

**VILLAGE OF SCOTIA  
ZONING BOARD OF APPEALS  
MEETING MINUTES  
JANUARY 22, 2018  
7:00 P.M.**

**ATTENDANCE:** Jeffrey Parry, Heather Gray, Susan Duchnycz, Kenneth George, Village Attorney Lydia Marola, Village Building Inspector Luis Aguero, Board Liaison Thomas Tiberio

Absent: E. Thomas Neals, Dinemayer Silva, Catherine Busher was out sick.

Voting members for tonight's meeting are Jeffrey Parry, Heather Gray, Kenneth George and Susan Duchnycz.

**CASE #1: ROBERT CLEMONS – THE DAIRY CIRCUS - 180 SACANDAGA ROAD - SCOTIA, NY 12302 – (SBL 29.74-1-5.21)**

The applicant, Robert Clemons is seeking an area variance of 10'5" on the Lyric Street side of The Dairy Circus located at 180 Sacandaga Road, Scotia, NY 12302 (SBL 29.74-1-5.21). The building was placed in the wrong location by the contractor. This application requires Zoning Board of Appeal's approval in accordance with Village Code Section:

250-29 (C). Yards required. Yards shall be required as follows:

- (1) Front yard: none required, if provided, it shall be at least 20' deep.
- (2) Side yard: buildings on corner lots shall observe the front yard requirements.

Robert Clemons, owner of The Dairy Circus seeks an area variance of 10'5" on the Lyric Street side. Village of Scotia Building Inspector Luis Aguero explained that the building was placed in the wrong location by the contractor. Robert Clemons is very upset with the contractor. He stated the contractor did not follow his wishes on the design. He also stated that he informed the contractor on several occasions that the footings were placed in the wrong location but was reassured that they were in the correct location. Furthermore, Mr. Clemons said he lost several parking spaces and that the pole outside the restaurant is hazardous. Customers keep hitting the tire on the pole outside. He is interested in having the pole moved.

Building Inspector Luis Aguero asked the Board if they wanted him to explain what had transpired regarding this project and how the building was found to be in the wrong location and why. He wanted to bring them up to date on why this project was coming before the Board again. The Board wanted the Building Inspector to proceed. Mr. Aguero explained that he found out after he received a requested and late foundation survey; a foundation survey is a legal binding document provided by a licensed land surveyor usually after the foundation of a building has been completed. Mr. Aguero received it from the owner 3-5 months after his initial request. Mr. Aguero received the survey from the owner at this time because the contractor whom he original requested it from, withheld it from him until October and the document was dated in June.

It is not the property owner's fault although he is responsible for the property, he followed the correct procedures. The building does not sit on anyone's property and is not unsafe in any way. Therefore, Mr. Aquero thought that having another meeting to request an area variance of 10'5" was the best way to correct the situation.

The Board pointed out that this effectively negated any decisions that were previously made by the Board and questioned whether there was any recourse available with regard to the contractor. There are no options available to penalize the contractor for not returning required documents in a timely manner. Because there is no recourse for this the Board requested that Village Board Liaison Thomas Tiberio bring this matter up for discussion at a future Village Board of Trustees' Meeting.

The Scotia Police Department and Scotia Fire Department did not have any concerns with this application. The Schenectady County Department of Economic Development and Planning did not respond to this application. The Village Planning Board submitted a memo stating that on January 8, 2018 they made a positive recommendation to the Village Zoning Board of Appeals to approve the area variance requested for the property located at 180 Sacandaga Road.

After a brief discussion, the following motion was made.

**MOTION:** Zoning Board Member Jeffrey Parry made the motion and Board Member Heather Gray seconded to approve the application for a 10'5" area variance submitted by Robert and Doreen Clemons for their restaurant, The Dairy Circus at 180 Sacandaga Road, Scotia, NY 12302.

**MOTION:** Jeffrey Parry **SECONDED:** Heather Gray

**AYES:** Jeffrey Parry, Heather Gray, Kenneth George, Susan Duchnycz

**NAYS:** None

**MOTION GRANTED.**

**Training Status Report:**

Current Training Hours as of January 22, 2018:

Heather Gray: (-5.5)

Kenneth George: (-6.5)

Jeffrey Parry: 9.5

Dinemayer Silva: (-5.5)

Susan Duchnycz: 0

E. Thomas Neals: (-4)

**MOTION:** There was a motion to adjourn the meeting at 7:20 p.m.

**MOTION:** Jeffrey Parry **SECONDED:** Kenneth George

**AYES:** Jeffrey Parry, Kenneth George, Heather Gray, Susan Duchnycz

**NAYS:** None

**MOTION GRANTED.**

*"Please be advised that the following Minutes were transcribed according to Heather Gray's notes taken on January 22, 2018. She graciously agreed to do this and I am very thankful to her."*

*Respectfully submitted,*

*Catherine Busher, Zoning Board of Appeals Clerk*

*February 1, 2018 File Date*