

**PLANNING BOARD  
REGULAR MEETING  
MONDAY, MAY 14, 2018  
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12  
BINGHAMTON – NY – 13901**

**Approval of the April 9, 2018 Regular Planning Board Minutes.**

**PRESENT:** Cynthia Paddick, Chair  
Messer: Donnelly, Carl, Blythe & Worden

**ALSO, PRESENT:** Michael Boland - Planning Board Alternate  
Alex Urda P.E. - Town Engineer  
John Freer – Building/Code Inspector  
Terry Kellogg – Councilperson

The meeting convened at 7:00 p.m., at which time Mrs. Paddick called the meeting to order. The first order of business is the approval of the minutes from the Regular Planning Board meeting on April 9, 2018.

A motion was made by Mr. Blythe, seconded by Mr. Carl , to approve the minutes from the April 9, 2018, Planning Board meeting.

Roll Call:                      Ayes - 5                      Nays - 0

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**NEW BUSINESS**

- **NONE**

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Mrs. Paddick asked the Board if they would have any issue reversing the order of the agenda. So the other applicants can be heard and leave. Then we can dedicate more time with the Big E Tire application.

**ADVISORY OPINION/REFERRALS**

- **REZONE** for parcels along Route 12 from Route 12A to Port Road. Using the Classification 73-58 Mixed Transitional (MT). - Advisory to the Town Board adopt a “Negative Declaration”.

Mrs. Paddick – This is what we discussed a few months ago regarding the rezone and changing it to utilize the Mixed Transitional (MT) zoning classification.

There being no further discussion a motion was made by Mr. Donnelly, seconded by Mr. Carl to recommend to the Town Board to adopt A “Negative Declaration”

Roll Call:                      Ayes - 5                      Nays -0

1.

**KOST PROPERTY MANAGEMENT-** Michael Kost- 1235 Upper Front St. – TM#111.20-2-1- Application for a use variance to allow Kidz Kingdom off site advertising.

Mr. Urda - The referenced application is an advisory opinion request from the ZBA for a use variance to allow Kidz Kingdom (1241 Upper Front Street, Unit 2) off site advertising on the Kost Plaza pylon identifier sign (1235 Upper Front Street) in a Planned Development District Commercial (PDD-C) zone. This is an Unlisted Action under SEQR and their Short EAF/project is to be reviewed by the Town’s Environmental Review Board prior to the Zoning Board of Appeals (ZBA) action on the application. The ZBA is the Lead Agency for SEQR unless contested. We reviewed the applicant’s Short EAF and find no adverse environmental impacts

The project is subject to Municipal Law §239 l and m, and requires review by Broome County, NYSDOT, and other agencies. Comments returned indicate no impacts.

The Environmental Review Board met today. We reviewed the short EAF Part I and there are some modifications that were necessary. The applicant left some questions blank so we addressed them for the applicant to change, such as:

#5a. A permitted use under the zoning regulations- applicant checked yes this needs to be switch to no.

#5b. Consistent with the adopted Comprehensive Plan? This was left blank but is not applicable (n/a).

#8b. Are public transportation services available at or near the site of the proposed action? This was left blank and should be answered yes.

#8c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action? This was left blank and needs to be answered yes.

#12b. Is the proposed action located in an archeological sensitive area? This was answered no and needs to be switched to yes (but no impact this is an existing sign post and location)

#14. Identify the typical habitat types that occur on, or are likely to be found on the project site- this was left blank and needs to be answered Urban.

The Environmental Review Board recommended that the Zoning Board of Appeals, as Lead Agency, adopt a “Negative Declaration for this Unlisted action.

In reviewing the Code of the Town of Chenango, Article VII §73-23 C Variances (2) (a), (b), and (c) the granting of this variance is necessary for reasonable use of the land, and is in harmony with the general purpose and intent of these chapters. The request is minimal in nature and is expected within the ‘plaza’. A favorable advisory is recommended.

John Freer – The Ordinance Office recommends a favorable advisory.

Mrs. Paddick – Is the applicant here? Does anyone have questions for the applicant?

There being no further comment, a motion was made by Mr. Carl, seconded by Mr. Worden to forward a favorable advisory to the Zoning Board of Appeals for this use variance.

Roll Call:                      Ayes - 5                      Nays -0

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- **BIG E TIRE & AUTO SERVICE** – Erwin Kost -1434 Upper Front St. – TM#112.05-3-35- Application for a use variance to allow a free standing led sign.

Mr. Urda –Upon reviewing Chapter 73, Article V, Signs, particularly §73-14 ‘no changeable copy signs, such as light-emitting diode (LED signs, shall be permitted. Reviewing the other aspects of the application, per §73-15 the signage pylon and location are existing and the area proposed is less than the 100 SF allowed per code for two businesses on one parcel.

