

**Village of Cazenovia
Zoning Board of Appeals
Meeting Minutes
November 20, 2017**

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Present: Phil Byrnes, Chair; Cindy Bell; Lynn Hart; and Sally Ryan.

Absent: Jane Nicholson-Dourdas.

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Others Present: James Stokes, Village Attorney; Greg Widrick; Kurt Wendler; Ken Alweis; Judy Gianforte; Tim McCay; Bob Ridler; Anne Ferguson; John Cawley; Barbara Clarke; Jason Emerson; Dennis Harrod; R. Shain Emerson; Anne Ferguson; and a few others who did not sign in.

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P. Byrnes called the meeting to order at 7:00 p.m. and introduced the Board.

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P. Byrnes asked for any changes to the minutes of November 7, 2017. There were none noted. P. Byrnes made the motion to approve the minutes as drafted. S. Ryan seconded. The motion carried with 4 in favor, 0 opposed.

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Aldi Sign, Request for Three Variances

Greg Widrick, Kurt Wendler, and Ken Alweis were present.

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P. Byrnes: We are here again tonight to continue our discussion with regard to a request by Sphere Cazenovia, LLC, for area variances to erect two building mounted business identification signs for the Aldi grocery store under construction at 2392 Route 20 East. As proposed, the applicant seeks relief from the zoning regulations applicable to Village Edge South Mixed Use zoning district, which, under Code section 180-117(F)(1) permit only one business identification sign per business establishment. The applicant also seeks relief from the two 2-foot sign height limitation and the 75 square feet maximum sign area of Code section 180-117(F)(1)(c). As proposed, each sign would have a height of 9.5 feet and an area of 75 square feet. The applicant also seeks relief from the zoning regulations applicable to the location of the sign relative to ground level, which, under Code section 180-117(C)(14), is limited to 20 feet to the top of the sign from ground level. As proposed, the top of the signs would be 24 feet above ground level. Gentlemen, anything new from your side of the discussion?

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Mr. Alweis: We do. First, we want to thank you. We were here for quite a while last time. I appreciate everybody listening to us and the conversations. So we went back and spoke with our client. We spoke with Aldi. We have a proposal for a significantly smaller sign. We still would like very much . . . We need two signs. I have here some revised drawings. I had them all in pretty color and I left them on my printer in my office. So we made some black and whites. (Mr. Alweis handed out drawings of the smaller signs.) You can see in that one . . . We have elevations also so you can see that too. Again, sorry they are in black and white. But you can get the dimensions off

50 of the first drawing. We are still well below the maximum square footage. Granted, it is a different
shape. It is not stretched out the length of the building, but it is much, much smaller. These are
essentially 6 by 7 or 42 feet. It is a much smaller sign. Again, without going through everything we
talked about the last time and how we got into this situation, we are needing two signs versus one
sign. In working with the Planning Board and how we got to having to change the orientation of the
building where we would have only needed one sign, we now need the two signs. The height
55 requirement certainly would not be any higher. It may be even a little bit lower, maybe, since we
don't need as much.

Mr. Widrick: By making it smaller, it takes away from the overall height. It shrinks down. I can't
60 tell you exactly where it will be. It will be pretty close to the 20.

Mr. Alweis: Yeah, again, we wanted to have it so it looks right on the side.

Mr. Widrick: It's got to be centered.

65 Mr. Alweis: It's got to be centered. One has got to be over the doors. To achieve the ability of
people passing by to see it, we have gone as small as we can go. For all the reasons we talked about
last time: For safety reasons, for identification reasons. In going through the criteria we have to go
through for an area variance, we don't see the adverse impact. The Planning Board didn't see an
adverse impact. The Historic Preservation/Architectural Committee (HPC) didn't see an adverse
70 impact. In fact, the HPC recommended and endorsed the idea of two signs. So that's what we are
hoping for. We are not asking for the size that we asked for in the past. To make this work, we do
need the two signs.

P. Byrnes: Primarily the reasoning for that second sign is for motoring traffic coming up Route 20
75 to see?

Mr. Alweis: Yeah. They went through that before. I understand the different boards have different
responsibilities and mandates. But these issues were discussed with the Planning Board. They went
through the whole analysis with all the different committees and came up with two signs. They went
80 with it.

P. Byrnes: Comments or questions from the Board?

C. Bell: Okay, I'm going to ask this again. I asked it before. If you have one sign, if you do, where
85 would you put it? Did you discuss that yet with Aldi?

Mr. Widrick: It is not on the table. We asked. And that's when they conceded and said they would
be willing to do the smaller signs.

90 Mr. Alweis: This would be in terms of the analysis for zoning, the smallest variance possible. This
is what we ended up with.

C. Bell: In looking at the building . . . I was taking pictures of it. I have it on my phone from this
afternoon. I see where the two signs are going to go as you talked about last time and you have them
95 boxed out. What is around the signs? It is just siding? I can't tell.

Mr. Alweis: The color drawing probably shows it best.

C. Bell: Is it stucco? Clapboard?

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Mr. Wendler: I think it's some type of metallic.

Mr. Widrick: It's a gray panel.

105 Mr. Alweis: This isn't right because these aren't the signs that are going to be there. But maybe this gives you a better idea.

110 C. Bell: The reason I asked. . . I thought it was further along two weeks ago when you talked about it. You had said that they had it boxed out and was ready to go just for the signs. And it's not quite ready.

