

**BOARD OF ZONING APPEALS  
MINUTES FOR THE  
JUNE 5, 2017  
MEETING**

Pursuant to written notice, the meeting of the Board of Zoning Appeals (the “BZA”) was called to order by Chairman Al Schutte at 7:30 PM on Monday, June 5, 2017, in the Council Chambers of the Village of Evendale Municipal Building. Attending were Chairman Al Schutte, members Dave Harwood, Rhett McGregor, Mike Reed, and Ken Valentine. Supporting the BZA was Pam Morin (staff). Also present were the persons listed on Exhibit A attached hereto and incorporated by reference herein.

The following appeal was on the agenda:

**Worldwide Equipment, 10649 Evendale Drive**

Applicant has submitted an application for a twenty five (25) foot variance from the minimum setback of twenty five (25) for a pole sign in the Industrial Truck Center District (ITC) as set forth in Schedule 1262.14 of the Village of Evendale Zoning Code.

Section 1284.02 of the Code establishes the parties entitled to appeal to the BZA. “Any application for appeal to the Board of Zoning Appeals may be filed by any person adversely affected by an order, decision, determination, or failure to act of the Building Commissioner or the Planning Commission”.

After hearing the testimony of Mr. Cassidy, Atlantic Sign Company and reviewing the written evidence submitted, the BZA, upon motion made by Mr. Schutte, amended by Mr. Reed with the consent of the author, and seconded by Mr. McGregor, unanimously adopted the following resolutions:

**RESOLVED**, that the following findings of facts are hereby adopted:

1. This variance request will be considered as a continuation of the previous request made by Worldwide Equipment and labeled V-17-03 appealing a decision made by Don Mercer, Village of Evendale Building Commissioner.
2. Applicant, Worldwide Equipment, filed an appeal dated May 17, 2017 with the Evendale BZA in writing. A copy of said appeal is marked as Exhibit A is on file in the Building Department and incorporated by reference herein.
3. After proper notice to the required parties, the BZA held a hearing on June 5, 2017, said date being within the required time. A copy of said notice is marked as Exhibit B is on file in the Building Department and incorporated by reference herein.

4. The Board hereby determined that the proposed variance is a “Permitted Variance” since it is intended to provide a means by which relief from dimensional, numerical or locational standards may be granted.
5. The Board must determine whether the proposed variance satisfies the requirements of Section 1284.05(c) of the Code, which specifically addresses the criteria for a variance.

Section 184.05(c) of the Code states as follows:

“The Board shall not grant a variance as authorized by Section 1284.05 unless it can determine that there are practical difficulties encountered by the applicant in complying with the Zoning Code. The evaluation shall include, but it not limited to the following criteria, which need not all be met in order to grant the requested variance.

- (1) Whether the property will yield a reasonable return without the variance or whether there can be beneficial use of the property;
  - (2) Whether the variance is substantial;
  - (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
  - (4) Whether the variance would adversely affect the delivery of governmental services;
  - (5) Whether the property owner purchased the property with knowledge of the limitations currently imposed on it by the Zoning Code;
  - (6) Whether the property owner’s predicament feasibly can be obviated through some method other than a variance; and
  - (7) Whether the spirit and intent behind this Zoning Code would be observed and substantial justice done by granting the variance.
6. Applicant submitted the following testimony and other evidence:
    - a) The location of the previously approved sign is positioned on a geo-engineered reinforced steep hillside on the west side of Worldwide Equipment’s building.
    - b) Moving the sign to the north property line makes the installation and service of the pole sign more practical. This area is also more level than the previously requested location.
    - c) There is a four (4) foot height difference between the approved location and the proposed new location. Worldwide Equipment has agreed to lower the approved height of the sign by four (4) feet.

Section 1284.05(f) (see below) of the Code permits the BZA to impose conditions on the granting of a variance.

(f) Conditions of Variances. The Board of Zoning Appeals may impose such specific conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the Code upon the premises benefitted by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property. Such conditions shall be expressly set forth in the resolution granting the variance. Violation of any such condition or limitation shall be a violation of the Code and shall constitute grounds for revocation of a variance.

Section 1284.05(g) of the Code (see below) requires the applicant to notify the Village and provide evidence of compliance.

(g) Compliance with Conditions. Whenever any variance authorized pursuant to this section is made subject to conditions and limitations to be met by the applicant, the applicant shall upon meeting such conditions notify the Building Commissioner for inspection of compliance.

**RESOLVED FUTHER**, that in light of the forgoing Findings of Fact and the application of the facts to the applicable law, the BZA upon motion made by Mr. Schutte and duly seconded Mr. McGregor, unanimously adopted the following resolution:

**RESOLVED**, that the Board hereby rejects the application for a variance to allow Worldwide Equipment to install a pole sign within the twenty five (25) foot property line and directly on the property line.

The next order of business was a review of the minutes of the February 20, 2017 meeting.

A motion was made by Mr. Harwood and seconded by Mr. Reed to approve the amended minutes of the February 20, 2017 meeting. The motion passed by a vote of 3 in favor, 0 against and 2 abstentions.

Upon a motion made by Mr. Reed, seconded by Mr. Valentine and unanimously adopted, the meeting was adjourned at 8:35 PM.

Attest:

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Al Schutte, Chairman  
Board of Zoning Appeals