

**Village of Millbrook
Zoning Board of Appeals
Meeting Minutes
September 22, 2016**

- Call to Order:** Meeting was called to order at 7:02PM by Chairman Joel Diemond.
- In Attendance:** Chairman Joel Diemond, Robert Knapp, Earl Meyers and John Hay. Andrew Doro was absent.
- Review of Minutes:** Minutes from the July 25, 2016 Zoning Board of Appeals meeting were reviewed. Motion was made by Mr. Knapp and seconded by Mr. Meyers to accept the minutes as written. All were in favor.
- Old Business:** N/A
- New Business:** Motion was made by Mr. Hay and seconded by Mr. Meyers to open the Public Hearing portion of the meeting regarding the following:
Millbrook Gas LLC’s request for use variances for a non-conforming, lighted free-standing sign in front of their gas station located at 3260 Franklin Avenue in the Village of Millbrook. All were in favor.
Ms. Cathy Shanks and attorney Allan Rappleyea represented Millbrook Gas LLC at this meeting. Chairman Diemond shared that attorney Rappleyea is also his personal attorney.
Chairman Diemond noted that the application, as submitted by Zach Hampton, owner of Millbrook Gas, LLC, was incorrect/incomplete in several areas: the application requested use variances (should be area variances); the requested variance(s) were not described; and the “over” size request was not mentioned. Chairman Diemond noted that Village Code Section 230-20.C.9.(a) states that a non-conforming sign cannot be changed in content to show a new trade name, etc, unless the change will make the sign conforming in all respects.
Both Chairman Diemond and attorney Rappleyea expressed concerns relating to the contradictory nature of many sections of the Village Code – especially those sections related to sign ordinances.
Chairman Diemond explained that if the Code is unclear or contradictory, the applicant request prevails.
Ms. Shanks shared the history and provided pictures of the gas station dating back to 1930 showing that the lighted sign has been in existence since then – with only name changes to date. The only change to the sign is the new name. She also explained that their “cash & credit” sign must be lighted – per NYS law. Attorney Rappleyea explained that Millbrook Gas is the only gas station in the RU district of the Village and provides a service to the community.
Chairman Diemond reviewed the comments provided by the Dutchess County Dept of Planning & Development (copy attached to these minutes). The Board

determined that the ZBA is compliant with their suggestions.

The Board noted that since the gas station is on a corner, the height and internal light of the sign provide safety features and should not be changed.

Chairman Diemond reviewed and completed the Short Environmental Assessment Form for this project (copy attached to these minutes). Mr. Knapp moved and Mr. Meyers seconded a motion declaring the ZBA lead agency for this project. All were in favor.

After discussion, a motion was made by Mr. Knapp and seconded by Mr. Hay to unanimously approve three area variances for Millbrook Gas LLC: maximum size; internal lighted sign; and permitting the non-conforming sign. These variances are granted for safety reasons and because the sign causes no harm to the Village. All were in favor.

Mr. Meyers moved and Mr. Hay seconded a motion to adopt a Resolution approving these area variance requests. All were in favor. A copy of the Resolution is attached to these minutes

A motion was made by Mr. Knapp and seconded by Mr. Hay to close the Public Hearing portion of the meeting. All were in favor.

Review of Limone's request for a wall sign on the side of their building located at 3275 Franklin Avenue. Referral from the 9/20/16 Planning Board meeting.

Mr. Al DeBonis represented Limone at this meeting.

A Public Hearing would be required before any ZBA action can be taken on this issue.

The Planning Board referred this issue to the ZBA because the Village Code – Section 230-20 allows for one wall sign per building in the GB District. 3275 Franklin Avenue houses 2 business and already has a wall sign on the building (for the other business). The Planning Board suggested an(2)(d) alternative option: a projecting sign in front of his business. Mr. DeBonis was not receptive to this suggestion.

Chairman Diemond noted that three section the Village Code apply to this request apply to this request: 230-20 B.(2)(d); 230-20(3)(b); and 230-20 C.(2) – and all are contradictory. Section 230-20 B(2)(d) limits wall signs to 8 sq ft per building; B(3)(b) limits wall signs to 30 sq ft per building; and C (2) limits total sign area per lot to 70 sq ft or one sq ft per lineal foot of building façade.

The first two provisions are flatly contradictory and the third refers to lots and buildings.

Chairman Diemond suggested that there was only one way to interpret these provisions in order to have them make sense together. We should assume that the intent of the 8 sq ft limit must be per business and only the 30 sq ft limit is per building. These limits are for wall signs only so that the last provision refers to total signage, not just wall signs, per building not per lot.

Chairman Diemond pointed to a similar contradiction concerning flags. Section 230-20 B(1)(e) limits flags to one per lot while B(2)(1) limits flags to no more than one for each 25 linear feet of frontage per lot. Since Mr. DeBonis' building

has more than 25 lineal feet of frontage, he has a right to two flags. The Board agreed that this interpretation made sense and that read this way, Mr. DeBonis should be able to attach his wall sign and his flags as a matter of right not requiring a variance. The Board also noted that Limone had a unique entrance off the front of the building and that in this case the wall sign proposed made sense in the GB district.

The ZBA requests that the Planning Board re-visit Limone's request for wall sign approval due to the contradictory Code sign ordinance sections (mentioned above) and the ZBA's interpretation that these sections be considered as per "business" not per building. Mr. Hay moved and Mr. Meyers seconded a motion referring Limone's wall sign approval request back to the Planning Board. All were in favor.

Adjournment: Mr. Meyers moved and Mr. Hay seconded a motion to adjourn the ZBA meeting at 7:46PM. All were in favor.

Respectfully Submitted:

Suzanne P. Gould
Secretary
Zoning Board of Appeals