115 Mr. Widrick: Boxed out—meaning they scaled that parapet. If you look at other Aldi's, that parapet is pretty low. This one was scaled, again at the suggestions of the HPC when we were going through how they wanted it designed. I use the reference of a saloon, the center section is higher. They wanted the entrance more predominant with higher parapet lines. That's why that is that height. That's what I meant by boxed out.

120 Mr. Alweis: What you see in the photographs looks like a pretty big area. That's not how it's going to look. There is a sign that goes inside that.

C. Bell: I get all that. I was just asking because the conclusions I was drawing last time, I just wanted to confirm.

125 P. Byrnes: I want to jump back for a second to Cindy's first question. She had asked: What if this Board says only one sign. You said that Aldi said it's not in the plan. Where does that leave Aldi in this particular case?

130 Mr. Widrick: I don't know. I don't have an answer for you for that. They have the two signs. It's part of the package. It's part of their branding. It's part of their exposure that goes into the calculations of projected sales. It's really important to a retailer. Signage is extremely important.

S. Ryan: So the two Aldi signs that they are now proposing, the smaller ones, how much under 75 square feet are they?

135 Mr. Alweis: It will be about 42 feet. They are essentially 6 x 7, so they are 42 feet each as opposed to the other ones that would have been 66 plus square feet each.

S. Ryan: So the two of them is greater than the 75 square feet allowed, right?

140 Mr. Widrick: If you add them together.

P. Byrnes: If you add them together. Correct.

145 C. Bell: The other thing that I noticed the other day when I was going by to see if I could get it up
here again. When you go by the DeWitt store . . . It's funny when you read the minutes of the
Planning Board or us, we like to compare ourselves to other communities adjacent. In this case, we
will compare us to a community with an Aldi, which is the one across from Wegman's. Correct me
if I'm wrong, but the other day when I drove down Route 5, I was looking at the Aldi building, and
150 approaching from the west heading east, the two Aldi signs on that building are on the north and on
the west.

S. Ryan: In DeWitt.

155 C. Bell: In DeWitt.

Mr. Alweis: North would be the East Genesee Street side.

160 C. Bell: Yes. And you have it coming the other way, which is the way it should be because that's in
the front of the parking lot. But you don't have it coming from the west heading east. The only way
you know that is an Aldi's is by the sign on the road.

Mr. Widrick: And that was very important.

165 C. Bell: I think that was talked about here, too.

Mr. Alweis: I can comment on the DeWitt Aldi. I'm on the Zoning Board in DeWitt and I used to
be the attorney for the Zoning Board in DeWitt. And they also have sign variances. The very issues
having to do with traffic and visibility are the same issues that they had to deal with. Being able to
see the store as you are going by, if you are driving by, because there is a light not quite right in front
170 of them. But you have traffic going through heading east is not going to see it, but for they have this
monument sign, which we won't have.

P. Byrnes and C. Bell: But you will have a plaza sign.

175 Mr. Alweis: But a plaza sign is not of the same size.

S. Ryan: And it sits back farther.

180 Mr. Alweis: It's up there on the corner. Once you get into the area, it tells you what is there.

Mr. Widrick: It is directional.

Mr. Alweis: It doesn't serve the same purpose. It is not identification.

185 C. Bell: I get that, but it's still a sign with your name on it, even if it's not the Aldi branding like on
the monument sign. It's better than nothing. And some people would look at it as a second sign as
well. Some, I'm just saying.

190 Mr. Alweis: It is not by definition the same thing and it does not serve the same purpose, which is
to, once you are in there, to know what is in there.

195 Mr. Widrick: I'm still finding the difference between the signage in DeWitt and the signage in Cazenovia what we are asking for is the exact same. We face Route 20 with one sign and the other sign faces the parking lot over its entrance. That's how DeWitt is set up also. One sign faces Genesee Street. The other sign faces the parking lot. Plus they have the additional monument sign.

200 P. Byrnes: I would argue that it is a much busier area than what you are going to see in Cazenovia. I know we talked about speed limit at the last meeting and you said that had been turned down to try to reduce that speed limit.

205 S. Ryan: Someone mentioned that the bank, Community Bank, faces Albany Street and there is no front door like all the other stores along Albany Street. They all have a front door. That one has two side doors and a back door. There are not a lot of signs and people are still able to find their way into that bank. They are driving at that point because most people aren't walking down Albany Street from the lake to the library.

Mr. Widrick: They don't have a parking lot.

210 S. Ryan: They have one in the back.

Mr. Widrick: But it is two different types of businesses and two types of different retail. It is a different setting. You are in a downtown setting versus being out on the edge. You do have that opportunity to capture that.

215 S. Ryan: It's just that you can justify the fact that people know how to get into the bank even without signs. That was my thought in relationship to the Aldi property. They are still businesses whether you are going in to cash a check or you are going in to buy milk. Just a thought.

220 P. Byrnes: Anything else from the Board? Since there are no further comments from the Board, I will open up the meeting for public comment.

225 Bob Ridler: I have a couple of questions. I have seen the spaces that are outlined on both sides of the parapet, the north and the west side. I am wondering . . . There was some discussion about the surround of those signs. I am wondering if there is anything on the parapet that would be different from the surrounding clapboard.

