

February 29<sup>TH</sup>, 2024, at 7:00pm | 103 Main Street, Mount Morris NY

Present: Kevin Fahey, Zoning Board Chairman; Zoning Board Members Lauren Berger, Amy Ceronie, Shawn Forrester, Chad Woodworth, Kaylee Leone; Town Clerk, Chelsey Woodworth

Others Present: Mark Mullikin, Village Code Enforcement Officer; Community Members Louise Wadsworth, Kelly Burns, Cathie Gehrig, and Town Supervisor Dave Disalvo

**CALL TO ORDER AND REVIEWAL OF MINUTES**

Chairman Kevin Fahey called the meeting to order at 7:01pm, and led the Pledge of Allegiance.

Chairman Kevin Fahey welcomed all those in attendance, and explained that the evening’s meeting will include a public hearing for a variance requested by the Livingston County Tourism Department (“LivCo Tourism”) at 4 O’Connell Avenue, Tax Map ID 106.15-1-28.21. Chairman Fahey advised those in attendance that all members of the public are invited to comment on LivCo’s public hearing, and asked that all members wishing to make a statement speak clearly and begin their comment by introducing themselves by stating their name, address, and the name of agency that they may represent. Chairman Fahey asked that remarks be directed at the board as a body and not to speakers or other members of the community. Chairman Fahey asked that remarks not exceed three minutes per person and that nobody seek to comment a second time until all those who wish to comment are heard. Chairman Fahey added that comments should consist of new material and not be repetitious of previous comments.

Chairman Kevin Fahey requested that the board review the minutes from the November 2<sup>nd</sup>, 2023 Joint Town and Village of Mount Morris Zoning Board of Appeals meeting, and asked if the board had any corrections or questions.

A motion to approve the minutes with minor changes was introduced by Shawn Forrester and seconded by Chad Woodworth, and was voted on by members as follows:

Aye: 5 (Berger, Ceronie, Fahey, Forrester, Woodworth)

No: 0

Abstain: 0

The motion was carried.

**INTRODUCTIONS AND APPOINTMENT TO FILL BOARD POSITIONS**

Chairman Kevin Fahey stated that Kaylee Leone, who acted as a fill-in secretary at the November 2<sup>nd</sup>, 2023 Joint Town and Village of Mount Morris Zoning Board of Appeals meeting, could not be in attendance this evening. Mount Morris Town Clerk Chelsey Woodworth filled in to take the minutes for the evening’s meeting.

A motion to appoint Mount Morris Village resident Kaylee Leone as the Secretary of the Joint Town and Village of Mount Morris Zoning Board of Appeals was introduced by Chad Woodworth and was seconded by Shawn Forrester, and was voted on by members as follows:

Aye: 5 (Berger, Ceronie, Fahey, Forrester, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Kevin Fahey introduced Amy Ceronie to those in attendance, and verified with Town Clerk Chelsey Woodworth that she has been confirmed and has taken her oath of office.

**PUBLIC HEARING FOR VARIANCE – 4 O’CONNELL AVENUE**

Chairman Kevin Fahey began discussion on Zoning Referral 2023-03. Chairman Fahey stated that a variance has been requested, and asked Village Code Enforcement Officer Mark Mullikin to elaborate on the application and variance. Mark Mullikin stated that LivCo Tourism has applied for a variance at 4 O’Connell Avenue to include a third sign on the property, as only two signs are permitted per the current Village code. Mark Mullikin explained that the proposed third sign is a canoe that will be mounted on a stand and anchored to the ground. Mark Mullikin added that this proposed sign will be lighted. This proposed structure is currently presented as a sculpture, but it is considered a sign based off Village code. Code Enforcement Officer Mullikin added that two additional kiosks will be added to the property, and outlined the aspects of the Village Code that allow LivCo Tourism to place these kiosks without needed to request a variance based on the intent of use.

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Mark Mullikin added that this application was forwarded to the Livingston County Planning Board for review, and was sent back to the Mount Morris Zoning Board of Appeals as the County Planning Board felt that no significant impact would be made by the proposed sign. Code Enforcement Officer Mullikin added that he felt that the proposed sign would be good for the community.

