

MINUTES OF A HEARING AS HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

May 18, 2023

CASE #1435-Nathan Murray/Crossbar Athletics LLC
a/a/f Queensland Holdings LLC
434 Olean Road, East Aurora, NY

The hearing was called to order by the Acting Chairman Rod Simeone with the following Board members present:

Mandy Carl
Nancy Burkhardt
Ray Wrazen, Alternate
Stephanie Morgan, Alternate

Excused: Paul Ernst
Davis Heussler

Others present: Richard Miga, Assistant Code Enforcement Officer

The notice of the Public Hearing was read by the Deputy Town Clerk. The notice was duly published in the East Aurora Advertiser as evidenced by the Affidavit of Publication, marked as exhibit 1. The Affidavit of Posting was marked as exhibit 2. The Zoning Board of Appeals Application was marked as exhibit 3. A Letter of Authorization was marked as exhibit 4. The Building Departments Letter of Determination was marked as exhibit 5. The ECDP Form and Response was marked as exhibit 6. The Short Environmental Assessment Form was marked as exhibit 7. A Sign Rendering was marked as exhibit 8. A Copy of the Survey was marked as exhibit 9. The List of Abutting Property Owners was marked as exhibit 10. A Copy of the Proposed Artwork was marked as exhibit 11.

The Acting Chairman opened the hearing with the Pledge of Allegiance to the Flag and stated the purpose and procedure of the hearing. Following the hearing a meeting will be held to render a decision for sign size and sign illumination variances at 434 Olean Road, East Aurora, NY.

Murray Nathan Murray, 434 Olean Rd. I have a handout for each one of you that simplifies what I was trying to show. The first page shows the actual pan size that the lettering sits on and then the actual size of the lettering. The second page will show the mockup of how the siding looks in comparison of the actual building to scale just to show how we want to lay it out and the sizing. The third page is a similar lighting style that I found in the town of Orchard Park. This is a back lit

cable lit sign behind the lettering. This is the road sign that we are proposing and the last one is the survey about where we want to put the road sign.

Morgan Was this amended? Did I miss that?

Simeone We are going to get to that. Before we get into some questions I need clarification. You are asking for four (4) signs? There seems to be confusion about the freestanding one. In your petitioner's letter of intent, you say you want to add signage to the building and the signs will be halo lit. Then in the Short Environmental Assessment form part I you say non-lit road sign, so we need clarification. Are you proposing all four (4) signs be backlit?

Murray No, the sign on the building backlit and the road sign not lit.

Simeone Do you have the size for that sign?

Murray The road sign is two posts 48' by 72" plus posts so 48" by 80".

Simeone So we do not have to bother with that?

Miga Not if it is not going to have any illumination.

Murray No illumination.

Simeone That will be taken off the table then.

Morgan Is the placement correct?

Miga I believe so.

Morgan So we do not have to discuss the freestanding sign.

Simeone Correct. It is my understanding that in your petition you received a grant from the County to have these signs constructed. I know signs are advertising but what is the reason for having backlit signs?

Murray It is a storefront revitalization grant to unify storefronts. I thought the halo lit would be a classier way to light up signs. It is subtle light, and it is not right in your face, and it is more like a shadow effect. With the grant we had, and we found some budget too we thought it was a nice way to light signs.

Simeone According to your website your hours of operation, at least open to the public, are 10am to 5pm and appointment only on Saturday and Sundays. Illuminated signs during daylight hours, I am having trouble reconciling why you need lit signs during the daylight if your hours of work are not in the evening. I know customers coming now know where you are.

- Murray We are a young company we just hired our first employee and as we get busier we are going to expand our hours to 8pm in the near future.
- Simeone We have some tests to go through for completing our review of any area variances but before I get into that I would like to open it up to the Board for any questions on the particulars of this case.
- Morgan Code at this point would allow the more traditional hanging lights overhead to illuminate would your grant allow funds for that?
- Murray It would include whatever way we could work on the front of the building. We saw this and it fit into the budget. We thought it looked great.
- Wrazen You are not going to just leave the lights on during business hours, correct?
- Murray We do not have to leave them on we can get a timer. I am open to whatever.
- Wrazen I am assuming you want the lights to highlight your business?
- Murray Yes.
- Burkhardt Is there a timer functionality to them or can one be added?
- Murray I had a timer for some lights before I bought the building so I can just use that.
- Burkhardt Do we know if the prior owner had a variance for the internally channel lit signs?
- Murray I do not know.
- Simeone We do have a five-factor review that we have to go over when we consider area variances. The first would be an undesirable change in the character of the neighborhood, probably not. The Town does not have backlit signs, it is part of the code. This might be a push for me.
- Carl In my opinion, for the backlit signs, he failed all five factors because I do believe that it does change the character of the neighborhood; the alternative is the forward-facing lights/goose neck. In terms of the substantiality, it absolutely is. It is self-created, and it does create light pollution. In my opinion it is an environmental impact as well so as far as backlit he failed all five factors in my opinion. Relative to sign size I feel differently.
- Simeone The second one is whether the benefit sought by the applicant can be achieved by a reasonable alternative. I think for illuminating your signs it is possible to have indirect lighting constructed under the eaves that would highlight the signs that you are going to put on. That eliminates the dilemma that we have for a backlit