230 Mr. Widrick: The one you see up there today is being built to the plans that were approved and a building certificate was issued. So that is bigger than this. So they will have to reframe that in smaller to accommodate that.

Bob Ridler: My question is: Whatever treatment surrounds the sign will come up to the edge of the sign?

235 Mr. Widrick: Yes.

Bob Ridler: The other question I had, you talked about the sign in the parking lot. What are the dimensions of that sign?

P. Byrnes: Are you talking about the plaza identification sign?

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Bob Ridler: Is that the one in the parking lot? You said two on the parapet and one at ground level. What are the dimensions of that sign?

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P. Byrnes: The sign area is 9 feet tall, 8 feet wide. There is some brickwork below that and some on each side. I would guess possibly maybe 10 feet.

Mr. Stokes: The total height of the structure is 9 feet.

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P. Byrnes: I don't know the width. It is 8 feet across the sign area. I don't know about the brick.

Bob Ridler: That's the sign in the parking lot at ground level?

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P. Byrnes: That would be the plaza identification sign. If you think of the Tops sign across the street, that is a plaza identification sign. By Code, that sign would be allowed in the Village Edge South Mixed Use area. That has been presented to the Planning Board and was approved.

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Bob Ridler: I consider that a pretty substantial sign in my personal opinion. My final comment, and I don't want to beat this thing to death, but it seems to me that any business could come into the community and say we need two signs. Allowing the second sign in addition to the monument sign, in my opinion, sets a precedent for any and all businesses that come here in the future or existing businesses.

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Mr. Alweis: The big difference is one of the criteria for approval of a variance application is whether or not the need for the variance was self-created. Anybody else coming in at this point along there who wanted to have the two signs would not be looking at it the same way as Aldi is looking at it. Again, I know I have said this probably a hundred times, but how they got to this point in the first place was they were not in need of the second sign. That self-created test, which is unusual for variances, to be honest, usually falls on the developer who comes in and needs the variance and they know they are the reason for it. In this case, it is not self-created. It was created by the process to get them where they are with full recommendation from the HPC who strongly recommended that they get the two signs. So they went in there with the idea that it had been recommended. The Planning Board endorsed it and now we are here looking for it because they asked them to twist the building. Unlike most applications, it is not self-created. Most applicants, if they were to come down the road and ask for it, they would have to say, yes, it is self-created. Not any single test is determinative, but it is unusual where an applicant can come in and say this is not self-created.

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Mr. Widrick: Just to add to that, the Planning Board approval was a 24-page resolution and there are 14 conditions, none of which was a variance is required. As a matter of fact, it also refers in the approval that the signage is appropriate, and that was larger signs and the food market signs.

S. Ryan: So this was a surprise?

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Mr. Widrick: Yes.

Mr. Alweis: Yes. Just quoting: The HPC strongly recommends the pair of Aldi signs as proposed is most appropriate with the smaller food market signs.

290 Barbara Clarke: I would just like to remind you that the HPC is advisory only and doesn't really carry any particular weight. It seems to me that the Aldi store is going to be very close to the road. And it's going to be very obvious that it's an Aldi store. People in Cazenovia and traveling through will be able to determine that it's a grocery store. Another sign is just a visual impediment to the look that was carefully conceived in the plan for the Village Edge South.

295 John Cawley: I realize you are probably under a lot of pressure to approve this. My consideration for you would be that if it is within the spirit of the regulations, but doesn't meet the regulations, you should approve it. In this case, it looks like it is double the regulations. It would seem to me that you really should consider hard approving something like that.

300 P. Byrnes: I did receive today a letter from the mayor, which I will read to enter it into the record.

Dear Chairman Byrnes and Members of the Zoning Board of Appeals,

305 *First, thank you all for your service to our village and community. Your time, energy and thoughtful consideration of the many important issues that come before your board all are greatly appreciated. It is my understanding that you will soon hear two similar issues relating to non-conforming applications for signs in the VES and VEN zones.*

310 *Having spent many hours deliberating over, writing and revising regulations for signs in our village over the past decade, I am aware of the sensitive nature of this issue. The village has tried to be thoughtful and balanced in creating rules that weigh both the aesthetics and historic nature of our community with the success and well-being of our commercial residents.*

315 *It is in that context that I offer some brief observations for the two applications that do not meet our routine sign regulations that are coming to your board for relief.*

320 *1) With regard to Aldi's request for a second sign, I would offer a mea culpa that, in our desire to be as thorough and inclusive as possible in our review and analysis of the overall application for the project, the process may have created confusion or uncertainty. As the applicant weighed input from not only the Village Board and Planning Board, but also the HPC, CACC and others, there may have been times when we had "too many cooks in the kitchen." We will certainly try to alleviate that during future processes. In this instance, conversations about the desired aesthetics of the building's façade and presentation of the desired signs on plans and elevations that were not part of the sign approval process may have created legitimate confusion. As you weigh the applicant's request, please note those circumstances and the role they may have played in the final design that is presented.*

330 *2) With regard to a potential second sign on the west façade of the tower in the plaza, please do consider the overall impact of the addition of this tenant to the plaza. Approximately four pre-existing commercial spaces were consolidated to create one, resulting in an overall decrease in signage on the building. There has been an overall positive impact, adding a major retail element to the community in existing space (bringing the plaza to full occupancy) with a net reduction in signage.*

335 *Thank you again for your service and your careful review of these and many other important topics on behalf of our community.*

*Best wishes,
Kurt Wheeler
5 Liberty St, Cazenovia, NY 13035*

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P. Byrnes: Again, I will ask if there are any other comments from the public.