Of concern is the changeable LED aspect of the sign requiring the use variance. The project is subject to Municipal Law §239 l and m, and requires review by Broome County, NYSDOT, and other agencies. Review by these first two entities has expressed safety concerns associated with changeable LED signage in close proximity to a major roadway. Broome County recommended denial of the project unless the sign complies with NYSDOT comments, and if approved that an illumination timeframe be established. As stated in Article V §73-15 (C), Signs shall be located in such a manner so as not to be in the same line of vision as traffic control signs. If for some reason this alignment is not possible, no red, green or amber illumination or reflection shall be permitted. Signs shall have illumination which is indirect, diffused and non- flashing and so arranged that the direct rays of light do not shine or reflect into adjacent residential districts. The proposed signage is not in conflict with proximity to traffic control signs or residential areas. This is an Unlisted Action under SEQR and their Short EAF/project is to be reviewed by the Town’s Environmental Review Board prior to the Zoning Board of Appeals (ZBA) action on the application. The ERB met today and there were some modifications to Part 1 due to missing questions or answered incorrectly. They are as follows:

#5a. A permitted use under the zoning regulations- applicant checked yes this needs to be switch to no.  
#12b. Is the proposed action located in an archeological sensitive area? This was left blank –needs to be answered yes (but with no impact) this is a pre-existing sign and location.  
#14 Identify the typical habitat types that occur on, or are likely to be found on the project site- this was left blank and needs to be answered Urban. The Environmental Review Board recommended that the Zoning Board of Appeals, as Lead Agency, adopt a “Negative Declaration for this Unlisted action. The ZBA is the Lead Agency for SEQR unless contested. We reviewed the applicant’s Short EAF and find no adverse environmental impacts as long as light levels are within Town and NYSDOT codes and/or requirements.

From an engineering standpoint, these types of signs can be a distraction to drivers, and an annoyance to neighbors, however NYSDOT sets regulations in the event that LED signs are utilized to minimize these impacts. In reviewing the Code of the Town of Chenango, Article V §73-23 C Variances (a), (b), and (c) it is difficult to verify the hardship condition and if the circumstance is special applying to the location. It is recommended that the Board’s take the 239 and NYSDOT comments into consideration in making their decisions, particularly for driver safety and precedence.

John Freer – The Ordinance Office has no comment at this time.

Mrs. Paddick – Is the applicant present? – Yes. Does anyone have questions for the applicant?

Jenny Collins owner of Widmer Sign Company and representing Mr. Kost- If I may speak. I have been doing sign variances for 20 years for various towns and municipalities and would like to address the

safety concerns. Just coming here today from Scranton, PA there were Highway Administration operating EMC signs notifying us of an upcoming disable vehicle. Currently the National Transportation Organization has designated these electronic signs are a very useful tool for traffic control. These signs give motorists notifications of icy conditions, accidents, detours and Amber alerts without causing accidents. This is the very purpose of traffic control.

I also have documentation from the U.S. Small Business Administration regarding Electronic Message Centres (EMCs) which addresses frequently asked questions and safety to ongoing traffic. Which, I will leave you a copy for you to review. The Federal Highway Administration recommends the minimum of 8 seconds between message transitions. The held message for 6 to 8 second delay in messaging gives you the capability of reading the message clearly 500 feet away. That is why the hold time is in place and is a standard. The signs are placed properly to utilize readable height and location designed for the speed of the road and is an effective way to advertise and is not a traffic distraction. However, if the signs are located near a traffic light, yes they can be distracting. Like in Dickson City, the towns put together regulations not to allow these types of signs they cannot be installed within 100 feet of an intersection or traffic light. You currently have electronic messaging centers in this corridor, along with 2 churches in the Town of Chenango. This property is in a commercial district and within your Comprehensive Plan you have designated this area to promote additional businesses. By doing so this is allowing them the capability to identify and brand themselves in the local community and increase their business. Stagnate changeable copy sign only allows one message per day. With these types of signs it gives the owner a wide range of advertising possibilities. Ease to change their messaging from inside their building without having to drag a ladder out every time their special of the day changes. This particular sign is a statement of new technology. Big E Tire is bringing the state-of-the-art advertisement to the community. This will attract the impulse buyers and is an effective way to advertise and to capture the attention of passers-by throughout the day. The small business council has compiled certain criteria for the proper height, not to be located next to a traffic light because it can be distracting. Using the state of the art technology for advertising can promote an increase in business verses a stagnate sign. They can have the capability of many different messages per hour, verses 1 stagnate message that is manually changed weekly. Changeable copy signs are limited to help encourage a new business and services. It is also difficult for this business to change the lettering on a ladder with bushes down below. Ladder accidents are one of the biggest injuries for workmen is compensation claims. There are safety concerns for the employee so most of the time the message is left up for months. This limits the business opportunity to showcase all their services.

