, and the customer would like to draw attention to their location to attract customers. The sign is actually a replacement face to an already pre-existing sign from the prior store occupying that storefront.

There being no further testimony, or questions from the members of the Zoning Board of Appeals. Chairman Spooner closed the hearing for deliberations and findings at 7:00 PM.

Chairman, Spooner called the meeting back into order at 7:38PM and read the following findings for Camryn Collins for 123 Grey Street.

1. 123 Grey St. (Shoe Dept) is in a C District. The plaza was built in 1960.
2. Shoe Dept. is in a plaza setting and is located a significant distance off Grey St.
3. All businesses in the plaza have internally lit channel letter signs to enhance the visibility of the business to Grey St. The purpose of these signs is to advertise each business and match the unique plaza setting that was approved by the Village Board previously.
4. The landlord requires internally lit channel letter signs. This sign meets all other requirements of the code.
5. The sign code was changed in 2007 to prohibit internally lit signs.
6. The request for this variance will not change the character of the neighborhood nor is it a self-created hardship.
7. The proposed variance is the minimum variance which will prevent the practical difficulty herein without violating the spirit and intent of the zoning code.

8. This request for a variance is not substantial.
9. There were 49 notices sent out regarding this variance and there were no responses.
10. This is a Type II action under SEQR.

John Pagliaccio made a motion to accept the proposed findings and to **GRANT** a variance. The motion was seconded by Michael Campanella with unanimous approval.

The Chairman asked for a motion to close this meeting at 8:18 PM, motioned by Michael Croft, seconded by John Pagliaccio, unanimous “aye”, Zoning Board of Appeals meeting for January 11<sup>th</sup>, closed.

Respectfully submitted,

Nancy A. Burkhardt  
Deputy Village Clerk

(Appendix A on following page)