

**VILLAGE OF ELLICOTTVILLE  
ZONING BOARD OF APPEALS  
MEETING MINUTES, JULY 2, 2024**

**PRESENT:** Harry Weissan, Chairman  
Dan Mergenhagen, Member  
Anne Northrup, Member  
Mike Painter, Member

**ALSO PRESENT:** Gregory Keyser-Village Planner, Nicholas Tuttle-Attea & Attea, Stewart Ritchie- Rural Resurgence, Peter Roe, Edward Marquez, Brad Earley, Dan Earley, Mike Earley-CEBEDE, Greg Cappelli-Resident

Mr. Harry Weissman, Chairman, called the meeting to order at 5:34 p.m. and presented the agenda. A public hearing for VZP-2024-033, CEBEDE LLC, 24 Washington Street, area variance request from the residential district setback requirements for a proposed retail cannabis establishment.

**Moved by Mr. Mergenhagen to open the public hearing for VZP-2024-033, CEBEDE LLC, 24 Washington Street, area variance request from the residential district setback requirements for proposed retail cannabis establishment. Seconded by Mr. Painter. Ayes all. Carried.**

Mr. Weissman asked for questions or comments from the people attending.

Mr. Keyser advised that no written or verbal comments were received in response to the public hearing notice which was published in accordance with local law.

Mr. Nicholas Tuttle, Attorney, representing Stewart Ritchie stated that they are opposed to the variance application as it does not fall within the five criteria (tests) that the ZBA must apply to the request. The required setback is 200 feet and the applicants are asking for a 54 foot variance as their building is 122 feet from the residential district or a 47 percent variance. If granted this is setting a dangerous precedent. Also the location chosen by the applicants makes the variance request self-created. We also feel that this application may need to be a use variance which has a different set of criteria.

Mr. Stewart Ritchie, of Rural Resurgence advised that they already have a Special Use Permit from the Village Planning Board to open a site at 11-15 Martha Street. We had to provide proof of approval for a location before New York State would grant a license.

Mr. Weissman noted that New York State regulations provided for a 2000 foot protection zone between dispensary locations. .

Ms. Northrup advised that CEBEDE now has that 2000 foot protection under their license.

Mr. Tuttle said that Mr. Ritchie chose to have a micro-license.

Ms. Northrup stated that right now the 2000 foot protection would apply.

Mr. Weissman advised that the Verizon building is within 200 feet for the Village Residential Zone. He believes the zoning map is wrong and the property should be in the Village Commercial Zone. The portion in the front of the property is in the Village Commercial District and the rest is in the Village Residential District. He noted that the Silver Fox Restaurant is also in the Village Residential Zone and is a commercial building.

Mr. Keyser stated that we need to adjust the zoning map as there are definitely errors. The Cattaraugus County map and the Village map do not match.

He noted the Village passed a law for cannabis that it felt was good, It is not good that variances to the law are being requested.

Mr. John Northrup, resident, noted that the Verizon building was not considered commercial at the time it was approved because it only holds telephone equipment.

Mr. Keyser stated that a cell tower was not allowed when requested because the property is in the Village Residential District. It is not uncommon to have overlapping districts in lots.

Mr. Weissman noted that the zoning map needs to be corrected so lots are zoned correctly.

Mr. Greg Cappelli stated that Mr. Weissman is correct. There is no place in the Village a dispensary could operate within a 500 foot buffer.

Mr. Earley advised that they submitted an application to New York State before Mr. Ritchie applied.

Mr. Weissman said the New York State Cannabis Management Committee did not do a good job regulating cannabis and issuing licenses. I think that going forward they will change the 2000 foot requirement. Their decisions have not been great.

Mr. Peter Roe advised that Mr. Ritchie looked specifically for areas that would meet the zoning requirement and 11-15 Martha Street met the criteria. Only one business will be approved. We were at the Village Board meeting when the moratorium was lifted. We will be selling a locally grown product locally.

Mr. Greg Cappelli noted that the moratorium was lifted in December 2023 and the local law was adopted in January or February 2024. It is too soon to be asking for variances to a recently adopted law.

Mr. Weissman advised that the purpose of the Zoning Board of Appeals is to grant relief to owners to utilize their property and to interpret the zoning code by applying proper criteria.

**Moved by Ms. Northrup to close the public hearing for TZP-2024-022,, 24 Washington Street, CEBEDE LLC, area variance request from the residential district setback requirements for a proposed retail cannabis establishment. Seconded by Mr. Painter. Ayes all. Carried.**

The Minutes of the March 5, 2024 meeting were read.

**Moved by Mr. Painter to approve the Minutes of March 5, 2024 as read. Seconded by Mr. Weissman. Ayes all. Carried.**

The Minutes of the June 4, 2024 meeting were read.

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**Moved by Mr. Mergenhagen to approve the Minutes of June 4, 2024 as read. Seconded by Mr. Painter. Ayes all. Carried.**

Mr. Weissman presented TZP-2024-022, 24 Washington Street, CEBEDE LLC for discussion.

Mr. Keyser noted that comments have been received through the public hearing. Is there any issue raised that you need more information about? The ZBA has 62 days from the close of the public hearing to make a decision. One point raised is that the application should be a use variance not an area variance. You may need advice from the Village Attorney whether the application rises to the definition of a use variance. The other point is the definition of public dwellings. The ZBA may need time to review the materials and the issues raised.

Mr. Mergenhagen said that the zoning of the Verizon property needs to be looked at. What is it zoned?

Mr. Weissman said it can have 2 zoning districts.

Mr. Keyser said he measured the setback from the property line for this application.

Mr. Weissman said it appears we need to further discuss and review the written law and the staff report.

**Moved by Mr. Weissman to table TZP-2024-022, 24 Washington Street, CEBEDE LLC, area variance request from residential district setback requirements for a proposed retail cannabis establishment to the August 6, 2024 meeting to allow for further review and discussion. Seconded by Mr. Mergenhagen. Ayes all. Carried.**

Mr. Keyser advised that there may be 2 new applications for the August 6 meeting.

**Moved by Mr. Mergenhagen to adjourn. Seconded by Mr. Painter. Ayes all. Carried.**

The meeting was adjourned at 6:25 p.m.