Chairman Kevin Fahey invited representatives from LivCo Tourism to speak regarding the filed application. Louise Wadsworth from the Livingston County Economic Development Office introduced herself as well as Livingston County Tourism Director Kelly Burns. Kelly Burns went on to explain that "LivCo" is a tourism brand and that the proposed uses for the building at 4 O'Connell Avenue include a visitor information center and café, as well as a little free library and tourism kiosk.

Chairman Kevin Fahey asked community members in attendance if there were any comments or questions.

Chairman Fahey called on Cathie Gehrig, who introduced herself and stated her address within the Village of Mount Morris, and stated that she supported the concept. Ms. Gehrig also asked if the informational kiosks were permanently affixed or if they were portable, and asked for further clarification as to what they looked like. Kelly Burns replied and stated that one kiosk would be affixed to the building, while the other will be freestanding and closer to the entrance of the New York State Greenway Trail. Kelly Burns added that they are both permanent and are not portable. Ms. Gehrig also stated that she was unable to locate the specific records within the section(s) of the Village Code that Village Code Enforcement Officer Mark Mullikin had previously cited in his synopsis (184-4-C-2-C) and asked for clarification. Chairman Kevin Fahey stated that it looks like that section of the Village Code jumps from 182 to 186, completely omitting sections 183-185. Ms. Gehrig asked for a follow up once the section had been found so as to not take more time out of the meeting. Ms. Gehrig also stated that she did not see in the prepared materials where a sign permit had been issued or where the number of the sign permit and registration was listed as it needs to be renewed annually. Chairman Kevin Fahey stated that he believes such a permit and resulting registration would be issued by the planning board, to which Ms. Gehrig stated that the permit is covered under 186-3 in the Village Code and would be issued by the Village Code Enforcement Officer. Ms. Gehrig also stated that she was unable to ascertain from the submitted materials whether or not the construction standards listed in 186-5-B of the Village code would be adhered to with regard to the construction of the proposed sign and/or kiosks and asked that the board review those standards within the code, especially the standards set forth for electric signage. Ms. Gehrig also asked if the variance fee had been paid to the Village, to which Village Code Enforcement Officer Mark Mullikin stated that the fees would be due once the approval of the signage would be completed. Ms. Gehrig also added that she is concerned about the verbiage within the letter from Village Code Enforcement Officer Mullikin that was submitted with the application materials, as she did not believe that it was proper to for the Code Enforcement Officer to render an opinion regarding the viability of application. Ms. Gehrig thanked the board for the opportunity to speak.

Code Enforcement Officer Mark Mullikin stated that he realized that he made a typographical error and that he meant to cite section 186 rather than 184 from the Village Code.

Chairman Kevin Fahey thanked Ms. Gehrig for her comments, and asked for additional comments or questions from the board and community. Board member Amy Ceronie asked a question to clarify the terms "non-illuminated" and "rope light" within LivCo's application, to which Village Code Enforcement Officer Mark Mullikin responded that nothing on the ground was going to be lit up, but that the canoe part of the sign will be illuminated from within. Louise Wadsworth from the Livingston County Economic Development Office verified that the light is inside the canoe.

Chairman Kevin Fahey moved on to discuss the notifications sent out from the Mount Morris Historical Society located at 22 Main Street in Mount Morris. Notifications of the application and public hearing were sent to F. Martello, Anthony Pagano at 25 Main Street, Mount Morris, The Leaning Tower and Bill Rudney, Community Integrated Services at 18 Main Street in Mount Morris, State of New York at Room 203 in Geneseo, Lisa Torcello at Village of Mount Morris at 117 Main Street in Mount Morris, and William Benson Jr. at 405 E 3<sup>rd</sup> Boulevard in Canandaigua.

Amy Ceronie asked what the next step is on the looking into the quality of work, and wanted to know if it is the Zoning Officer's job to make sure the quality of the work is up to code. Chairman Kevin Fahey said that this doesn't pertain to the board. Community member Cathie Gehrig added that section 186-5 of the code details construction standards, and added that it is unclear by looking at the application and submitted materials whether or not the standards in the code will be met. Ms. Gehrig asked that the board

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review this matter. Chairman Kevin Fahey stated that he believes that because LivCo's new signs are replacing the signs added by the previous business that he believes that the construction standards have already been met.

Board member Chad Woodworth asked if the term "sculpture" in the application materials was specifically referencing the canoe sign, to which Kelly Burns from LivCo Tourism stated "yes".

