



Village of Colonie

VILLAGE HALL
2 THUNDER ROAD
COLONIE, NY 12205
(518) 869-7562 FAX (518) 464-0389

THOMAS J. TOBIN
MAYOR

villagehall@colonievillage.org
www.colonievillage.org

EDWARD SIM
DEPUTY MAYOR

**PATTY SCHWARZ
LOCKART**
TRUSTEE

ART WHITE
TRUSTEE

JAMES RUBINO
TRUSTEE

JAMIE BLOT
CLERK

ZONING BOARD OF APPEALS MINUTES WEDNESDAY, AUGUST 3, 2022

The meeting of the Zoning Board of Appeals was held on Wednesday, August 3rd, 2022, at 2 Thunder Rd, Albany, NY 12205. Chairman Van Buren opened the meeting with the pledge of allegiance at 6:36 p.m. The exit signs were noted, and everyone was asked to silence all cell phones.

Roll Call:	Chairman:	Lou Van Buren	PRESENT
	Members:	Frank Prevratil	PRESENT
		Trevor Normandin	ABSENT
		Joshua Rowinski	PRESENT
		Phil Minissale	PRESENT
	Liaison:	Jim Rubino	PRESENT
	Alternate:	Christopher Larabee	ABSENT
	Counsel:	Victor Caponera	PRESENT
	Coordinator:	Stacie Douglas	PRESENT
		Hannah Curran	PRESENT

The minutes from the regularly scheduled Zoning Board of Appeals meeting that was held on May 4th, 2022, were reviewed by the present members of the board. A motion was made by Commissioner Prevratil to approve the minutes as amended. Commissioner Minissale seconded this motion.

VOTE: Unanimous to approve the minutes as amended.

The minutes from the regularly scheduled Zoning Board of Appeals meeting that was held on June 1st, 2022, were reviewed by the present members of the board. A motion was made by Commissioner Prevratil to approve the minutes. Commissioner Minissale seconded this motion.

VOTE: Unanimous to approve the minutes.

APPLICANT:

**T-MOBILE NORTHEAST, LLC
1760 CENTRAL AVE
(AREA VARIANCE)**

Chairman Van Buren introduced the first applicant present at this meeting. T-Mobile, located at 1760 Central Avenue, is looking to add an addition to the existing tower. Bryce McCullough was present as a representative for Center Line Communications. He explained that they are proposing to add a 50-kilowatt generator to the equipment, to harden connections for T-Mobile subscribers. This would be particularly helpful in instances where users would need to call for emergency services. However, this project is before the board because a variance would be required due to the lack of greenspace on the site. Colonie Village Code requires that there be a minimum of 20% greenspace, and the lack of greenspace is not conforming. This is the main reason for the project being denied from the planning board. Further, Attorney Caponera reviewed past correspondence regarding why the variance was needed. He read aloud an email from former Deputy Clerk Alexandra Hart to Ms. Kelley Cross, a project manager for this project.

“Kelley, Due to the lack of green space on this site, the entire site along with site statistics is required. It is currently non-conforming, and the loss of any green space makes it even more non-conforming. The planning commission cannot approve a non-conforming site. The applicant should work with the property owner to obtain a copy of their most current site plan. Second, in addition to the proposed generator footprint and chimney/antenna space, the plan clearly shows other existing T-Mobile equipment cabinets on concrete pads, cable bridge and other equipment. The two concrete pads alone add an additional 66 square feet of area resulting in occupied in excess of 200 square feet. Third, there is no getting around going to the Zoning Board of Appeals if the proposed site does not meet all zoning requirements. The planning commission would have to deny the application until a variance is granted by the ZBA.”

Attorney Caponera and the members of the board reviewed the existing site plan for the property that is on file and determined that in 2013 a revised site plan was approved showing increased green space of 17.5 % but not at the required minimum 20%. Mr. McCullough was given a copy of the ABD Engineers latest site plan and asked to have it revised to show what the proposed greenspace will be with the addition of the generator pad and other existing T-Mobile equipment cabinets. Attorney Caponera explained to the applicant the importance of having stamped site plans with this additional information. He asked that they return with an updated site plan including the total square footage of the site, the total greenspace, the total square footage of the hard surface, along with the proposed square footage of the new equipment.

APPLICANT:

**FIDEN’S BREWING CO
10 WALKER WAY
(AREA VARIANCE)**

Greg Wilhem was present as a representative from Fiden’s Brewing Company, located at 10 Walker Way. Mr. Wilhelm was in attendance to request a revised variance for Fiden’s hours of

operation. He offered that they would not be hosting tastings anymore but would like additional hours for retail. They proposed the hours of 12 p.m. to 8 p.m. Monday through Friday, and 9 a.m. to 5 p.m. on Saturdays.

Attorney Caponera wanted to clarify this, as the revised and proposed hours presented to the Planning Commission were from 3 p.m. to 7 p.m. Monday through Friday, and 9 a.m. to 5 p.m. on Saturday. Mr. Wilhelm explained that they intend to be open from 3 p.m. to 7 p.m. Monday through Friday, and 11 a.m. to 3 p.m. on Saturdays, but would like the extra hours if they want to adjust their hours for weather, emergencies, etc. Mr. Wilhelm added that beer would not be served until at least 3 p.m.

Attorney Caponera mentioned that Fiden's Brewing Company was originally approved for retail space an expanded tasting room. However, they withdrew the retail space request and wanted to expand their brewery. The Planning Commission was comfortable with the changes made to their application.

