

Town of LeRay

Zoning Board of Appeals – Work Session

November 1, 2023

Call to Order

The November 1, 2023, Work Session portion of the LeRay Zoning Board of Appeals meeting took place in the Town of LeRay Conference Room. The meeting was called to order by Chairperson Oatman at 6:03 PM.

Roll Call

In attendance: Jan Oatman – Chairperson, Christian Favret – Member, Ned O’Brien – Member, John Hallett – Member, Lee Shimel – Zoning Enforcement Officer, and Morgan Melancon via teleconference – Secretary to Planning and Zoning. Member David Mushtare was absent. Additionally, Kevin Bamann and Corinne Bernd from GYMO joined the meeting at 6:22 PM

Acceptance of Work Session Minutes – November 9, 2022

The Work Session minutes from November 9, 2022, were reviewed by the Board members. A motion to accept the minutes as drafted was made by Member Favret and seconded by Member Hallett. The vote went as follows:

Member Favret:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Member Hallett:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Member O’Brien:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Member Mushtare:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input checked="" type="checkbox"/> Absent
Chairperson Oatman:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent

The motion passed.

Review of an Area Variance Application for Wewer Holding Corp.

The applicant is requesting a variance for a front-yard setback of 115 feet on Waddingham Road and a front-yard setback of 49 feet 9 inches on US Route 11. The setbacks are being requested to facilitate the implementation of Storm Water Prevention measures for the proposed construction of a new 10,068 SF office building. The project is located on the corner of US Route 11 and Waddingham Road, tax parcel #65.09-1-15.21.

Chairperson Oatman provided an overview of the property situated on the corner of Waddingham Road and US Route 11. She explained that according to the Municipal Code, “if a lot adjoins two or more streets or highways, it shall be deemed to have a front lot line respectively on each”. Per Zoning Code 158-21 (A) (1) in a Mixed-Use District, the front yard building setback would be 20 feet on Waddingham Rd and 40 ft on US Route 11. Additionally, per 158-21 (A) (2), the maximum front yard setback is 100 ft, unless otherwise specified. Chairperson Oatman noted that one of the intentions of the Mixed-Use District was to promote walkability amongst the developments.

Chairperson Oatman said the 84-acre property was surrounded by vacant land and large residential lots. She explained that the property sloped down into a gully towards US Route 11, potentially leading to stormwater flow in that direction. She stated that further clarification was needed regarding the developer’s

plans for placement of stormwater management structures as this was part of their justification in requesting the variance.

Chairperson Oatman said the applicants planned to construct a parking lot and a paved driveway that looped around the proposed office building. They had previous discussions with the Planning Department regarding adding additional structures in the future, potentially townhomes or other types of buildings. Chairperson Oatman said it was a possibility that they would not be allowed additional access driveways to the property from Waddingham Road due to the hillside and curve in the road. The Town also prefers to limit the number of access driveways from the road. The New York State Department of Transportation (NYSDOT) had already denied them access off US Route 11. Chairperson Oatman explained that having a longer driveway into their property made sense as it provided an option of adding additional roads off that main entrance should there be any additional structures built in the future.

While reviewing the Site Map it was noted that the road and the right-of-way were not clearly indicated. Chairperson Oatman said she would request a more detailed description for clarity. Mr. Shimel said there was an existing agricultural access driveway off Waddingham Road, between two existing residential driveways across the street. He speculated that they might consider using that location for the proposed driveway.

Chairperson Oatman clarified for the newer members of the Board that their role was not to grant approval for the project to proceed. Their role was to evaluate the requested variance in accordance with zoning regulations, and either approve or deny that request. The project would then be presented to the Planning Board where the applicant would be required to provide all the necessary details about the project itself.

