

RESOLUTION 21-307

APPROVE THE APPLICATION FOR A VARIANCE, PURSUANT TO SECTION 7 OF LOCAL LAW #5 OF 2020, ESTABLISHING A MORATORIUM ON CERTAIN DEVELOPMENT IN THE TOWN OF BALLSTON AS REQUESTED BY ENVIRONMENTAL DESIGN PARTNERSHIP, LLP ON BEHALF OF THE APPLICANT, CURTIS LUMBER FOR THE CONSTRUCTION OF A NEW DISPATCH BUILDING AT CURTIS LUMBER LOCATED ON ROUTE 67.

A motion was made by Councilman Curtiss and seconded by Councilwoman Jasinski.

DECISION

In the matter of the variance application submitted by Environmental Design Partnership, LLP on behalf of the Applicant, Curtis Lumber, pursuant to Section 7 of Town Law #5 of 2020, Establishing a Moratorium on Certain Development in the Town of Ballston, for the construction of a new dispatch building at Curtis Lumber located on Route 67.

Environmental Design Partnership, LLP, on behalf of the Applicant, Curtis Lumber, filed an application with the Town Clerk for the Town of Ballston on or about July 26, 2021, requesting the Ballston Town Board consider a variance, pursuant to Section 7 of Local Law #5 of 2020, Establishing a Moratorium on Certain Development in the Town of Ballston, for property located at 885 Route 67, Ballston Spa, New York 12020.

On October 12, 2021, the Town of Ballston Town Board scheduled a public hearing. The Town Clerk provided at least five days' notice of the hearing date pursuant to the Local Law #5.

On October 26, 2021, the Town of Ballston Town Board held a public hearing for the Town of Ballston starting at 6:15 pm via zoom conferencing platform only. All Members of the Town Board were present on the video conference as were members of the public.

Brandon Ferguson, of Environmental Design Partnership, presented a Power Point on behalf of the Applicant to the Town Board. This was submitted to the Town and is made part of the record of the Public Hearing. Doug Ford, of Curtis Lumber, also addressed the Town Board and set forth specific facts and circumstances Curtis Lumber encountered over the last year and one half of operations. He and Corey Russell, also of Curtis Lumber, answered questions from the Town Board.

The Applicant referenced its application which is part of the public record as well. The Town Board received no other written or verbal comments on this application for a variance.

The Applicant's request focused upon practical difficulties and extraordinary circumstances pointing out that the effects and necessities of the pandemic created those practical difficulties and extraordinary circumstances. The need for a new dispatch building at this time is a result of those extraordinary circumstances which created a difficult environment for their employees, their business, and their ability to recruit and maintain employees in a building that needs to keep them safe and healthy. This is not self-imposed.

Curtis Lumber has a small dispatch office on its property located at 885 Route 67 in the Town of

Ballston. This dispatch building “made do” for their employees for many years. This serves as office space, a break/lunchroom, a bathroom (modified for male and female) and provided a dry area where their outdoor yard workers could utilize to escape severe weather elements (both in winter and summer). When COVID-19 hit, Curtis needed to provide a safe and healthy environment for their employees. They needed to comply with state and federal mandated health and safety measures. They were not prepared for the unforeseen ramifications and needed to respond. A new dispatch building is the result.

The practical difficulties facing use of the current dispatch building include crowded conditions and the inability to social distance. This creates difficult working conditions - employees on top of one another; long staggering of lunch breaks and other mandated breaks. The bathrooms are inadequate for the number of employees using them. Curtis also needs to respond to the growth of their business at a rate they did not foresee. This was presented as a practical difficulty and, while not a negative, still a difficulty. Curtis is struggling to constantly adjust to the necessities of employee health and safety requirements within the confines of their existing dispatch building.

Curtis also presented its situation as extraordinary because the pandemic was not predicted, and it could not anticipate the “extraordinary effect” it had on their business and working conditions. While Curtis could not predict the potential loss of revenue if they do not have the employees to provide for the demands of their business, they need employees and need to attract and maintain employees. If not, they cannot adequately supply their customers.

Building and home improvement growth is a direct result of the pandemic. Waiting for the moratorium to end could affect the health and safety of their employees and customers. Without employees, their business would be negatively affected resulting in undetermined losses.

Other facts warranting the need for the construction of this new facility and destruction of the old one is to attract new workers to Curtis Lumber. The applicant stated that competition for workers is a current economic reality and poor crowded working conditions affect their ability to attract workers. Waiting until the Town comes out of its moratorium further imposes practical difficulties on current employees, Curtis’ business, current and future, and affects the health of its employees and the recruitment of employees.

Curtis also indicated this internal building addition would not contribute to any additional traffic to Route 67. It will only improve the internal traffic and people flow while providing a safer internal environment and, hopefully, attract new employees and retain current ones. No other written or oral comments were received by the Board.

Based upon the criteria set forth in Section 7 of Local Law #5 of 2020, Establishing a Moratorium on Certain Development in the Town of Ballston, the Town Board finds the following:

1. That the strict application of Local Law # 5 imposes practical difficulties upon the Applicant as a result of the necessity of health and safety precautions for its employees during the unknown time period of the COVID 19 pandemic. AND,

2. That the Applicant also demonstrated extraordinary circumstances as a result of the unpredicted growth of its business and its needs as a result. Applicant demonstrated an extraordinary circumstance to not only accommodate its current employees but provide a safe and compliant working environment that would attract new employees.

None of these practical difficulties or extraordinary circumstances are self-imposed and are a result of unforeseen extraordinary circumstances.

3. Granting the Variance from Local Law #5 will not adversely affect the health, safety, or welfare of the citizens of the Town of Ballston, but only improve the health, safety, and welfare of Curtis Lumber employees; and
4. Granting the Variance from Local Law #5 does not significantly conflict with the general purpose and intent of Local Law #5.

This Board notes that this decision is fact and case specific to Applicant, Curtis Lumber.

Variance granted pursuant to Section 7 of Local Law #5 of 2020, Establishing a Moratorium on Certain Development in the Town of Ballston.

Dated: November 9, 2021

By: The Town of Ballston Town Board
Resolution #21-307

Roll Call Vote:

Councilperson Antoski	Nay
Councilperson Curtiss	Aye
Councilperson Jasinski	Aye
Councilperson Stewart	Aye
Supervisor Connolly	Aye