Mr. Alweis: Somebody made the point that the HPC is only an advisory board. I would agree with that. However, the representation and recommendations from the HPC were included as part of the
345 Planning Board’s resolution. It was, in fact, part of their findings and conclusions. It was the recommendation from the HPC.

P. Byrnes: Jim, is that true?

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Mr. Alweis: I can show you where.

Mr. Stokes: I didn’t draft that resolution. The Planning Board had special counsel for that.

Mr. Alweis: I can show you.

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P. Byrnes: Is it in the package?

Mr. Alweis: Yes, it is.

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Mr. Wendler: In addition, at those meetings, Planning Board members participated in those meetings as a member of the public.

Mr. Widrick: We had five meetings with HPC. It was vetted. It is either 24 or 26 separate meetings in our approval process. We met with CACC (Cazenovia Advisory Conservation Commission),
365 CPF (Cazenovia Preservation Foundation), CACDA (Cazenovia Area Community Development Association), the HPC, the Town, the Village Planning Board. Prior to that, we had the annexation, which was an extremely long annexation, where we basically had a site plan approval in front of the Board of Trustees with the Village and in front of the Town Board. You can see . . . I can’t tell you the number of versions of the last site plan we had. How many versions of the site plan . . . We
370 would meet with one group, change it and present it. Then another group would not agree with that and so we had to change it. We were trying to appease everyone. I just plead on you that we came in with one sign. We didn’t ask for two signs. We didn’t come in here and say: “Aldi needs two signs.” We came in accommodating ourselves to the zoning regulations, which was a slanted storefront with one sign. We were told by HPC to have two storefronts, hence doubling the canopy
375 on the other side where they store the carts and the signage. This was not Aldi’s decision. It was not our decision to do that. Also, I know last time we talked about setting precedents. But the way construction statutory law gives this subjectivity to this Board by creating language that is preventative or restrictive. But it does that on purpose so this Board has the ability to be subjective and approve it on a case-by-case presentation. It isn’t just a flat out restriction if you meet the five
380 criteria that Ken talked about before. I think we were originally at 9 by 7 on the first sign, so that’s 63 square feet. I think the limitation is 75 square feet. So we have dropped it down to 42. So

multiply that by two, because of two signs, and we are now exceeding by 9 square feet. When you are talking about a building with a 20+ feet high parapet, it is very in scale. We care about the historic protection of this village. That is why we had the meetings with the HPC. They are an advisory board. They are appointed. We met with them and we made the changes they asked for. I appreciate when people are saying we are not preserving the character of the town. If we can't rely on what the HPC says, then who can we rely on? Then it's chasing who is correct and who has the authority? We are just trying to get the business open and established. We need to have some sort of consolidation or something that people can rely on. We are talking millions of dollars here, not just a few thousand. And it is a big deal to Aldi to have appropriate visibility. I know people say: "But they will know it is a grocery store." I don't think you have sat in on marketing meetings in major corporations. That would never fly. It is extremely important to the retailer's success, which is why we came in. Per the zoning code, we designed the building to one sign—Aldi did. That's where we are today. We are here in front of you today asking for that variance. Again, just remember what we were using, and using for all of our 26 meetings for architectural approvals, the renderings we were using had food market on each side of it also and a larger sign than what we are presenting. And it had a full-on monument sign and none of those letters were larger than 2 feet high. So I think Aldi is trying to compromise. Now with the building the way it is, and the condition it is, and the construction and design and steel fabrication, it has a corner and it has two sides. They just need what they relied on and what everyone relied on was the two signs.

Mr. Alweis: In going back to the criteria of the impact on the physical and environmental conditions of the neighborhood or district, the very people who make those recommendations—the HPC—are the ones who strongly recommended that they have two signs. So the people who are given that responsibility of maintaining the environmental and historical and character of the area are the ones, in fact, who said two signs. So that test certainly indicates that there is no adverse impact about what they are asking to do. And then to come back again that it is not self-created. Is it a substantial variance? No, given the reductions that they are now talking about in terms of the size of the sign and what they are asking to do, it is not a substantial variance. In terms of the total amount, if you take each sign separately, they are well below the 75 square feet. Each sign is only 42 feet. If you look at it overall, the way it is configured versus having it stretched out horizontally, this looks much better.

Mr. Widrick: Let's not forget the massive berm that is yet to be built. That will be built with all the vegetation and trees and pine trees and bushes, everything that is to be planted in front of it. You are not going to get the clarity that you have today. There is going to be substantial, substantial vegetation.

S. Ryan: I'm just curious. I wasn't at the HPC meetings. Did they justify when they said we suggest two signs? Why did they think two signs were needed?

Mr. Wendler: They wanted to keep a crisp corner to the building. They thought that captured the character of the other commercial buildings. There were some predominant features. One was red brick. A lot of commercial buildings have the red brick; the school, this building, many of the commercial buildings are red brick. So that's why you see red brick in here. The other big, substantial feature was flat roof. They struggled with that. There were some recommendations where they actually wanted to see a hip roof, which was more residential in nature. But when we showed them history of all of the different images that are commercial here and all the flat roofs, it was really hard to contest that. You don't really have a lot of commercial buildings here that have a

430 45-degree angle cut that Aldi was going to do. So that was a given. Aldi said, “We understand that.” So they agreed with the flat roof.

