

**VILLAGE OF ELLICOTTVILLE  
ZONING BOARD OF APPEALS  
MEETING MINUTES MARCH 7, 2023**

**PRESENT:** Fred Musolff, Chairman  
Dan Mergenhagen, Member  
Mike Painter, Member  
Lisa Saunders, Member  
Harry Weissman, Member

**ALSO PRESENT:** Gregory Keyser-Village Planner, Kelly Fredrickson- CEO,  
Caleb Henning-MDA Consulting Engineers, Doug Bush-Village Board

Mr. Fred Musolff, Chairman called the meeting to order at 5:30 p.. And presented the agenda for changes, additions or approval.

**Moved by Ms. Saunders to accept the agenda as submitted. Seconded by Mr. Weissman. Ayes all. Carried.**

The Minutes of the February 7, 2023 meeting were read. Corrections were made.

**Moved by Mr. Painter to approve the Minutes of February 7, 2023 as corrected. Seconded by Mr. Weissman. Ayes all. Carried.**

Mr. Musolff presented VZP-2022-230, 29 Elizabeth Street, Jeff & Mindy Hayes, Area Variance for an Expansion of a Non-conforming building.

Mr. Greg Keyser presented his staff report on this application. Mr. Hayes was granted a variance from the ZBA on February 7, 2023 for the expansion of a non-coforming building allowing the height of the existing roof to be raised 1' 4". The applicant has reconsidered his project and is now proposing to raise the height of the existing roof by 3 feet.

The current structure is a non-conforming building that does not meet the minimum side yard setback for the west property line. The proposed addition meets the dimensional requirements. However, the roof of the existing structure will be raised approximately 3 feet, which has the potential to affect the non-conforming condition and requires an area variance from the Zoning Board of Appeals Site Plan and Elevation drawings are provided for review.

The application does not exceed any Type 1 thresholds under 617.4 of SEQR and appears to meet the definition of a Type 2 action under 617.5(c)(11) of SEQR involving the expansion of a single-family residence on an approved building lot. As a Type 2 action the project is not expected to have a significant impact on the environment and is precluded from further environmental review under SEQR. The ZBA should move to classify the project as a tYpe 2

Action before acting on the variance request. If the Board feels it has enough information for meaningful public review a public hearing can be set for the April meeting.

Mr. Keyser suggested that the Zoning Board of Appeals rescind the February 7, 2023 motion to grant the height variance of 1 foot 4 inches and issue a new motion for the new request of 3 feet.

Ms. Saunders asked, do we rescind the variance now?

Mr. Keyser said that it could be done at the April meeting when the Board considers the new requested variance.

Ms. Saunders expressed concern that this applicant keeps changing his mind and returning for another request. Will he be back month after month?

Mr. Musolff said that this is the first time an applicant has changed his mind and requested a change in the approval.

Mr. Keyser stated that Mr. Hayes is starting over with a one story addition and raising the roof on the existing house. He will have to apply to the Village Planning Board for Site Plan and Architectural Design approval.

**Moved by Ms. Saunders to set a public hearing for VZP–2022-230, 29 Elizabeth Street, Jeff & Mindy Hayes, Area Variance for the expansion of a non-conforming structure for April 4, 2023 at 5:30 p.m. Seconded by Mr. Weissman. Ayes all. Carried.**

Mr. Musolff presented VZP-2023-039, Mill Street Parking Lot, Village of Ellicottville, Area Variances for Front, Side and Rear setbacks. He noted that this application was not received 3 weeks before the meeting as required and we should wait to review it at the April meeting. He received the email with the application materials last Thursday and just picked up the hardcopies today and has not had time to review the application.

Mr. Keyser advised that the application was submitted in a timely manner but he did not send the email until last Thursday which is his error not the applicants. Mr. Henning and Mr. Bush are here to present the proposal.

Mr. Weissman said he feels the Board should see the presentation. As Assessor he is working with the Village to combine the 3 lots into a single parcel.