Board member Lauren Berger Lauren asked if anyone knows approximately what the canoe will weigh. Kelly Burns replied that it is a standard canoe with approximately a 15 foot hull. Chairman Kevin Fahey added that he wouldn't think the canoe would weight much 75 to 80 pounds all told.

## BOARD DISCUSSION AND VOTE

Chairman Kevin Fahey moved on to have the board go over the five criterium to consider for area variance, and asked each board member to comment on each of these criterium:

1. Will an undesirable change be produced in the character of the neighborhood, or a detriment to nearby properties be created by the granting of an area variance?

Board Member Berger: No

Board Member Berger added that if there is any change to the character of the neighborhood that it would be an improvement.

Board Member Ceronie: No

Board Member Forrester: No.

Board Member Forrester added that the building and signage is in a commercial area that wouldn't significantly change the character of the neighborhood.

Board Member Woodworth: No

Chairman Fahey: No

2. Can the benefit sought by the applicant be achieved by some method feasible for the applicant to pursue, other than an area variance?

Board Member Berger: No

Board Member Berger stated that the use that is being sought is very specific and intentional and added that the variance that is being requested allows the applicant to achieve their specific goal in the most feasible way.

Board Member Ceronie: No

Board Member Ceronie agreed with board member Berger and stated that the proposed sign helps the establishment be seen.

Board Member Forrester: No

Board Member Forrester added that the building is a bit hidden.

Board Member Woodworth: Yes

Board Member Woodworth added that the canoe sign could be mounted on top of other sign or mounted to the building.

Chairman Fahey: Yes

Chairman Fahey agreed with board member Woodworth in that the sign could have been incorporated to the property in a way that wouldn't require a variance.

3. Is the requested area variance substantial?

Board Member Berger: No

Board Member Berger added that the sign is a good distance from the road.

Board Member Ceronie: No

Board Member Ceronie added that based on the sign's placement and business location being on a commercial property that the variance isn't substantial.

Board Member Forrester: Yes

Board Member Forrester added that the sign is substantial as it exceeds the two permitted signs standard to the village code.

Board Member Woodworth: No

Board Member Woodworth stated that the prosed sign seems adequate when also considering the size of the lot.

Chairman Fahey: No

Chairman Fahey stated that the variance isn't substantial when considering the size of the lot and distance from the road.

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4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or school district?

Board Member Berger: No

Board member Berger agreed with board member Forrester’s reasoning that variance requested is for a business already located in a commercial area.

Board Member Ceronie: No

Board member Ceronie agreed with board member Forrester’s reasoning that variance requested is for a business already located in a commercial area.

Board Member Forrester: No

Board Member Forrester added that variance requested is for a business already located in a commercial area.

Board Member Woodworth: No

Board Member Woodworth agreed with board member Forrester’s reasoning that variance requested is for a business already located in a commercial area.

Chairman Fahey: No

Chairman Fahey agreed with board member Forrester’s reasoning that variance requested is for a business already located in a commercial area.

5. Is the alleged difficulty for the applicant self-created? (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance)

Board Member Berger: Yes

Board Member Berger agreed with board member Forrester’s reasoning that the applicants do not need to have an extra sign.

Board Member Ceronie: Yes

Board Member Ceronie agreed with board member Forrester’s reasoning that the applicants do not need to have an extra sign.

Board Member Forrester: Yes

Board Member Forrester stated that the applicants do not need to have an extra sign.

Board Member Woodworth: Yes

Board Member Woodworth agreed with board member Forrester’s reasoning that the applicants do not need to have an extra sign.

Chairman Fahey: Yes

Chairman Fahey agreed with board member Forrester’s reasoning that the applicants do not need to have an extra sign.

A motion to approve the extra sign applied for by LivCo Tourism in Zoning Referral 2023-03 was introduced by Shawn Forrester and was seconded by Chad Woodowrth, and was voted on by members as follows:

Aye: 5 (Berger, Ceronie, Fahey, Forrester, Woodworth)

No: 0

Abstain: 0

The motion was carried.

ADJOURNMENT

A motion to adjourn was introduced by Shawn Forrester and seconded Lauren Berger, and was voted on by members as follows:

Aye: 5 (Berger, Ceronie, Fahey, Forrester, Woodworth)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 7:41pm.

Respectfully submitted,

Kaylee R. Leone  
Deputy Town Clerk/Town Planning Board Secretary