Mr. Widrick: Plus, the hip roof looked a lot like the plaza across the street, which is what they didn’t want.

435 C. Bell: But that answers the question of why they went square, which we have heard before. Did they specifically say do it square with two signs? Or was it: Once you go square, it requires two signs?

440 Mr. Wendler: That’s what we said. So Aldi’s architect was at the meeting. He said, “As soon as you bring that to a 90-degree, it is going to necessitate two signs.”

C. Bell: And they didn’t argue it?

445 Mr. Wendler: Oh, not at all, no.

C. Bell: So that’s where you get the conclusion.

450 Mr. Widrick: Your question is answered in the report delivered from HPC to the Planning Board. It specifically says it will require two signs.

L. Hart: But you knew it would require a variance as well at that point.

455 Mr. Widrick: Yes, we knew that. We knew it varied from what the Code said and we expressed that concern in those meetings and in that statement also. And they said that would be the strong recommendation. Now when it came down to the approval side, it is not in the conditions. It says signage is appropriate. That’s where the miscommunication is.

460 Anne Ferguson: Just a comment that the store in Dewitt seems to have one sign. In terms of the HPC, it is an advisory group. It is not authoritative in that sense. CACC is an advisory group. In this case, I think they gave bad advice and it should be taken that way. In the angling versus the square building, I think they got confused in terms of the two signs versus the one sign. At any rate, Dewitt seems to be fine with the one sign. I would just ask too . . . The applicant continues to repeat and regurgitate the same stuff from the other meetings over and over again, almost to try and wear us
465 down. I respectfully request that . . . New information is great, but just repeating the 24 meetings and all this, we have heard it.

470 Mr. Widrick: I am going to respectfully disagree. I don’t think Mrs. Ferguson was at any of the HPC meetings. They absolutely knew what they were talking about when we were there. There was an architect, maybe two or three architects, I think they have three architects on the Board. We were at every meeting. It was well discussed. It wasn’t something that was a mistake. And DeWitt does have two building signs.

475 Tim McCay: I’m from Cazenovia Preservation Foundation. We have spoken our piece about this. I would just remind you of the statement that we had given last time. We continue to be concerned about the possible precedent this would set. I find the distinction between self-created and not self-created a little bit logically confusing. Just because it seems like during any development

480 process there are concessions that are made and changes that are made and it seems that any project could, if they concede on one point say: “Well now we are constrained to have three signs or whatever because you wanted the building this way.” I find that a little bit troubling as a possibility that might come into future development plans.

485 P. Byrnes: Questions? Anybody? Last chance. Not hearing any further public comment, I’m going to make a motion that we close the public hearing. Is there a second to that?

C. Bell: I second.

P. Byrnes: All in favor?

490 S. Ryan: Aye.

L. Hart: Aye.

495 C. Bell: Aye.

P. Byrnes: Aye. The motion carries with 4 in favor, 0 opposed. The public hearing is closed.

P. Byrnes: Board members, have you heard enough that you feel that we can come to a decision?

500 S. Ryan: This has been very difficult.

P. Byrnes: It is. We have some circumstances in the applicant’s case that may have caused confusion. This Board is charged with looking at what we deem would be the minimum variance we would need to grant. It may or may not reflect what HPC says or the Planning Board, but it is this Board’s responsibility to look at the request and make a determination. That being said, if we are comfortable enough to have a discussion on the five factors that this Board needs to consider in making a determination. I will go through those. Mr. Alweis has alluded to those quite often during his presentation. I will also read one section that is in the Code about an area variance.

510 *In making its determination, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; whether the requested area variance is substantial; whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the*

515 *granting of the area variance. The Board, in granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.*

525 Mr. Stokes: Phil, do you want to tackle these one at a time?

P. Byrnes: In regard to the variances, there are basically three requests on the table.

530 Mr. Stokes: As was noticed, there are two signs. There is the overall square footage. And the fact that there are two signs because then you go over the 75 square feet. The height of each sign is still an issue. They are 7 feet high now instead of 9.5 feet, but it is obviously well over 2 feet. And then the height from the ground.

P. Byrnes: We are unsure of that number at this point. The ultimate height of the new size sign.

535 Mr. Alweis: It is not going to be any higher.

P. Byrnes: But it is still going to exceed 20 feet.

540 Mr. Widrick: We went from 9 feet to 7 feet. It will be reduced by 1 foot on each side because it will be centered.

P. Byrnes: The original is 9.5 feet.

545 Mr. Widrick: So you bring it down 2 feet, one foot comes off the top and one foot comes off the bottom. So you are reducing that. So you are what, a foot over now? Were we at 22 before?

P. Byrnes: You were at 24. You are going from the ground up, not from the highway level, but from the ground.

550 Mr. Alweis: I guess it would be 23.

P. Byrnes: So we are still looking at a 3-foot variance there. Mr. Stokes has a valid point. Let's consider these as three separate items, even though we will run through this three different times. First and foremost is two signs.

555 *1. In making such determination, the Board shall also consider whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*

560 L. Hart: Yes. Any extra signage that does not abide by our Code, to me, is a detriment to the community and it does set a precedent, definitely. So I think it would be a detriment.

