

**PUBLIC HEARING  
SHELDON ZONING BOARD OF APPEALS  
March 18, 2025**

**Present Zoning Board Members:**

Walt Youngers, Chairman  
Barb Logel  
Ken Beglinger  
Mike Pfohl  
Billy Harvey

**Recording Secretary:** Town Clerk Carol Zittel

**Also present:**

Zoning Officer Jenna Marley  
Applicants Warren Boxler, Ella Boxler, David Boxler  
Residents David & Colleen Lee  
Representing the American Legion: Lorne Lemieux and Lloyd Cox  
Planning Board member: Kathy Roberts

The meeting was called to order at 7:00 p.m. by Walt Youngers, Chairman

**Minutes**

A motion was made by Billy Harvey and seconded by Mike Pfohl to approve the February 18, 2025 minutes.

Ayes: (5) Youngers, Beglinger, Logel, Pfohl, Harvey Nays: (0) Absent: (0) Motion Carried.

**Boxler's Variance Requests**

The purpose of tonight's meeting is to hold a public hearing on three variance applications submitted by Boxler Maple LLC, represented tonight by Warren, Ella and David Boxler.

**Three Variances from the Town Required**

1. To operate a business (an ice cream shop) in a non-commercial zoning district (Use variance) The Boxler building is 200 ft. outside of the commercial zone.
2. To install a digital sign (digital signs are not permitted in Zoning law) (Use variance)
3. To install a sign that is larger than permitted by Zoning law (Area variance) 32 feet is permitted, the Boxler sign is 37 feet

Jenna Marley, Zoning Officer, noted that they Wyoming County Planning Board recommended a more detailed site plan and that updated site plan has been distributed this evening. Warren Boxler provided the approved NYS DOT sign permit via email to the Town Clerk. Also provided were 18 certified mail receipts for property owners within 1000 feet of the Boxler property.

Comments from the public:

David & Colleen Lee:

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- We live right across the street and the Boxler building has been up for a long time with the intention of running a business
- I'm concerned with the sign. My biggest concern is with safety. There's been 3 accidents already. Last year, I was working on my garden and a truck flipped and ended up in the parking lot. (David Boxler replies that he was the first person on the scene at that accident and the accident was caused by the driver passing out) Chairman Youngers replies that the accident was not the fault of the Boxler's.
- The road need signs to slow them (cars) down. It's a blind driveway.
- A hidden driveway sign should go up. We need someone to talk to NYS and get them moving on this. Supervisor Becker and Zoning Officer Marley state that they will reach out to State DOT regarding a hidden driveway sign.
- The business will create more noise for neighbors. We have already heard yelling. (Boxlers reply that it was utility workers)
- This business is already creating problems. We have been here since 2001 so that we could live in a rural area. We are going to lose animals and dark skies at night. There should be a curfew on noise and lights. At 7am this morning there was a tractor out there flattening their driveway. David Boxler replies "don't we have a right to farm?"
- What are the hours? They have to give consideration to the neighbors too. I belong to the gun club and we can't shoot until 9am.

ZBA member Billy Harvey:

- To Mr. & Mrs. Lee: I understand your safety concerns. Would it be appropriate to have maple syrup ahead signs put up? Ella Boxler replies that they could put signs on their other properties. Jenna replies that as long as they put the (small) signs on property owned by them and off the right away that that would be acceptable. Ella replies "or on the side of a truck in the field" Jenna replies yes, that would be fine too.

**Use Variance #1**

Request: To operate a business (an ice cream shop) in a non-commercial zoning district (Use variance) The Boxler building is 200 ft. outside of the commercial zone.

Chairman Youngers reads through the Use Variance Findings & Decision tests:

Test #1: The applicant can't realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial:

The ZBA unanimously answers: yes

Test #2: The alleged hardship relating to the property is unique (the hardship may not apply to a substantial portion of zoning district or neighborhood):

The ZBA unanimously answers: yes

Test #3: The requested use variance, if granted, will not alter the essential character of the neighborhood:

The ZBA unanimously answers: yes

Comments: this parcel is one parcel out of the commercially zoned district

Test #4: The alleged hardship has been self-created:

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The ZBA unanimously answers: no

**DETERMINATION: Approved** – That the applicant has proven unnecessary hardship through the application of four tests required by the state statutes. In finding such hardship, the ZBA shall grant a variance to allow use of the property in the manner detailed below, which is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Conditions of the variance approval:

To operate an ice cream shop & to sell maple products

Open 7 days a week with hours 11am-9pm

No serving of meals

Ayes: (5) Youngers, Beglinger, Logel, Pfohl, Harvey Nays: (0) Absent: (0) Motion Carried.

**Use Variance #2**

Request: A use variance to use a digital sign for advertising

Chairman Youngers reads through the Use Variance Findings & Decision tests:

Test #1: The applicant can't realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial:

The ZBA unanimously answers: yes

Test #2: The alleged hardship relating to the property is unique (the hardship may not apply to a substantial portion of zoning district or neighborhood):

The ZBA unanimously answers: yes

Notes that there are other digital signs in the Town (Varysburg Fire, Byrnclyff, American Legion)

Test #3: The requested use variance, if granted, will not alter the essential character of the neighborhood:

The ZBA unanimously answers: yes

Test #4: The alleged hardship has been self-created:

The ZBA unanimously answers: yes

**DETERMINATION: Approved** - That the applicant has proven unnecessary hardship through the application of four tests required by the state statutes. In finding such hardship, the ZBA shall grant a variance to allow use of the property in the manner detailed below, which is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Conditions of the variance approval:

Must adhere to all NYS DOT sign regulations

Sign may be lit from 6:00am-11pm only

Ayes: (5) Youngers, Beglinger, Logel, Pfohl, Harvey Nays: (0) Absent: (0) Motion Carried.

**Area Variance #1**

Request: Area variance to have a digital sign that is 5.5 sq. ft. larger than what zoning law allows

Chairman Youngers reads through the Use Variance Findings & Decision tests:

Factors considered:

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#1 Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the variance?

The ZBA unanimously answers: no

#2 Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?

The ZBA unanimously answers: no

#3 Is the requested variance substantial?

The ZBA unanimously answers: no

#4 Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

The ZBA unanimously answers: no

#5 Was the alleged hardship self-created?

The ZBA unanimously answers: yes

DETERMINATION: **Approved** – The benefit to the applicant DOES outweigh the detriment to the neighborhood or community and therefore the variance request is APPROVED.

Supervisor Becker addresses the meeting to explain how five years ago, he and the Town Board recommended that the zoning maps be updated to extend the commercial district at certain intersections. He noted that, at times, the Board has changed zoning designations for parcels. He explained that at one time the Sheldon Elementary School was zoned agricultural and then changed to the more appropriate commercial designation.

Ayes: (5) Youngers, Beglinger, Logel, Pfohl, Harvey Nays: (0) Absent: (0) Motion Carried.

**New American Legion & Veterans Memorial**

Lorne LeMieux and Lloyd Cox were present at tonight's meeting to share their plans to build a new American Legion and Veterans Memorial on the 9 acres of land the Legion was gifted on Route 78.

Mr. LeMieux explains that the American Legion Post #637 was the first post in the USA to be named after a woman, Carrie Gasiewicz, killed in the line of duty. Ms. Gasiewicz was killed while serving in Iraq. Mr. LeMieux states that they have big plans for the site with an expected cost of over \$5 million. An architect is on board. The Legion will need a variance for the lack of 200 ft. of road frontage. This variance request will be sent to the Wyoming County Planning Board for their review. The ZBA will meet on April 22, 2025 at 6:00 p.m. to hold a public hearing on the request.