

MINUTES OF THE VILLAGE OF ATLANTIC BEACH  
BOARD OF ZONING APPEALS MEETING  
65 THE PLAZA, ATLANTIC BEACH, NY 11509

MAY 25, 2017

CALL TO ORDER

At 8:15 PM Chairman Anthony Siniscalchi called the meeting to order.

ROLL CALL

Present were:

Chairman Anthony Siniscalchi  
Commissioner Carl Baessler  
Commissioner George Cornish  
Commissioner Allan Jacobs  
Commissioner Steven Watkins  
Village Attorney Charles S. Kovit  
Building Inspector Steven Cherson  
Village Clerk Emily Siniscalchi  
Court Reporter Linda Caffera

Absent: Alternate Commissioner Jesse Lunin-Pack EXCUSED

Village Clerk Emily Siniscalchi read the procedure that we will be following for this meeting.

Village Clerk Emily Siniscalchi said anyone that wishes to speak tonight must sign in.

Village Clerk Emily Siniscalchi said the approval for the following would take place at the end of this meeting.

- Approval of Minutes
- Approval of Findings of Facts

Chairman Siniscalchi asked Mr. Cherson to state the relief the applicant is seeking.

Case # 17309 - Beach & Broome LLC, 2001 Park Street

Install 35 square foot wall sign

- New York State Assembly District 20 - Melissa Miller
- New York State Assemblywoman

Request for variance from the following sections of the Zoning Code of the Village of Atlantic Beach, NY also known as Section 58, Block 59, Lots 9 & 10 on the Nassau County Land and Tax Map.

§250-81 - Special exceptions. The Board of Zoning Appeals may grant a special exception from the provisions of Chapter 185 of the Code of the Village of Atlantic Beach, after paying due consideration to the following factors:

- A. The character of the district and vicinity
- B. The existence, location, size and nature of other signs in the vicinity
- C. Whether or not the sign is customarily essential to the primary use of the premises
- D. Whether the construction or location of the proposed sign will interfere with necessary light or air or impair property or aesthetic values or otherwise endanger the health and welfare of the public,

Chapter 185 Signs

§185-4(2) B(2) Wall signs. One sign, attached to or incorporated in each building wall on a public street and advertising only the business conducted in such buildings, when such sign does not exceed in area 16 square feet and does not

Case # 17309 - Beach & Broome LLC, 2001 Park Street (Continued)

project above the portion of the roof on which such sign is located, and does not project more than one foot from such wall.

Chairman Siniscalchi asked if there was anyone to speak for. Village Attorney Kovit sworn in John Novello, 217 Avery Place, Cedarhurst, NY here on behalf of Assemblywoman Miller.

Mr. Novello said prior to opening up Assemblywoman Miller's district office there was a similar sign there but they were unable to use the sign and are requesting this application be granted.

Commissioner Cornish asked if there were any lights on this sign and Mr. Novello responded said the lights will be on from dusk to 11 pm and will only light up the sign and there will be three lights from below.

Chairman Siniscalchi asked if there was anyone to speak for - there was no one  
Chairman Siniscalchi asked if there was anyone to speak against - there was no one

Chairman Siniscalchi moved the adoption of the following:

RESOLVED, that Case # 17309 be granted as submitted - to install  
a 35 square foot wall sign - New York State Assembly District 20 - Melissa Miller  
- New York State Assemblywoman

The foregoing was seconded by Commissioner Watkins and passed by the following vote:

Ayes: Chairman Anthony Siniscalchi  
Commissioner Carl Baessler  
Commissioner George Cornish  
Commissioner Allan Jacobs  
Commissioner Steven Watkins

Noes: None

Case # 15278 - 88 Dutchess Boulevard LLC, Atlantic Beach, NY

Mr. Cherson called case ## 15278 - 88 Dutchess Boulevard.

A letter from the law firm of Rogers, Habas, Verrilli & Eisen, PC. - Patricia E. Habas, Attorney was submitted into evidence as applicant exhibit 1.

