

Town of LeRay

Zoning Board of Appeals - Minutes

November 1, 2023

Call to Order

On November 1, 2023, the LeRay Zoning Board of Appeals held their meeting in the Conference Room of the Town of LeRay Municipal Building. The meeting was called to order at 6:30 PM by Chairperson Oatman, who led the room in the Pledge of Allegiance.

Open Regular Meeting

Board members 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. Additionally, Kevin Bamann - GYMO, Corinne Bernd - GYMO, and Leeland Carpenter-Town Board Member were in attendance. Member David Mushtare was absent.

Acceptance of Minutes – November 9, 2022

The minutes from the regular meeting on 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.

Correspondence and Communication

Chairperson Oatman asked if there was anyone who was not on the agenda that wished to address the Board. There was no response. Chairperson Oatman asked Ms. Melancon if there was any correspondence to which she replied there was none.

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 asked the Board to review the Area Variance Application for Wewer Holding Corp, and read section 158-21, subsection A(2) of the Town of LeRay Municipal code for a Mixed-Use District as follows:

“Maximum front yard setback: 100 feet unless specified otherwise (Examples: junkyard, self-storage, storage facility).”

Kevin Bamann, GYMO, was in attendance as the representative and was asked to give a brief presentation of the proposed project. Mr. Bamann said the project was located on an 84-acre parcel on the corner of Waddingham Road and US Route 11 within a Mixed-Use (MU) District. The project involved the construction of a new 10,068-square-foot building that would house the applicant’s existing accounting business, Tim Wewer EA, ABA. The Site Plan featured an access road off Waddingham Road, a full loop driveway, and 50 parking spaces surrounding 3 sides of the building. Chairperson Oatman asked if the proposed office building was solely for their accounting business or if there would be other tenants. Mr. Bamann said it was undecided, but as of then, they would be the only tenants.

Mr. Bamann said they were requesting relief from the 100-foot maximum front-yard setback for both Waddingham Road and US Route 11. The proposal was to position the building roughly 215 feet from the Waddingham Road lot line and 150 feet from US Route 11 lot line. Mr. Bamann explained that their desire to locate the building beyond the maximum setback was mainly due to the property being located on a corner lot. The angular shape of the state right-of-way and the contour of the property made it difficult to fit sidewalks, parking spaces, a surrounding driveway and necessary stormwater management structures within the maximum 100-yard setback. It was further complicated by the fact the property has 2 front yards and everything would be squeezed into one corner of the 84-acre parcel. Mr. Bamann stated that given the size of the parcel, the proposed setbacks would have no adverse impacts on the neighboring properties.

Mr. Bamann presented a copy of a draft Site Plan that illustrated what the project would look like should they attempt to comply with the setback regulations. The design shortened the length of the access road coming in from Waddingham Road so that the building would be within the maximum 100 ft setback. The fact that the lot line on Waddingham Road was the middle of the road further contributed to the reduced length of the access road. Existing drainage ditches, the slope of the property toward the road and the need to construct storm water management structures on the US Route 11 side would create challenging grading issues.

Chairperson Oatman asked whether the ditch was a part of the parcel within the US Route 11 right-of-way. Mr. Bamann said that it was, however, they would be constructing additional storm water structures to manage storm water on the property.

Chairperson Oatman asked Mr. Bamann to show the board on the site map where the actual roadway was on US Route 11 and where the right-of-way boundary was. Chairperson Oatman said that one could reasonably expect that at some point US Route 11 could be widened given the current volume of traffic on it presently and the expectation it would increase activity at the intersection with people turning on Waddingham Rd to enter the office building.

Chairperson Oatman asked if there were any future plans for additional development on the site which could help justify the need for the extended driveway. Mr. Bamann said there had been conceptual discussions regarding potential residential townhouses and a few other commercial structures. At this time, the owners wanted to concentrate solely on the present project as they are anxious to move out of their current overcrowded space. Chairperson Oatman explained that it was easier for the board to consider their variance request if they were aware of potential future plans for the site as the Town prefers to limit the number of access roads to any given property.

Mr. Bamann explained that the purpose of the full loop driveway surrounding the building was not only to provide access for fire protection, but also to allow for the possibility of its extension to access the remainder of the property along US Route 11 as NYS has denied an access point from US Route 11.

Chairperson Oatman asked if the Board had any further questions. Member Favret asked if the potential townhouses would utilize the proposed driveway loop, or if they would construct a separate driveway. Mr. Bamann said that, while discussions for possible townhouses were still in the conceptual stages, they would likely use the same driveway loop. He suggested that if the site were to expand with more development, it would be feasible to upgrade the entrance to accommodate additional traffic by adding another lane.

Chairperson Oatman stated that if the Board were to approve the variance, they had the authority to impose conditions on it that the owner would have to adhere to.

Mr. Shimel stated that according to the Municipal Code, there were regulations regarding the distance between driveways, and that there were two driveways on the opposite side of the road. Mr. Bamann said in the initial stages of the project, the original engineering firm had attempted to align the new driveway with those across the street. However, it was his understanding that the regulations pertained to driveways on the same side of the road.