Ray Bartolai, Operations Manager for Big E Tire – It just so happens that are our busiest months are November through January. That is the worst weather for ice, snow and sleet. So climbing up and down the ladder many times our employees have slipped and fallen due to the icy conditions. So there is a big safety concern for our employees changing these signs during inclement weather. At our other sites, the electronic messaging sign works for us.

Ms. Collins –We understand you don't want it to look like Las Vegas. However, most towns like Binghamton and Vestal have already introduced the electronic messaging into their towns with regulations in place. All local municipalities can regulate the hold time for messages and the brightness. The intensity can be turned down at a certain time. The more residential areas can be less bright for specific hour's verses the commercial areas. The United Methodist Church sign is 30 feet from the road. Big E Tire with a 5 lane road is 50 feet. So placement of the sign is far enough from the road is not going to cause any additional distractions. It is not close to any intersection, which is a concern from the Highway Administration. Big E Tire would consider any guidelines the town would like to put into place for this electronic messaging sign. Everything can be addressed and limited to what the Town would like to see. You already have a system in place for a use variance and can condition the light intensity, message hold time and whatever else you choose for the sign limitations. We would be willing to abide by whatever the Town of Chenango would prefer.

Mr. Blythe –Could you say that again.

Ms. Collins – Big E Tire is willing to modify the sign for the Planning Board's recommendation on electronic messaging signs. New York State Department of Transportation standard 3 recommendations for the maximum amount of brightness for the sign, this is regulated nationwide. No animations. By this they are referring to the hold time for the messages. The standard guideline is 6 to 8 seconds to hold it and fade out and then bring in a new message. It also only pertains to the activities of the on-site business. Can't be used as a billboard or sell adds for down the street. Only their business services can be utilized on this sign. This is the standard for the industry. A lot of communities are concerned with the brightness of the electronic messaging to be distracting. However, the Department of Transportation feels this is an effective way to communicate various road conditions and if highly effective. They also stated the brightness cannot exceed the maximum luminance level of 700 cd/m<sup>2</sup> or (Nits) at least 1 half hour before sunset as determined by the National Oceanic and Atmospheric Administration and US Department of Commerce. The United States Sign Council "Best Practice Recommendations and Standards for on premise sign lighting the standard guidelines for sign brightness does not dictate that all signs should have a maximum brightness level of 700 cd/m<sup>2</sup> or Nits rather it sets the outer most brightness level for signs beyond the on premise sign brightness should not extend. The static and EMC signs using different color combinations and designs will have luminance far below the maximum standard for brightness at night. The Federal Highway Administration website stated by 2020 approximately one-fifth of the nation will be 65 or older tend to have difficulty seeing at night. Legibility and readability will be vital for all of us as we age. We want to communicate the business advertising message to everyone to enhance their business growth. The applicant's hardship is not being able to properly identify itself to potential clients and to continually grow its brand throughout the area. The illuminated free standing sign will hold its message for 8 seconds, so not to flash and to control brightness to meet the Department of Transportation regulations.

Mr. Carl – What is animation? Like the 4<sup>th</sup> of July flag behind it is considered animation? Is that the hold message or moving animation for 8 seconds?

Ms. Collins – Animation is computer generated graphics. Such as moving clouds for weather updates.

Mrs. Paddick – I contacted NYSDOT for their explanation on animation and it was the same as Ms. Collins.

Ms. Collins – On your business questionnaire for the goals for the town the signage and advertising was number four of importance to the business owners in the area. Advertising signs is the best investment to showcase their products and services to potential customers in the safest most cost effective way for business owners. Any business that adds the led messaging sign has seen an increase to their business anywhere from 15 to 150 percent, which is tremendous for the business owners. Normally they get their investment back within 1 year. The proposed sign will not be altered just enhanced to promote the business to the surrounding area. The sign will be 4' x 8' total of 32 square feet which is allowed under the current zoning. Gas stations are allowed led signs for their gas pricing as long as it is constant and does not flash. When you are out driving around and you see a well maintained beautiful sign verses one with bulbs out unpainted, you will be more apt to remember that well maintained sign. This is a big part to attract customers to buy their tires. Once they see the sign they will remember it and possibly return to purchase new tires. The hardship for Big E Tire is to protect their employees from injuries from changing the sign manually during inclement weather. It is also to increase their volume of business and is the most effective form of advertisement. To give a brief run down they need this sign to help brand the location of the business and to be readily identified by the consumer in this community. They want the customers to know they do more than sell tires. They also offer free tire rotations and brake services. These signs operate can operate from 5 to 7 years without any failures.

