

Member Catalino made a motion, seconded by Member Linhart and carried unanimously to declare the Zoning Board Lead Agency for SEQR.

Attorney Frateschi stated that because this is a Commercial property it is not a Type II action under SEQR; it is an Unlisted Action, meaning the Board has to do an evaluation of the environmental impacts. He stated that part 1 of the form has already been filled out; he reviewed the 11 questions in Part 2 of the EAF with the Board and the Board agreed unanimously that the two variances as proposed would have no, or a small impact on the environment.

Member Linhart made a motion, seconded by Member Catalino and carried unanimously to issue a Negative Declaration under SEQR and authorized the Chairman to sign the short form EAF.

Mr. Ives stated that they are asking for 2 variances for the Loading Dock and the Dumpster enclosure. He also stated that the "loading dock" is not a traditional loading dock in the sense. It will be used to move the therapy equipment into the building because some of it is oversized to get in and out of the building. It will not be used every day, just for moving equipment in initially and if any equipment needs repair.

Conversation ensued regarding the dumpster size, the enclosure and how the garbage truck would be able to access the dumpster.

Chairman Kelly opened the Public Hearing at 6:50PM.

Chairman Kelly read a letter into the record from Nicholas and Linda Massa. *Letter on file in the Clerk's Office.*

Mr. Olmsted handed a letter to Chairman Kelly, who read the letter into the record, from Bob Lewis, Towne Center Retirement Community stating that he has no issues with the project. *Letter on file in the Clerks Office.*

Member Linhart made a motion, seconded by Member Miller to close the public hearing at 6:55 PM and it was carried unanimously.

Board Questions for the Trash Enclosure Variance

Chairperson T. Kelly proceeded with the board through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered yes, the Dumpster could be placed elsewhere on the property, however it would be too far away from the building to be practical.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no because the surrounding properties have similar uses.

- 3) Whether the requested Variance is substantial? The board answered yes, but not in context of the existing commercial neighbors and the size of the property.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered no.
- 5) Whether the alleged difficulty was self-created? The board answered yes but the benefit to the applicant outweighs the detriment to the neighborhood.

Determination of ZBA Based on the Above Factors:

The ZBA, after taking into consideration the above five factors, finds that:

 X The benefit to the applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

 The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is **DENIED**.

The ZBA further finds that a variance **72'6"** is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

The ZBA further **GRANTS** the variance as requested with the following conditions:

Board Action

Based on the findings of the Board, Member Linhart made a motion, seconded by Member Miller to approve an area variance for Michael Papa, A&E and SNY Center for the property located on Medical Center Drive, Tax Map # 086.-01-03.9, for the specific purpose of the construction of a Trash Enclosure.

Ayes: Chairperson T. Kelly, Member Miller, Member Linhart, Member Catalino.

Nays: 0

All in Favor.

Motion Carries.

Board Questions for the Loading Dock Variance

Chairperson T. Kelly proceeded with the board through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no, the loading dock is part of the building and is in the best location on the property.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no because the loading dock cannot be seen from other properties.
- 3) Whether the requested Variance is substantial? The board answered yes; however, it needs to be in this area to service the building.

- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered no.
- 5) Whether the alleged difficulty was self-created? The board answered yes, but the benefit to the applicant outweighs the detriment to the neighborhood.

Determination of ZBA Based on the Above Factors:

The ZBA, after taking into consideration the above five factors, finds that:

 X The benefit to the applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

 The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is **DENIED**.

The ZBA further finds that a variance **60'** is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

The ZBA further **GRANTS** the variance as requested with the following conditions:

Board Action

Based on the findings of the Board, Member Linhart made a motion, seconded by Member Miller to approve an area variance for Michael Papa, A&E and SNY Center for the property located on Medical Center Drive, Tax Map # 086.-01-03.9, for the specific purpose of the construction of a Loading Dock.

Ayes: Chairperson T. Kelly, Member Miller, Member Linhart, Member Catalino.

Nays: 0

All in Favor.

Motion Carries

Adjournment

With there being no other business, Member Linhart made a motion, seconded by Member Catalino, and carried unanimously, to end the meeting at 7:04PM

Respectfully submitted,
Lisa Beeman, Acting Secretary
Zoning Board of Appeals