Chairperson Oatman explained that according to the State Environmental Quality Review Act (SEQRA), there were three (3) types of actions; Type I, Type II, and Unlisted. Title 6 of the New York State Code of Rules and Regulations (6 NYSCR), part 617.5(c)(16) states the “granting of individual setback and lot line variances and adjustments” were considered a Type II action and were not subject to the State Environmental Quality Review (SEQR). Chairperson Oatman explained that the term “individual setbacks,” did not refer to an individual person but rather an individual project on an individual lot. Additionally, the ‘Zoning Board of Appeals’ document from the Division of Local Government Services stated that;

“It should be noted that certain matters that commonly come before a board of appeals are listed as Type II. Among these are interpretations of the zoning regulations, as well as the granting of all setback and lot-line variances, and all area variances for one-, two-, and three-family residences.”

Chairperson Oatman informed the Board that it was necessary to document this determination during their regular meeting, and they would need to make a motion to declare the project as a Type II action and no further environmental review would be required. Mr. Shimel explained that the Board had the option to grant the smallest variance needed and/or set conditions for the variance. Chairperson Oatman stated that in the granting of an Area Variance, the Board would have to entertain five (5) factors as set forth in the zoning regulations. Unlike a Use Variance, the applicant did not have to meet all factors in order for the Board to grant the variance.

Member Favret noted that the setback they approved for the project had the potential to set a precedent for the neighboring properties. Chairperson Oatman commented that the residential properties down the road were large and had homes with greater setbacks, although they may have been in a different zoning district. She then asked where the MU District boundaries were. Mr. Shimel reviewed the Town of LeRay Zoning Reference Map and explained that the MU District extended North along US Route 11, all the

way to the Village of Evans Mills. The properties to the South of Waddingham Road were in the Commercial Corridor (CC) District.

Chairperson Oatman said both the Area Variance Application and the Letter of Authorization, which allowed someone else to act on behalf of the owner, had not been signed by the property owner. Kevin Bamann, the project representative, had informed Mr. Shimel via email that he would have the signed copies once the owner returned from out of town, however, they were not provided prior to the work session meeting. Chairperson Oatman did not believe the Board could deem the application as complete unless they were received prior to the regular meeting. Mr. Shimel said he felt the pending signatures should not delay the Public Hearing, since the copies would likely be available by that time, and that the Board could proceed with scheduling the Public Hearing. Chairperson Oatman stressed the importance of a complete application, as it was also required for the 239-l and m review, which needed to be sent to the Jefferson County Planning Board by November 16, 2023. Ms. Melancon commented that a Public Hearing could not be set if the application was deemed incomplete.

Mr. Bamann arrived during the meeting, and Chairperson Oatman asked if he had brought a signed copy of the Area Variance Application and the Letter of Authorization. Mr. Bamann confirmed that he had, in addition to a copy of the signed SEAF, Part 1. Chairperson Oatman informed Mr. Bamann that the project would be classified as a Type II action and therefore the SEAF would not be required.

Chairperson Oatman explained to the Board that Ms. Melancon aimed to have their meeting binders ready the Friday before any scheduled meeting. It was expected that the members would pick up their binders prior to the meeting day so they had ample time to review the project information and the Municipal Code in order to be prepared and make informed decisions during the meeting. Mr. Shimel said if a member was unable to retrieve their binders during regular office hours, they should inform Ms. Melancon and she would place them in the vestibule for their retrieval. Chairperson Oatman requested that if a member was unable to attend a meeting, they should contact either herself or Ms. Melancon as soon as possible. This was imperative as their Board consists of five (5) members and it was necessary to ensure there was a quorum, otherwise the meeting would have to be rescheduled.

Member Hallett made an announcement that he would be relocating outside of the district and as a result, would be stepping down from the Board. His final meeting would be on December 6, 2023, and he would submit a formal resignation letter.

Adjournment

A motion to adjourn the Work Session at 6:25 PM was made by Member Favret and seconded by Member O'Brien. The vote went as follows:

Member Favret:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Abstain <input type="checkbox"/> Absent
Member Hallett:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Abstain <input type="checkbox"/> Absent
Member O'Brien:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Abstain <input type="checkbox"/> Absent
Member Mushtare:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Abstain <input checked="" type="checkbox"/> Absent
Chairperson Oatman:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Abstain <input type="checkbox"/> Absent

The motion passed.