sign. The gray area in the code is backlit signs inside the building maybe approved if they are one foot away from the window. You have good alternatives. You can shine lights from the overhang to keep illuminated, you can talk to the sign maker and have the illuminated signs inside your building, one foot away from the window and get what you want.

Murray Not on the outside but on the inside?

Simeone That is correct. With that alternative either the indirect lighting attached to the overhang, or the inside does not require our approval. I agree the allowable square footage for the three signs is 32 square feet and you are asking for 54sf plus so that is a 70% increase in the allowable area. Will the variance have an adverse impact on the physical environment that I am going to disagree, I think that is a no. Was it self-created, yes. It would be quite a bit for us to seek approval. Any other comments from the Board members?

Morgan I don't think it is inappropriate to have a size variance, I don't think it absurd if you look at the proposed way out in Holland. I don't think it will work but I would accept the size of the building. I actually think that if he followed the variance that it would look a little weird being that small.

Carl Also if you were to separate the building into a couple of different businesses you would already have the existing variance in place that would allow you to attach the name of one of them. I am fine with the size.

Morgan I am fine with the size and I actually see what you are trying to do but in this simple town and I know that it might not go with the aesthetic that you are looking for we have a lot of wood signs and you are trying to do something different, I actually think that is super cool. Here is the issue, we don't get to say well that one is pretty cool so we can do this one and that one is not so cool so don't do that one. We have to work within certain guidelines and the guidelines that we have given are the guidelines we were given and it is no backlit signs. It's not only if it looks cool. There are just no backlit signs unless there are no other options or there is really an extenuating circumstance which I am not seeing other than it is really cool. I think it would kind of be neat, but we don't get to choose. We just get to say yes or no based on the guidelines we were given. That is where I am. I think it would make sense to make the sign a little bigger but the backlit doesn't fall in the category that we are allowed to approve it. Personally, that is my read on it.

Wrazen I agree with everything you said. Very well said, the one thing I struggle with is the reason for the regulation. As technology changes they are always doing things

that are superior to what we have done in the past, but I agree with everything that you just said.

Morgan There is only so much we can do with this one.

Carl I think the outward light is very different then the light towards the building and that is why I think it is a light pollution issue because if we allow one then where does it stop?

Morgan What we are trying do is be consistent.

Burkhardt That was very well stated.

Simeone Is there anyone else that would like to speak on this matter?

Murray So if I use light shining from the eave and we switch to that?

Simeone Yes that would not require a variance from us. With that said we open the hearing to the audience. Is there anyone that would like to make any comments?

Murray D Dan Murray 1200 Jewett Holmwood Road Orchard Park. How do you change that law? How do you change the code to make that work?

Simeone That would be up to the Town Board. Are there any other comments? (No Response). The hearing is closed, and we will discuss this between the members. Having stated and gone through the five factors I think it would be a heavy lift.

Murray N If I have no chance of the halo lit then I would like to do the front then I would like to shine from the front as an alternative.

Simeone That does not need our approval. We can do one of two things we can table it until you review with the association that is giving you the grant or we can vote on it now. If it is voted down then you can always go to that alternate.

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Discussion:

Morgan Procedurally can you approve one of them and not the other. We can approve the size of it and not the back light and he can just go on his merry way.

Simeone That would depend on the size of the signs that he is not going to have illuminated.

Morgan We are saying the square footage we are still approving he just needs to find a different way to illuminate it. He would still have approval for the larger size.

Simeone If that is the case I suggest that we table this case, so he comes back with that.

Morgan If he wants us to vote we can vote now.

Simeone You are saying we could grant a size variance but not the back lit?

Morgan Yes.

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Decision:

After due deliberation by the members of the Zoning Board of Appeals of the Town of Aurora, County of Erie and State of New York, the following motion was made by Mandy Carl and seconded by Stephanie Morgan to grant a 22.09sf variance for the three signs attached to the building for a total square foot area of 54.09' and for his request for the three signs to be backlit be denied at 434 Olean Road, East Aurora, NY. This motion in made in accordance with testimony and exhibits presented.

Upon a vote being taken:

Simeone	Aye			
Burkhardt	Aye			
Wrazen	Aye			
Carl	Aye			
Morgan	Aye	Ayes-five	Noes-None	Motion carried.

EXHIBITS

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