565 P. Byrnes: I would tend to agree. I look at it from the aesthetic standpoint of the community as to what the community desires based on what our Code says, we prefer one sign. That is our standard. So I would find that to be a detriment.

570 C. Bell: In getting on to the character of the neighborhood, I know this is on the outskirts of town, but it is still within the Village limits. I don't know if you can see the Village from the Aldi parking lot. I haven't been up on the parking lot. It is just outside. There are no other businesses with two signs already. I would agree.

S. Ryan: I agree. It just think it would be a beginning that I would rather not do for the Village. I really have trouble believing it would affect the business of Aldi. And I'm not a business person.

575 2. *Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.*

C. Bell: If you look at the sign alone, and there are two signs, I have asked if they have looked at any feasible alternatives to two signs, and they have said no.

580 S. Ryan: It's nice you heard us about size, but that doesn't preclude that there are still two signs. I don't know what the alternative for Aldi would be.

 3. *Whether the requested area variance is substantial.*

585 S. Ryan: Yes.

C. Bell: Yes.

590 L. Hart: Yes.

P. Byrnes: Yes, the fact that they are asking for two signs. The Code allows one. The fact that even with the reduction in square footage, they are still going to exceed the 75 square feet. I consider that to be substantial.

595 4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

L. Hart: Yes.

600 C. Bell: Yes.

S. Ryan: Yes. Signage is unattractive, especially when you are trying to preserve the quality of life and everything in our Village. I think it matters. That's my opinion.

605 C. Bell: I think the current impact on the physical condition now is that we don't know the future impact of the two signs. Future development or even if a current business came in for two signs. We don't know what flood gates would be opened with this.

610 5. *Whether the alleged difficulty was self-created.*

S. Ryan: Yes.

615 P. Byrnes: In this case it is a yes and no. Obviously, a lot of the comments from other boards have led you one way, or at least given you the impression of one way. But obviously, you read the Design Guidelines. And you know what the Code says.

Mr. Widrick: The Design Guidelines don't say anything about signage.

620 P. Byrnes: The fact that we are at the last hour . . . Why this is coming to us at the last minute is beyond me. It should have been here months ago. I understand your dilemma that you have a building that you want to open in a few weeks and here we are debating whether we are going to give you a second sign. It's not good. I think the mayor alluded to that in his comments that with so many people involved there was some confusion. Probably one of the boards that should have been
625 involved all along was this board and, obviously, was not. I can't speak to that, but as the processes go forward, I think that is something that will be addressed. It doesn't help now with the decision we make tonight.

C. Bell: I have been reading the notes that go back. The building was squared off in April of 2016.
630 That's the earliest date I saw that they changed it. This is November of 2017. So that's almost 18 months later. I just think that's a long gap.

P. Byrnes: Theoretically, it should have come to this board as soon as there was an issue.

635 Mr. Widrick: Don't punish us.

P. Byrnes: We have had our commentary on the five criteria regarding the two signs. Is there a motion we can act on?

640 C. Bell: So what would the motion be? Make a motion to deny?

Mr. Stokes: You are considering them separately, but in the end you are going to make a determination as to what, if any, relief you are going to grant. So your final motion is going to be either to deny the variance request in its entirety, or you could grant it in its entirety, or somewhere
645 in between. Conceivably, you could grant a variance for one sign to be placed on a specific face of a certain size of a certain height above the ground and that will cover all of the requests. Or you can do two signs of a smaller size. I think you need to have a little more discussion on the other elements before you make a motion.

650 P. Byrnes: Let's go on and discuss the size of the sign. The original sign requested was 9 feet 5-1/2 inches by 7 feet 11 inches. Aldi has offered a smaller sign package. That is probably warranted on two signs. It would be our determination whether we wanted to act on the smaller sign or the larger sign and that would be part of the motion when we get to that determination. So let's talk about the size of the sign.

655 *1. In making such determination, the Board shall also consider whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*

660 C. Bell: I'm going to go back to what they said last time. They dropped it 2 feet. Would you see 2 feet from the road? Maybe, maybe not. It is a huge sign, but it's way up high. It's going to be hard to get that perspective. That's what they said last time. I do kind of go along with that. Having

said that, I don't have a problem with the new proposal. We are talking about if we shrink the sign, right?

665

S. Ryan: Didn't you say, at one time, that a smaller sign would not be visible because of some roofline or something?

Mr. Alweis: Because of the canopy, that's why it had to be higher.

670

Mr. Widrick: That's why it needs to be that high off the ground.

Mr. Alweis: A smaller sign is a concern, even if it was branded, it's a good sign.

675 C. Bell: I, personally, don't have a problem with going 2 feet higher. I don't think you are going to see the difference in the 2 feet.

S. Ryan: I don't either.

680 P. Byrnes: One sign with those dimensions that they originally proposed is still within the square footage, but it is above the sign height. If you look at the sign, the word "Aldi" really signifies the sign with the color graphics and the corporate logo. I would tend to agree that whether we go with the original request or the other request doesn't make much of a difference to me.

