

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 9<sup>th</sup> day of August 2018

PRESENT:

John Spooner, Chairman  
John Pagliaccio  
Molly Flynn  
Joe Cassidy  
Bruce Mitchell, Alternate

ABSENT:

Michael Croft

ALSO PRESENT:

William Kramer, Code Enforcement Officer  
Nancy Burkhardt, Deputy Village Clerk  
Rachel Smith, 502 Main Street  
Orlando & Ashley Ragudos, 170 Main Street  
Barbara Davis, 274 Perry Street

Chairman John Spooner opened the meeting at 5:57 PM. Chairman Spooner requested a motion to approve the minutes from July 16, 2018. Member Molly Flynn motioned to approve the minutes. Member Joe Cassidy requested for one correction, to strike his name from page 6. Motion seconded by Member John Pagliaccio with requested correction, passed with majority approval with one abstention by Member Cassidy.

Member Bruce Mitchell motioned to close the meeting of the Zoning Board of Appeals at 5:59 PM, seconded by Member Cassidy with unanimous approval.

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**IN THE MATTER OF THE APPLICATION OF  
Orland & Ashley Ragudos – 1620 Grover Road  
§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.**

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Chairman, John Spooner opened the meeting at 6:00 pm and introduced the (5) 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 August 2<sup>nd</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 Rachel Smith:

1. The denial letter from the Code Enforcement Officer dated July 13<sup>th</sup>, 2018 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 Orlando and Ashley Ragudos was read aloud and made 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 Spooner asked if there were any other communications received on the matter. CEO Bill Kramer responded 'No'.

Chairman Spooner asked Orlando Ragudos, to present his case to the Zoning Board of Appeals.

Mr. Ragudos explained he is in the process of opening a business with his wife, Formula Fitness, at 170 Main Street. The landlord, Benderson Development, requires for their tenants to have internally lit signs identifying the tenant's business. There is currently a sign above his business, however he has not turned it on, it will only be lit when their business is open. The business is set 100-150 yards off Main Street. Member Pagliaccio inquired as to the business's hours, to which Mr. Ragudos stated the hours of operation are 5am – 9pm. Member Cassidy asked the applicant if he would still be applying for this variance if the landlord's criteria did not call for an internally lit sign. Mr. Ragudos confirmed he would most likely still seek for a variance to accommodate for internally lit signage.

Chairman Spooner closed the hearing at 6:09 PM for deliberations.

Chairman, Spooner called the meeting back into order at read the following findings for Orlando & Ashley Ragudos:

1. 170 Main Street is in a C District and is a class 2 building as defined in the sign code section 209-7A(2).
2. This business is a new build out in a strip plaza the shell of which was completed in 2006.
3. The Village Code was changed in 2007 to prohibit internally lit signs.
4. Other businesses in the strip plaza have internally lit signs.
5. The request for a variance will not change the character of the neighborhood.
6. The proposed variance is the minimum variance which will prevent the practical difficulty herein without violating the spirit and intent of the zoning code.

7. The request is not substantial.
8. 56 notices were sent to the neighbors, with 0 responses.
9. This is a Type II Action under SEQR.

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

Chairman Spooner requested a motion to close the hearing at 6:15 PM, motioned by Member Flynn, seconded by Member Pagliaccio, unanimous approval.

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**IN THE MATTER OF THE APPLICATION OF  
Barbara Davis – 274 Perry Street  
285-17 D(1) required front yard is to be 20% of the lot depth (39.07').**

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Chairman, John Spooner opened the hearing at 6:17 PM for the tabled variance request by Ms. Davis. The initial hearing occurred on July 10<sup>th</sup>, however, the Board had requested for greater information be provided.

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 August 2<sup>nd</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 for Ms. Davis to present her case again to the Zoning Board of Appeals with additional information that was requested at the last hearing.

Ms. Davis stated to the Board that she was able to find the edge of her property based upon the advice dispensed by Member Mitchell at the last meeting. By basing her measurements upon the center of the road, her measurements then agreed with the survey. Member Flynn inquired if everything was then different by five feet on the measurements, (the number of feet that provided a discrepancy at the last hearing), to which Ms. Davis agreed. By measuring 24.9 inches from the center of the road, and then measuring in from that spot, the numbers agree with what was stated on the survey on the right of way as 34'.

CEO Bill Kramer calculated the new variance required, and identified the public notification showed a different number than what is actually being requested by the applicant. With consideration to this number deviating from what was advertised, it was recommended to table the request, and have the applicant come before the Board at the next meeting. The public notice will reflect the new request of 20.27' for the requested variance.

The Chairman requested for a motion to table the hearing for 274 Perry Street until the next ZBA meeting on Thursday September 13<sup>th</sup>, 2018 to be re-advertised for public notice to show the correct dimensions and measurements. Member Cassidy made the motion, seconded by Member

Flynn, and passed with unanimous approval. Hearing has been **TABLED** until September 13<sup>th</sup>, 2018.

The Chairman asked for a motion to close this meeting of the Zoning Board of Appeals, motioned by Member Flynn, seconded by Member Pagliaccio, unanimous “aye”, Zoning Board of Appeals meeting for September 13<sup>th</sup>, closed.

Respectfully submitted,

Nancy A. Burkhardt  
Deputy Village Clerk