Chairperson Oatman discussed the criteria the board had to consider when granting an Area Variance and reviewed the applicant's response to the second factor:

“Whether the benefit sought by the applicant could be achieved by some other method, feasible for the applicant to pursue, other than an Area Variance.”

Chairperson Oatman acknowledged that, while the applicant's desired outcome might be achievable without an Area Variance, it was complicated by the shape of the angled state right-of-way on the corner of the lot. Mr. Bamann commented that the grading and stormwater management features would become extremely challenging and expensive to accomplish due to the limited area to work within.

Next, Chairperson Oatman reviewed the applicant's response to the third factor:

“Whether the requested Area Variance is substantial.”

She explained that ‘substantial,’ did not pertain to the ratio of the size of the variance to the property's size, but the percentage the variance exceeded zoning requirements. Since the requested setback was 215 feet, which exceeded the maximum by 115%, she informed Mr. Bamann that the Board may consider the variance substantial, as it was more than double the allowed limit. However, Chairperson Oatman informed Mr. Bamann that a determination of substantiality did not preclude the board from granting the variance.

Lastly, Chairperson Oatman addressed the fifth criteria for an Area Variance:

“Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of appeals but shall not necessarily preclude the granting of the Area Variance.”

Chairperson Oatman informed Mr. Bamann that the applicant's justification, which was based on the property's physical limitations, might not justify it not being 'self-created.' She explained that given the property was purchased just two (2) years prior and the setback requirements were in effect at the time of purchase, it was the purchaser's responsibility to be aware of the zoning laws and the existing limitations before they purchased the property. She informed Mr. Bamann that the Board may view the difficulty as self-created, but that it would not in itself prevent the granting of the variance.

Mr. Bamann noted that the surrounding properties, mostly along Rogers Road, were primarily residential and consideration was taken to not impose upon the privacy of those residences. Chairperson Oatman asked if the properties along US Route 11 were predominantly residential, to which Mr. Shimel stated that there was a mixture of residences and vacant lots. Chairperson Oatman asked about the setback distances

of nearby residential properties, specifically if they exceeded the 100 ft setback. Mr. Bamann stated that most neighboring residences seemed to be around the 100-foot setback mark.

Chairperson Oatman pointed out that per section 158-19 of the Municipal Code, the Town's vision for MU Districts highlights the importance of maintaining community-centric, walkable areas. She stated that it was the Board's responsibility to uphold the vision of the Town when considering any variance requests. Mr. Bamann expressed his willingness to work with the Town to find a mutually acceptable layout. Chairperson Oatman asked the Board if they had any other comments or questions. The Board had none.

According to Title 6 of the New York State Code of Rules and Regulations, part 617.5(c)(16), the granting of individual setback and lot line variances and adjustments were considered a Type II action and therefore are not subject to the State Environmental Quality Review. A motion to declare the project as a Type II action was made by Member O'Brien and seconded by Member Hallett. The vote went as follows:

Member Favret: Yes No Abstain Absent
Member Hallett: Yes No Abstain Absent
Member O'Brien: Yes No Abstain Absent
Member Mushtare: Yes No Abstain Absent
Chairperson Oatman: Yes No Abstain Absent

The motion passed.

The Board determined that the Area Variance Application was complete. A motion was made by Member Favret and seconded by Member O'Brien to deem the Area Variance Application as complete. The vote went as follows:

Member Favret: Yes No Abstain Absent
Member Hallett: Yes No Abstain Absent
Member O'Brien: Yes No Abstain Absent
Member Mushtare: Yes No Abstain Absent
Chairperson Oatman: Yes No Abstain Absent

The motion passed.

A motion to set a Public Hearing for December 6, 2023 at 6:30 PM was made by Member Hallett and seconded by Member O'Brien. The vote went as follows:

Member Favret: Yes No Abstain Absent
Member Hallett: Yes No Abstain Absent
Member O'Brien: Yes No Abstain Absent
Member Mushtare: Yes No Abstain Absent
Chairperson Oatman: Yes No Abstain Absent

The motion passed.

A motion was made by Member Favret and seconded by Member Hallett to send the project to the Jefferson County Planning Board for their review at their November 28, 2023 meeting. The vote went as follows:

Member Favret: Yes No Abstain Absent

Member Hallett: Yes No Abstain Absent
Member O'Brien: Yes No Abstain Absent
Member Mushtare: Yes No Abstain Absent
Chairperson Oatman: Yes No Abstain Absent

The motion passed.

Chairperson Oatman informed Mr. Bamann that he would receive a letter in the mail outlining the upcoming Public Hearing details.

Adjournment

A motion was made by Member Favret and seconded by Member O'Brien to adjourn the meeting at 6:59 PM. The vote went as follows:

Member Favret: Yes No Abstain Absent
Member Hallett: Yes No Abstain Absent
Member O'Brien: Yes No Abstain Absent
Member Mushtare: Yes No Abstain Absent
Chairperson Oatman: Yes No Abstain Absent

The motion passed.