685 L. Hart: I agree.

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

690 C. Bell: They came in with the alternative.

P. Byrnes: Right.

3. Whether the requested area variance is substantial.

695

S. Ryan: Are we talking about just the 2 feet difference?

700 P. Byrnes: The Code says the sign cannot exceed 2 feet in height. But it also says you can have 75 square feet, which would be 37-1/2 feet by 2 feet. All you have done is stretched the sign up and they are still within the 75 square feet. Is it substantial? In one respect, yes. But it still meets the Code in theory. If they are still within 75 square feet, I would say that I don't see that as substantial.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

705

S. Ryan: No, I don't think so.

5. Whether the alleged difficulty was self-created.

710 S. Ryan: Yes.

L. Hart: I would say yes. Just Aldi coming into our Village knowing full well the size limit. So I think that it is self-created.

715 P. Byrnes: The last item that we would be discussing regarding signage is the height from the ground. The Code allows 20 feet. At this point, it could be a 4-foot variance if they use the larger sign and about 3 feet if they go with the smaller sign.

720 *1. In making such determination, the Board shall also consider whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*

P. Byrnes: Looking at it from the road, from the ground, realistically, I don't think most people would know whether it is 20, 23, or 24 feet.

725 S. Ryan: No.

C. Bell: I would agree.

730 *2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.*

P. Byrnes: I would say no based on the fact that you have canopies, you are below grade on the road. In order to have that sign visible for traffic, it would have to be at least at that height.

735 *3. Whether the requested area variance is substantial.*

L. Hart: No.

740 C. Bell: No.

S. Ryan: No.

745 *4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

P. Byrnes: The building is going to be that high. The sign is part of the building. I don't see that as an issue.

750 C. Bell: So for both of them, it is the physical and environmental conditions in the neighborhood. It is also the neighborhood around it. This is a big sign for the neighborhood around it. So when we say no to those, I almost say it's partially a yes because it is physically a big sign. I'm not saying don't do it. I'm saying it's a big sign. So that one, in particular, I see as going either way.

755 S. Ryan: But when you consider the size of the building, it has already changed the tone of the neighborhood. I would say yes.

5. *Whether the alleged difficulty was self-created.*

760 L. Hart: Yes, because they knew our rules from the beginning.

P. Byrnes: The physical sign would not have changed, even if the front was slanted. You would still have the Aldi sign. The Aldi standard is something along those lines, correct?

765 Mr. Widrick: That's correct. And, yes, we do know the Code and that's why we had the angled storefront with the canopy off to the side. So when they told us to square it, they said to bring the canopy to both sides, bring it out to a point and create a porch-like entry, and square this off.

770 P. Byrnes: So that second sign is there for more aesthetic purposes for Aldi and to let traffic see that the building is there. I would argue that most people know the building is already there.

Mr. Widrick: I think we have focused too much on that. We are talking purely about the process here. I think we agreed. We had one sign.

775 P. Byrnes: I'm not disagreeing with you. Self-created? Obviously, that would have been the standard sign. In a sense, from a height standpoint, again, we are now at the 4-foot juncture. The fact that the building is below grade level, well that's the nature of the topography there. With the additional canopies, the sign obviously had to be somewhat higher. It is self-created? Partially. Partially, probably you could throw that back on some of the comments.

780 S. Ryan: If you are going to have a sign, you might as well have a sign that works. The difference in the height is the Code problem, right? You have to have it centered and visible. I don't think it is self-created. I think it is just circumstances, like you said the topography.

785 C. Bell: I think it is the Aldi's architecture of the building that the signs go up high. So in that sense, it is self-created that they needed the variance for the sign height. So in some ways it was self-created. Whether or not there are one or two signs, it is still self-created because it doesn't have to do with anybody's decision. It has to do with the architecture of the building that Aldi picked for all of their buildings.

790 Mr. Widrick: May I add to that? In the original design, it wasn't. The parapets were lower.

C. Bell: That is true. So that's where it gets into the gray area again. A few of these are. So I will say no.

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P. Byrnes: That being said, do you want to formulate a motion?

Mr. Stokes: Before you try to formulate a resolution, I would like to I clarify where you are heading. I want to help with that. Explain to me what it is you think you might want? One sign?

800

C. Bell: One sign.

Mr. Stokes: On which face?

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P. Byrnes: I would say the north face.

C. Bell: Do we have to dictate that?

S. Ryan: Can we leave that to their decision?

810

Mr. Stokes: I suppose we could. Which size?

C. Bell: I would actually say it can be no bigger than the originally proposed sign. I would say that the height variance from the sidewalk cannot exceed. It would be 5 feet, right, because the shorter sign would have the . . .

815

Mr. Alweis: The height is the height.

C. Bell: Where is the height?

820

Mr. Stokes: From the ground to the top of the sign. That's the 24 feet.

P. Byrnes: The motion should say: The height of the sign shall not exceed 24 feet.

825

Mr. Stokes: As long as I understand what you are doing, I'm going to suggest a resolution. What I am going to propose is my understanding of where the Board is going on this. The resolution would be to deny the request for relief from 180-117(F)(1) seeking two business identification signs mounted to the building. The Board is granting the application for one sign of a maximum of 75 square feet that would be allowed to exceed the 2-foot height limitation to a maximum of 9.5 feet in total height of the sign. To also grant the application for relief from 180-117(C)(14) to allow the distance from the ground level to the top of the sign not to exceed 24 feet. That determination is based on findings that the variance as requested would produce an undesirable change in the character of the neighborhood in that additional signage is a detriment to the community and is out of character with other existing businesses and that the Board feels this may set a precedent for other requests and that would potentially establish a trend in the Village. The Board recognizes that the benefits sought by the applicant cannot necessarily be achieved by a feasible alternative to the variance, but that the variance as requested is substantial in that the request for two signs is double