The hearing that commenced at the prior months' meeting of the Board was continued. Mr. Isaac Hershko, the owner of the property, made a long and detailed statement. During the course of the hearing Mr. Kovit made a statement and asked certain questions of Mr. Cherson. Based upon these questions and answers two facts became evident. Firstly, the original grant of the variance was in October of 2015. Since that time, no building permit has been issued, and no written application for an extension of the variance has been sought by applicant. Mr. Kovit stated that by operation of the ordinance, and specifically Section 250-99, the variance has expired. Due to the expiration, as Mr. Kovit explained, the variance is no longer enforceable and no extension or grant can be issued at this juncture. Rather, in order for the board to reacquire jurisdiction over the case a new variance application would have to be filed, with new notices to the public or a public hearing as provided by law. As such, the Board was unable as a matter of law to grant or deny the application, and no action could be taken. Secondly, based upon Mr. Cherson's answers to certain questions from Mr. Kovit, it appeared that no

Case # 15278 - 88 Dutchess Boulevard LLC, Atlantic Beach, NY (Continued)

amended plans showing a pull down staircase had ever been received by him. While the question of whether or not these amended plans were ever submitted is academic because of the Board's lack of jurisdiction over the case as aforesaid, the lack of filing (or lack of evidence thereof) was duly noted.

Mr. Hershko presented a statement to the board with various allegations that have no bearing on the merits of the legal issues involved. It is noted that he was very angry, and in fact called the police. However, the Board will make no comment about anything that he said. The transcript of the hearing speaks for itself to the extent that anyone may be interested in reading it.

Based on the foregoing, no action will be taken on this case unless and until applicant files a new variance application and a new hearing is conducted on due notice to the public. If and when that shall occur, the application will be based on whatever plans applicant deems appropriate, and whatever variances the Building Inspector determines to be required.

APPROVAL OF FINDINGS OF FACTS

Each member of the Board was given a copy of the Findings of Fact and given an opportunity to review and correct.

Commissioner Baessler moved the adoption of the following:

Case # 17307 - Patricia Berkule, 62 Ithaca Avenue - accept the Findings of Facts with the correction that the motion was made by Commissioner Baessler and seconded by Commissioner Cornish,  
Noes: Commissioner Watkins, Ayes: Chairman Siniscalchi, Commissioners Baessler, Cornish, Jacobs.

Case # 17308 - Jody Alpert Levine & Elie Levine, Trustees of the JELAB Trust  
77 Genesee Boulevard - accepted as written

The foregoing was seconded by Commissioner Watkins and passed by the following vote:

Ayes: Chairman Anthony Siniscalchi  
Commissioner Carl Baessler  
Commissioner George Cornish  
Commissioner Allan Jacobs  
Commissioner Steven Watkins

Noes: None

APPROVAL OF MINUTES

Each member of the Board was given a copy of the Minutes and given an opportunity to review and correct.

Commissioner Baessler made a motion to accept the minutes of April 20, 2017 with the correction for Case # 17307 - Patricia Berkule, 62 Ithaca Avenue - motion was made by Commissioner Baessler and seconded by Commissioner Cornish,  
Noes: Commissioner Watkins, Ayes: Chairman Siniscalchi, Commissioners Baessler, Cornish, Jacobs.

The foregoing was seconded by Chairman Siniscalchi and passed by the following vote:

APPROVAL OF MINUTES (Continued)

Ayes: Chairman Anthony Siniscalchi  
Commissioner Carl Baessler  
Commissioner George Cornish  
Commissioner Allan Jacobs  
Commissioner Steven Watkins

Noes: None

ADJOURNMENT

At 8:45 PM Chairman Siniscalchi made a motion to adjourn.

The foregoing was seconded by Commissioner Watkins and passed by the following vote:

Ayes: Chairman Anthony Siniscalchi  
Commissioner Carl Baessler  
Commissioner George Cornish  
Commissioner Allan Jacobs  
Commissioner Steven Watkins

Noes: None

*Emily Siniscalchi*

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Emily Siniscalchi, Village Clerk