Mr. Doug Bush, from the Village Board presented the proposal for a municipal parking lot on property along Mill Street. The property consists of 3 parcels, one in the Medium Density Residential District and 2 in the Village Commercial 2 District which the Village is in the process of combining into one parcel to allow VC-2 standards to be applied to the entire site under Section 1.8.A of the zoning code.

Cattaraugus County is funding 75% of the project cost. MDA Consulting Engineers is planning the project to make sure we follow the zoning. We hope to have the lot open by the 2023 winter season.

Mr. Henning of MDA Consulting Engineers presented the site plan for the proposed 126 parking spaces and 5 handicap spaces. The 1.16 acre lot requires variances for the front, side and rear lot line setbacks due to the odd shape. The entrance will be from Mill Street with a sidewalk to Martha Street for pedestrian traffic. Fencing, lighting and drainage will be installed to meet standards.

Mr. Mergenhagen noted there is only one ingress/egress.

Mr. Bush said there is only a 8 foot wide corridor which will only allow for one access driveway.

Mr. Mergenhagen asked, will the lighting be low?

Mr. Hennig said that we will have a lighting engineer design the layout and provide a study of the appropriate footcandles to prevent spillage on adjoining properties. We will make sure the lighting is controlled.

Mr. Weissman noted that lighting is not under the ZBA's preview.

Mr. Bush said that they have contacted residents in the neighborhood and have not received any opposition to the project.

Mr. Painter asked, will it be metered?

Mr. Bush said no. It will be free to start, but there will be no overnight parking. We are hoping that employees at the surrounding businesses will use this lot and walk to work. It is 900 feet from Martha Street to the center of Washington Street.

Mr. Weissman asked, how will the Village fund its portion of the cost?

Mr. Bush said probably with bonds. The Village is also looking for bonds to repair Village roads. There is very little grant money available for road work.

Mr. Weissman asked, is 24 Rockwell, the former Burrell Cutlery property, part of the parking lot?

Mr. Bush said no.

Mr. Painter asked if 5 handicap spaces are enough?

Mr. Henning said that 5 spaces are required based on the total number of spaces in the lot. We can increase the number if we feel more are needed.

Mr. Mergenhagen asked where is the snow storage site?

Mr. Henning pointed out the snow storage areas on the site plan and advised that they are providing 20% of the site for snow storage areas where the zoning requires 10%.

Mr. Musolff asked if there will be restrooms on site?

Mr. Bush said no. It is not financially feasible to do so.

Mr. Painter asked about water runoff?

Mr. Henning stated that they are working on a calculation to manage stormwater runoff with an infiltration system that meets NYS Stormwater Management criteria.

Mr. Keyser stated that the Zoning Board of Appeals scope of the project is the area variances. Do you feel you have enough information to set a public hearing for the April meeting?

Ms. Saunders asked, given the information we have, and the fact that we did not see the application in an appropriate time frame, will we create an issue for future projects if they are not received in a timely manner? I do not want to set a precedent for future applications.

Mr. Keyser advised that when an application comes in if it is not complete he asks the applicant to supply whatever is needed. He prepares a staff report and Short EAF as part of the application for the Board. Following the review of the application materials the ZBA can set a public hearing which gives the public a chance to comment on the project.

Mr. Mergenhagen said that the variance requests to the setback lines are minor and we should move the process along.

**Moved by Mr. Weissman to set a public hearing for VZP-2023-039, Village of Ellicottville, Mill Street Municipal Parking Lot, area variance requests to the front, side and rear lot line setbacks for April 4, 2023 at 5:30 p.m. Seconded by Mr. Mergenhagen. Ayes all. Carried.**

Mr. Keyser noted that the application was received by the deadline for submission. The delay of emailing and handing out the application materials in a timely manner was his error. He usually sends out the materials a week in advance of the meeting and will try to keep that schedule in the future.

Mr. Musolff said he likes the materials a week in advance as he likes to visit the site of a project.

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

The meeting was adjourned at 6:30 p.m.