

03/13/12 Zoning Board Minutes

ZONING BOARD OF APPEALS

The hearing on Tuesday, March 13, 2012 was called to order by Chairman Schafer at 7:00 PM.

Members present: Harry Kaczmarek also: Ray Balcerzak, Building Inspector
Michael Komorek Phyllis Todoro, Town Attorney
Greg Kalinowski Harry Kwiek, alternate
Donald Trzepakz
Robert Schafer, Chairman

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case # 1207 for Donald March owner of Cyber Creek Entertainment LLC, 6831 Seneca Street, Elma, who is requesting a variance to install a two sided LED sign in the same structure the previous sign was in §144-102.1 intent #'s 1-7 and §144-102.1 prohibited signs #'s 2, 8 & 9.

Chairman Schafer called the case to order. Don March was present to represent his company. Mr. March stated his case to the Zoning board. Mr. March expressed that he understands the Town's point about LED signs and that he would like to advertise one item in a day on the sign. Mr. March explained he does not have the financial backing to support his business if he is unable to use the sign that was purchased. The sign would be a viable marketing aspect for the business to grow and would not be blinking at any time. Mr. March made the board aware of the fact that he has looked into new landscaping in front of the business and will continue to clean up the appearance. If he could advertise and allow the workers from Moog to know the specials, he would be able to do additional business.

Mr. Schafer questioned the sign being bought 18 months ago. The sign company had to come before the board to get approval and the zoning had changed on Seneca Street at that same time. Mr. Schafer stated that the sign company should have been fully aware of the codes for the Town of Elma.

Don March explained it is very hard getting new customers with out advertising your business. He has tried different specials with other companies to get business. Don is trying to advertise all the different parts of his business.

Mr. Trzepacz stated the sign company took advantage of Mr. March. The area his business is in is not zoned for LED signs and the sign company should have known that. Mr. March told the board that the sales person who sold him the sign is no longer with the company and that the sign would just be used as a sign and not an LED sign.

Mr. Kalinowski asked the Town Attorney about a sign being put up and not used as an LED sign. Mr. Trzepacz stated that if it is an LED sign then that is what it is. Mr. Kaczmarek asked if Mr. March has tried to sell the sign to any other businesses. Mr. March told the board that the sign was made specific to the post that he has up and was going to use from the previous sign. Mr. Trzepacz told Mr. March that the sign company and the salesman had done two other signs in Town and new the codes.

Mr. Schafer stated that Cyber Creek is in a C-2 zone and that he would like to see the business grow. Mr. March asked if a digital sign would be allowed and was told by Mr. Schafer that a digital sign is no longer allowed.

Chairman Schafer asked if there is anyone to speak for or against for the case. Mr. Markello from Markello and Sakowski law firm had a question regarding the sign. Mr. Trzepacz informed everyone that there is no sign in town that could advertise for any other business.

Mr. Komorek made the motion: In the matter of Appeals Case #1207 for Donald March owner of Cyber Creek Entertainment LLC, 6831 Seneca Street, Elma, who is requesting a variance to install a two sided LED sign in the same structure the previous sign was in §144-102.1 intent #'s 1-7 and §144-102.1 prohibited signs #'s 2, 8 and 9 this is written confirmation of the decision reached by the Board at the March 13, 2012 hearing.

The motion was made, seconded and passed that the variance be denied based on the Town of Elma sign code sections 144-102.1 item #'s 2, 8 and 9. Seconded by Mr. Kaczmarek. Mr. Trzepacz voted no. Poll vote – 4 ayes, 1 nays. Motion carried.

The minutes of the last meeting on December 13, 2011 were approved.

Paperwork was distributed to all members and the meeting was adjourned at 7:44 PM.

Respectfully submitted,

Kerry A. Galuski
Secretary-Clerk