Mr. Blythe – In 2014 we set parameters on the Central Baptist Church.

Mr. Boland – That sign was located in a residential area, and should only be changed twice a day.

Mr. Carl – The Central Baptist Church 8 seconds is not a problem.

Mr. Bartolai - The photo cell is the best way for minor adjustments due to headlights and such. They automatically regulated to dim the brightness for the weather conditions, that way we don't have to modify it. We have branded logos to help identify our company. Our Court Street business is a foot print for this sign. Many of our store locations already have the electronic messaging. Eventually we would like them all to have the same brand.

Mr. Blythe - Is this sign the same size as the existing sign? Because you have indicated 60" x 30".

Ms. Collins - The new sign is slightly larger 40" x 90" which is allowed under your current zoning of 32 square feet.

Mr. Blythe – We set time restraints on the Central Baptist Church, 7 a.m. to 10 p.m. constant and non-flashing, scrolling or animated. Sign message to change only 2 times a day and the same thing with the brightness.

Ms. Collins – Their message changes frequently.

Mr. Blythe – And it shouldn't be. It should only be changing twice.

Mr. Bartolai – We would need it to change more than twice.

Mr. Carl – So we would need some education on the 8 second rule. Is that a short amount of time for messages. Is 8 seconds enough time for a message?

Ms. Collins – It takes 8 seconds for the best readability and comprehension to achieve as many messages as possible.

Mr. Collins – If you are driving down the road no one is going to be spending more than 8 seconds looking at the sign. They look up and their eyes go back on the road. When you are driving down the road you are busy looking at the car ahead of you, oncoming traffic, looking in your mirror and checking to see if someone is coming off the sidewalk. If we look at a sign we barely glance up. It can be measured in a fraction of a second to see it. You are going to look up and your eyes go back onto the road. During that visible area 500' away you can actually see that sign a fraction of a second but it will be enough time to comprehend the message to get their message across .

Ms. Collins – Traditionally, it is the repetitiveness of the sign. Consumers going back and forth are seeing the sign every day. They can see the special promotions and noticing the new product. That is where it becomes most effective. The 8 seconds was determined by the Federal Highway administration based on 30,000 car count in a standard United States small town on a 4 lane highway with 45 mph. That's where they determined it takes 7.2 seconds for 500 feet readability and comprehension. That is the best possible time. Big E Tire would like the most possible messaging per day to optimize

Mrs. Paddick – The average for different messages is 12 in a day over and over again.

Ms. Collins – If you do the math 8 seconds over a.

Mrs. Paddick - No different messages throughout the day, how many?

Ms. Collins - I would say a dozen messages in a rotation, over and over again.

Mr. Carl – I saw the Central Baptist Church which is changing every 8 seconds. I did not feel the second rule is a problem. The only concern I have is the traffic light, they have an accident a day there. We just have to be cognizant of that. We have in 1 of Alex's emails we have to be aware not to open up the flood gates on these signs and to be consistent. This is a 10 year old law, but once we open this up you can't say no.

Ms. Collins – You are worried about those flood gates. The United States Sign Council can assist your town in drafting a code. If you look at Dickson City, I was the first one to get a message center sign 15 years ago. We helped them write the code. If other business wanted to put them up there were contingencies. We have done numerous businesses and if you are familiar with the View Mount Mall we did that sign. If there are safety concerns about being distracting at intersections and traffic lights. You can add this to your current zoning regulations to limit no signs allowed within 100 feet from a traffic light or intersection.

Mr. Carl – IF the signs are done properly, I think it can be a good thing.

Mrs. Paddick – I noticed the school signs change all the time.

Mr. Boland – The Town of Dickinson and Hillcrest already have electronic messaging signs.

Mrs. Paddick – We can incorporate a motion with NYS DOT comments.

Mr. Carl – What is the maximum day time illumination?

Mr. Urda – According to Scott Russell it is 280 in the evening.

Ms. Collins – The luminaries is brighter during the daytime and less at night and is regulated. If you buy a message center sign on ebay there is only 1 setting and it is very bright. The United States Sign Council is working on regulating that. You probably have been blinded by a billboard that is not regulated.

Mr. Carl - When does it make it shift in brightness at dusk or on a timer?

Mr. Collins– You can do either.

Todd Collins, co-owner of Widmer Sign Company – The way this works is a photo cell is placed within the sign that regulates the brightness throughout the day. Based on the information from the photo cell it will dim the brightness. It can also be overridden within the computer program settings by which can be adjusted on a scale 1 to 100 percent. There are 2 ways to do this. It can be set up not to be affected by time changes (day light savings time), or regulated to change at 4:30 pm daily. So either way works. These signs come with a photo cell to keep the owner from having to adjust it.