Commissioner Minissale mentioned that he has no problem with the proposed hours and understands it even more so from a business perspective. Commissioner Rowinski agreed with this point, while also acknowledging the traffic concerns on Walker Way. Mr. Wilhelm pointed out that with longer hours of operation, there would likely be less demand and congestion. They are also producing more beer than they have in the past, which should alleviate the concerns of people needing to line up early to secure product. Commissioner Rowinski added that this project does not really affect those living in residential areas. He agreed that by having more hours, they can have more control of the business and traffic. Commissioner Prevratil agreed, stating that it is smart to increase their business hours in an attempt to reduce congestion.

Chairman Van Buren stated that he does not have a problem with the proposed business hours. He is, however, apprehensive to the proposition. He claimed that after engaging with Fiden's Brewing Company for four years, it seems that the business has done whatever they wanted, rather than following the rules of Village Code. He added that he wants to see the business be successful and understands that they still have hurdles to be approved by the Planning Commission. Chairman Van Buren made a motion to grant a revised area variance for the requested hours of 12 p.m. to 8 p.m. Monday through Friday, and 9 a.m. to 5 p.m. on Saturday with no Sunday retail hours. However, he did suggest limitations to the variance. Firstly, he asked that the garage door always remain closed for retail sales. Second, he stated that this would be the last variance the board would entertain for Fiden's Brewing Company.

Commissioner Prevratil asked if Chairman Van Buren means this will be the last variance for Fiden's Brewing Company as the footprint stands today. Chairman Van Buren amended his language and stated he would consider the footprint that is before Planning. Commissioner Rowinski questioned this and wanted to confirm what no variances meant. He wanted to clarify what would happen if the business grew, and they wanted to amend their site plans. Commissioner Prevratil offered that if Fiden's Brewing Company wanted to amend their plans, then the current footprint would change. Attorney Caponera confirmed that this is implicit in the law. If the applicant wanted to make changes to their business that would require changes to the footprint, they are entitled to come before the board. However, this would be only if changes are

made to the current footprint before the Planning Commission. Chairman Van Buren expressed his frustrations, in that the variances granted to Fiden's Brewing Company in 2018 have already been violated, leaving him hesitant to grant more.

In regard to the garage door, Attorney Caponera informed the board of the latest decision from the Planning Commission. They approved the latest plans, including the previously approved hours, and 13 parking spaces for retail. They also required that all retail be conducted inside the building but did not specify whether the garage door must be closed at all times. Chairman Van Buren was concerned that if the garage door is left open, patrons may bring alcohol into the parking lot, and it could create further problems. Mr. Wilhelm explained that they have recently worked on a new layout for the brewery because yes, in the past, patrons were abusing the entry. He was presented with photos of the door up during business hours, and this issue was remedied. He explained to the board that the door is helpful for ventilation and would not be used as an entrance/exit. All guests would need to use the main entrance.

Chairman Van Buren agreed that the garage door could be used for ventilation, but not for entry purposes regarding the retail use. Attorney Caponera added that he felt this was a reasonable request.

Chairman Van Buren made a new motion to approve the presented hours of 12 p.m. to 8 p.m. Monday through Friday and 9 a.m. to 5 p.m. on Saturday with no Sunday retail hours. He included a limitation that the garage door should only be used for ventilation purposes during retail hours. Commissioner Prevratil seconded this motion.

VOTE:	Chairman Van Buren	YES
	Commissioner Prevratil	YES
	Commissioner Rowinski	NO
	Commissioner Minissale	NO

Motion could not be passed.

The board began to discuss the proposed motion. Chairman Van Buren further explained his reasoning for requesting the garage door to be closed during retail hours. Commissioner Rowinski and Commissioner Minissale asked Chairman Van Buren again why he was so adamant for the door to be closed. Attorney Caponera asked Coordinator Douglas to repeat the proposed motion numerous times, as it was proposed that the door would only be closed during retail hours. Commissioner Minissale turned to the applicant, Mr. Wilhelm, and asked him if he felt this request was reasonable. Mr. Wilhelm agreed that this was something Fiden's Brewing Company was able to do. He offered that they could put a chain up to keep anyone from using it as an exit.

Chairman Van Buren again made a motion to approve the presented hours of 12 p.m. to 8 p.m. Monday through Friday and 9 a.m. to 5 p.m. on Saturday with no Sunday retail hours. The garage door should only be used for ventilation purposes during retail hours, and not for egress/regress purposes. Commissioner Prevratil seconded this motion.

VOTE:	Chairman Van Buren	YES
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Commissioner Prevratil	YES
Commissioner Rowinski	YES
Commissioner Minissale	YES

Motion passed.

The board thanked Mr. Wilhelm for his presentation.

DISCUSSION:

The Zoning Board of Appeals set their next meeting for Wednesday, September 7th, 2022, at 6:30 p.m. The T-Mobile project is invited to present again, along with any new business that should be denied from the planning commission.

The board also discussed their plans for the Centennial Parade, which is coming up on September 17th. Commissioner Rowinski offered to use his truck for the parade, and Commissioner Prevratil and Commissioner Minissale showed interest as well. Coordinator Douglas will follow up with them as the date gets closer.

Commissioner Minissale made a motion to adjourn the meeting at 7:32 p.m. Commissioner Prevratil seconded this motion.

Meeting adjourned.

Respectfully submitted,

Hannah Curran
Administrative Assistant
Village of Colonie