

MINUTES OF VILLAGE OF MANCHESTER ZONING BOARD OF APPEALS
PUBLIC HEARING AND MEETING - 7:00PM.

Present: Michael Migliaccio- Chairman
Bernard Commisso
John Yacuzzo
Donald Miller
Vincent DelGatto

Others:
Logan Rockcastle
Marty Barnett
Matt Lawless
Tricia Lawless
Rebecca Bliss
Dave Luecke
Jennifer Luecke
Robert Marks
Judy Robenson
Tim Burns
George Hotchkiss
Doug Templeton
Lydzaida Santana
Unknown Resident
Pat Nicoletta

Recording: Nichole Ruggles, Deputy Clerk/Treasurer

PLEASE TAKE NOTICE: that pursuant to Article VI, Section 100-21, of the Village of Manchester Zoning Ordinance a Public Hearing before the Zoning Board of Appeals of the Village of Manchester will be held on Wednesday, August 2, 2023 at 7pm, in the Village Hall, 8 Clifton Street, Manchester NY.

Said hearing is a request of Angel Montanez at 114 South Main Street for an area variance to build a 60.6' x 36.3' commercial restaurant (pizza, ice cream) Variance one (1) does not meet Schedule 1 side set back which requires 20 feet. Application shows 9.3 feet. Variance two (2) does not meet Section 100-35 A(1)(b)(d) that states: Drive in restaurants and eating establishments where a substantial percentage of sales are to take-out customers, provided that such uses shall not be closer than two hundred (200) feet to a residential district. Application shows less than 200 feet to a residential zone.

Chairman Michael Migliaccio called the public hearing to order at 7:00 pm. Seconded by Vinny Delgatto. At this time Mr. Migliaccio discussed that when it's time the public will have 3 min to talk, keeping the discussion on the two variances only. Michael then introduced the board members and read the public notice that was published in the paper on July 25, 2023.

Logan Rockcastle and Doug Templeton representing Marks Engineering presented a large survey map along with a drawing of what the proposed building will look like. They reviewed the plans. The plans present having two factions with having an ice cream shop on one side and pizza shop on the other with a shared storage space. The size of the building was based on the needs of the proposed plans. The building will be facing Main Street for attraction of walkers. The building was based on the village character, to blend in and create a good neighbor center. Looking to draw in the younger crowd and catering to the foot traffic in the area. This site was zoned commercial and we feel it would be a great location.

Pat Nicoletta: Are you aware of the 200 foot code? It was presented as a takeout restaurant with one variance, now a second variance has been added.

Mike Migliaccio: Any idea on how to address this?

Logan Rockcastle: We did not want a drive in restaurant. The initial application was for an Ice cream/ Pizza restaurant for customers to have the option to sit down and dine.

Pat Nicoletta: This confusion is due to drive in restaurant vs restaurant.

Logan Rockcastle: The anticipation is for people to stay instead of just take out. It's a restaurant where people can spend time here and enjoy their food.

Mike Migliaccio: The concern is parking and seating. This could change things.

Pat Nicoletta: If it's a restaurant the formula could change in regards to the code, the parking would have to be re-calculated. The code is different for restaurant vs a drive through.

Vinny Delgatto: The County had minimal comments on this proposed site plan.

Donald Miller: I don't see a side walk to the building?

Logan Rockcastle: Showing the site plan, it's a full resident assemble walk in that has side walk around the whole building. It will be handicap accessible.

John Yacuzzo: If you're proposing a sit down vs take out, I worry about the parking to accommodate the amount of people.

Donald Miller: what about the employee vehicles?

Mike Migiacchio: Is there a grease trap?

Vinny Delgatto: What's the code for grease trap?

Marty Barnett: The grease trap will be looked at as part of the building plans along with parking.

Jennifer Luecke: presented the county comments when the zoning was changed in 2021 from residential to C1 commercial. It stated in the comments there would be consequences if it was re-zoned and it's exactly what's happening. It should have never been changed.

Robert Marks, Esq representing for the Luecke's. We believe this is a use variance as opposed to an area variance. A use variance is much harder to meet regulations and it has different requirements. We believe that it's a use variance and should not be granted. The letter that was presented to the board over sees all the concerns. This is substantial and it will alter the neighborhood. The applicant is conflicting a drive in restaurant vs sit down. The board is to only look at the two variances request that's presented. (see attached letter from Robert J. Marks, Esq for Boylan Code LLP.) that was reviewed with the board and the public.

Mike Migiacchio: I want to clarify the variances.

Pat Nicoletta: If it's a restaurant, it's an area variance and it would be a permitted use.

At this time there were a lot of discussions back and forth between the board members, pat, Marty and the engineers regarding the confusion with the zoning codes. The original plans were presented as a drive in and the applicant states it's a restaurant for sit down use. The variances would be different depending on if it's a drive in vs sit down restaurant.