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835

840 the Code requirement. The variances requested would have an adverse impact on the physical and
environmental conditions in the neighborhood and that additional signage is unattractive and out of
character with other businesses within the Village. The Board finds that the alleged difficulty is
self-created in the choosing of the design by the applicant. With respect to the size of the sign and
height of the sign itself, the Board feels that the additional height from 2 feet to 9.5 feet would not
produce an undesirable change in the character of the neighborhood. That the benefits sought by the
applicant cannot be achieved by a feasible alternative to the variance. That the requested variance is
845 not substantial and would not have an adverse impact on the physical or environmental conditions in
the neighborhood. And while the alleged difficulty is self-created, this does not outweigh the factors
in favor of the granting of the variance. With respect to the variance for the distance from ground
level to the top of the sign, the Board finds that this would not produce an undesirable change in the
character of the neighborhood and that the difference between the Code requirement of 20 feet and
850 the requested variance to 24 feet would not be perceptible to those passing by the property. That the
benefit sought by the applicant cannot be achieved by a feasible alternative to the variance. The
property is below the road grade. That is a factor in favor of the granting of the variance. That the
requested variance of 4 feet is not substantial and would not have an adverse impact on the physical
or environmental conditions of the neighborhood. The difficulty with respect to this particular
855 request is not self-created. I propose that as your resolution. The Board is required to make
findings. You can't just say yes or no. You have to make findings. Normally, we would take the
time to prepare a resolution and have you evaluate it in advance. They want to get going because it
is the holiday time of year. So we are trying to make findings on the fly here, so to speak. So that's
the suggestion. You can vary it, modify it, or do whatever you want with it.

860 P. Byrnes: I think you captured pretty much what we expressed and commented on.

S. Ryan: Just to clarify, the original variance requested, we have pretty much said okay except for
the number of signs?

865 Mr. Stokes: That would be the essence of it, yes. You are just eliminating the second sign. You are
granting everything else.

870 S. Ryan: The size is fine. The height is fine.

C. Bell: We are just giving them the maximum so if they come back and say they want the smaller
sign, it would work?

P. Byrnes: They could put in a smaller sign if they wanted to.

875 Mr. Stokes: Yes, they could do that.

C. Bell: I make a motion to adopt the resolution as stated by Counsel:

880 Resolution to deny the request for relief from 180-117(F)(1) seeking two business identification
signs mounted to the building. The Board is granting the application for one sign of a maximum of
75 square feet that would be allowed to exceed the 2-foot height limitation to a maximum of 9.5 feet
in total height of the sign. To also grant the application for relief from 180-117(C)(14) to allow the
distance from the ground level to the top of the sign not to exceed 24 feet. That determination is
885 based on findings that the variance as requested would produce an undesirable change in the
character of the neighborhood in that additional signage is a detriment to the community and is out
of character with other existing businesses and that the Board feels this may set a precedent for other
requests and that would potentially establish a trend in the Village. The Board recognizes that the
benefits sought by the applicant cannot necessarily be achieved by a feasible alternative to the
variance, but that the variance as requested is substantial in that the request for two signs is double
890 the Code requirement. The variances requested would have an adverse impact on the physical and
environmental conditions in the neighborhood and that additional signage is unattractive and out of
character with other businesses within the Village. The Board finds that the alleged difficulty is
self-created in the choosing of the design by the applicant. With respect to the size of the sign and
height of the sign itself, the Board feels that the additional height from 2 feet to 9.5 feet would not
895 produce an undesirable change in the character of the neighborhood. That the benefits sought by the
applicant cannot be achieved by a feasible alternative to the variance. That the requested variance is
not substantial and would not have an adverse impact on the physical or environmental conditions in
the neighborhood. And while the alleged difficulty is self-created, this does not outweigh the factors
in favor of the granting of the variance. With respect to the variance for the distance from ground
900 level to the top of the sign, the Board finds that this would not produce an undesirable change in the
character of the neighborhood and that the difference between the Code requirement of 20 feet and
the requested variance to 24 feet would not be perceptible to those passing by the property. That the
benefit sought by the applicant cannot be achieved by a feasible alternative to the variance. The
property is below the road grade. That is a factor in favor of the granting of the variance. That the
905 requested variance of 4 feet is not substantial and would not have an adverse impact on the physical
or environmental conditions of the neighborhood. The difficulty with respect to this particular
request is not self-created.

910 S. Ryan: I second the motion.

P. Byrnes: A vote of aye would be in favor of adopting the resolution. A vote of nay would be
against the resolution. I will call for a vote.

915 S. Ryan: Aye.

L. Hart: Aye.

C. Bell: Aye.

920 P. Byrnes: Aye. The motion carries with 4 in favor, 0 opposed. A note with regards to State Environmental Quality Review (SEQR), Jim and I spoke earlier. The Village Board, as the lead agency, had done a negative declaration as regards to SEQR, so there is no need for us to discuss SEQR.

925 P. Byrnes: Is there anything else?

S. Ryan: I make a motion to adjourn the meeting.

C. Bell: I second the motion.

930 The motion carried with 4 in favor, 0 opposed. The meeting was adjourned at 8:13 p.m.

Respectfully submitted,

935

Marlene A. Westcott
Recording Secretary