Vince Delgatto: The RR is right behind this property; would there be any issues with this?

Marty Barnett: It's not applicable with this.

Judy Robenson: When the planning board met, the applicant stressed it was not drive in, and they were encouraging to come in and sit. It seems to be a lot of confusion of what it really is? The village board changed the site to commercial from residential in 2021. The planning board had the impression of a quick flow establishment and it was sent to the Zoning Board based on that. Was there any traffic studies done? There are many factors of concerns to take into consideration. Let's say it doesn't go through, projects in the future should be taken in consideration as well.

Mike Migiacchio: I also got the impression from the planning board meeting that it was a quick flow establishment.

David Luecke, presented photos of other establishments regarding the amount of people and traffic who could be at this establishment at any given time. Route 21 already has heavy traffic and significant issues. We shouldn't be allowing this kind of extra traffic in this area. The zoning shouldn't have changed in my opinion. Showing where the parking lot would be and concerns and where his home is located. As a resident in this area, I have concerns with no restricting parking, and no curbs, they will be using Gilligan's Drive or our driveways. This would create a potential turn around in our residential drive ways. It's a huge concern and we should not allow this. There will be large tractor trucks delivering for this, where will they park, or turn around? It will cause even more issues.

Andrea Northrup: I live across where this driveway would be. My concern is I work from home and I am on the phone most of my day. The traffic is already noisy and I have a lot of concerns with this. I agree with David and Judy, the traffic is a large concern.

Tricia Lawless: It's not just the bus traffic, its parents picking up there kids. They block our driveways waiting to pick up.

Jennifer Luecke: Are you concerned? (Speaking to the board) It concerns me and this whole thing has been poorly planned. Businesses shouldn't be using Lehigh Avenue for any reason. Mike Migiacchio: Can we request a traffic study?

Pat Nicoletta: The zoning board can request a study of recommendation to the planning board.

Vince Delgatto: Lehigh Ave it a narrow road, can that be a part of the study along with Route 21?

Mike Migiacchi: It seems there are a lot of holes and its concerning.

Pat Nicoletta: The traffic study would do all of the roads surrounding the area, They would conduct a study during the busy part of the day.

Matt Lawless: I live next door; I have a lot of concerns. What happens if the building goes empty? We already have a lot of piazza places in the area. The parking lot, if its gravel it will produce dust on our homes and cars. What about the overflow? Extra parking would be blocking my driveway and there isn't shoulder room on Main Street. How can you call this a restaurant? Most places like this are take out. I'm not opposing of something new and encourage it, just not this spot.

Becky Bliss: I have some concerns with the traffic and where will the overflow parking will be? If they park at Bliss and cross over 21, that could be dangerous for the walkers with the extra traffic to an already busy area.

John Yacuzzo: They would really have to do a traffic study on both areas.

Judy Robenson: Any comments back from the state?

Marty Barnett: I haven't seen anything from the state, I'm not sure the site plans have been sent?

Logan Rockcastle: We are not a restaurant, it was determined by the Village that we were a drive through and told us to go forward. Once we did that things changed adding on another variance.

There were more discussions back and forth again with the confusion with drive through restaurant vs sit-down restaurant. The plans started as a restaurant and then changed by the board members to a drive in take out. The engineers are disputing because they were doing what they were told, per the village. If it stays as restaurant, the variances would be different and the requirements would be different.

Pat Nicoletta: As far as the Zoning Board making any decisions, it has to be based on drive-in and the variances presented in front of us.

Chairman Migliaccio, asked three times if there are any further questions or comments. No other questions or comments from the board members.

Vinny Delgatto made a motion to keep the public hearing open. The motion was seconded by Donald Miller.

The above was put to roll call vote, which resulted as follows:

Donnie Miller	Voting	"Aye"
Bernard Commisso	Voting	"Aye"
John Yacuzzo	Voting	"Aye"
Vincent DelGatto	Voting	"Aye"
Michael Migliaccio	Voting	"Aye"

Bernard Commisso made a motion to table any actions until the September meeting. Seconded motion was made by Vinny Delgatto.

The above was put to roll call vote, which resulted as follows:

Donnie Miller	Voting	"Aye"
Bernard Commisso	Voting	"Aye"
John Yacuzzo	Voting	"Aye"
Vincent DelGatto	Voting	"Aye"
Michael Migliaccio	Voting	"Aye"

The public hearing was closed at 8:08pm

Call the meeting to order at 8:09 pm.

No other questions or concerns at this time from the board.

A motion was made by Mike Migliaccio to approve the minutes from the last meeting which took place on January 4, 2023. The motion was seconded by Donald Miller. All voted "Aye." Motion carried.

The meeting was adjourned on motion at 8:16 pm.

Respectfully submitted,

ZBA Secretary,
Deputy Clerk/Treasurer, Nichole Ruggles

