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### Call to Order

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The December 6, 2023, Work Session portion of the LeRay Zoning Board of Appeals meeting took place in the Town of LeRay Conference Room. The meeting was called to order by Chairperson Oatman at 6:00 PM.

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### Roll Call

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In attendance: Jan Oatman – Chairperson, Christian Favret – Member, Ned O’Brien – Member, David Mushtare – Member, Lee Shimel – Zoning Enforcement Officer, and Morgan Melancon – Secretary to Planning and Zoning. Additionally, Leland Carpenter – Town Board Member was in attendance. Member John Hallett was absent.

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### Acceptance of Work Session Minutes – November 1, 2023

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The Work Session minutes from November 1, 2023, were reviewed by the Board members. A motion to accept the minutes as drafted was made by Member Mushtare and seconded by Member Favret. The vote went as follows:

Member Favret:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Member Hallett:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input checked="" type="checkbox"/> Absent
Member O’Brien:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Member Mushtare:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Chairperson Oatman:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent

The motion passed.

#### **Public Hearing @ 6:30 PM for an Area Variance Application for Wewer Holding Corp.**

The applicant is requesting a variance for a front-yard setback of 115 feet on Waddingham Road and a front-yard setback of 49 feet 9 inches on US Route 11. The setbacks are being requested to facilitate the implementation of Storm Water Prevention measures for the proposed construction of a new 10,068 SF office building. The project is located on the corner of US Route 11 and Waddingham Road, tax parcel #65.09-1-15.21.

Chairperson Oatman provided an overview of the property, which was an 84-acre parcel located within a Mixed-Use (MU) District on the corner of Waddingham Road and US Route 11. She explained that a MU District was designed to function like a small community, promoting walkability between the residential homes and businesses. She noted that the area was sparsely populated surrounded by large vacant lots and large residential properties.

Chairperson Oatman referenced section 158-59 of the Town Code, stating that corner lots were considered to have two front-yards, both having to meet the front-yard setback requirements. According to section 158-21 of the Town Code, the property would require a front-yard building setback of 20 feet on Waddingham Road, and a front-yard building setback of 40 feet on US Route 11. Additionally, there was a maximum front-yard building setback of 100 feet.

Chairperson Oatman stated that the New York State Department of Transportation (NYSDOT) had denied the applicant access off US Route 11. The proposed project included an entrance driveway from Waddingham Road that would loop around the building, accompanied by parking areas and sidewalks. The proposed driveway would provide access for any additional development on the parcel, which the owners had indicated was a possibility.

The project had been sent to the Jefferson County Planning Board for their review, who determined that the project was of local concern only. The Jefferson County Planning Board's advisory comment read as follows:

“While the applicant states the need for the two frontage variances arise because of the required placement of stormwater retention including drainage swales, front yard parking, and access drives, the drainage details are not shown on the site plan. The local board should request the drainage details to be shown on the site plan. This would help justify the need as the Board assesses the reasoning behind not locating the building within the minimum and maximum setback distances.”

The applicant had provided a revised map with the anticipated stormwater areas shown. Chairperson Oatman then discussed the responsibilities of the Zoning Board of Appeals (ZBA) when handling variance requests. The ZBA was required to follow certain procedures mandated by New York State Statute, which included the consideration of five (5) factors. Chairperson Oatman read the first factor as follows:

“Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.”

Chairperson Oatman read the second factor as follows:

“Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.”

Chairperson Oatman stated that in the previous meeting, the project's representative had shown a draft plan that demonstrated the project's compliance with the setback regulations. She clarified that if the Board found that the project could be achieved another way, it would not prevent them from approving the variance if they determined the variance was more beneficial. Mr. Shimel said the Board could also consider alternative solutions to the proposed variance.

Chairperson Oatman read the third factor as follows:

“Whether the requested area variance is substantial.”

Chairperson Oatman stated that the term “substantial” was subjective. She said the Board should consider the size of the variance and how much it deviated from the code's requirement. The applicant was requesting a 215-foot setback off Waddingham Road, which was an 115% increase from the maximum setback requirement of 100 feet. Chairperson Oatman felt this was a substantial increase.

Chairperson Oatman read the fourth factor as follows:

“Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.”

Chairperson Oatman noted that the land's slope would direct stormwater downhill towards US Route 11, and the placement of the proposed stormwater basins would likely have a positive impact.

Chairperson Oatman read the fifth factor as follows:

“Whether the alleged difficulty was self- created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.”

In previous cases, the Zoning Board of Appeals (ZBA) had emphasized that applicants should be aware of the existing zoning regulations before purchasing a property. She explained that anyone buying a property with the intention of developing it should understand the permitted uses and zoning laws.

Member Favret said she supported granting the variance but concurred that the difficulty faced by the applicant was self-inflicted. She mentioned that the proposed stormwater features would have a beneficial impact on the property. Additionally, the variance would allow for a longer driveway, which would be useful for any potential developments within the property that have been discussed. Chairperson Oatman said minimizing the number of entrances from the road was preferable, especially considering that there was a hill and a curve on Waddingham Road, close to the property. Mr. Shimel said the longer driveway entrance would also provide space to reduce any buildup of traffic on Waddingham Road. Chairperson Oatman noted that Waddingham Road had seen an increase in traffic over the years. Mr. Shimel discussed the potential for a traffic study on US Route 11 and Waddingham Road as a result of future staged developments.

Ms. Melancon inquired how the process would work when the owner came back to apply for additional development on the property, and if they would require additional variances. The Board proceeded to discuss the process for future development of the property. Mr. Shimel remarked that the owner may have to come back for additional variances. Chairperson Oatman stated that with the Comprehensive Plan currently under review, there may be changes made to the code that could impact this.

## **Adjournment**

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A motion to adjourn the Work Session at 6:28 PM was made by Member Mushtare and seconded by Member Favret. The vote went as follows:

Member Favret:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Member Hallett:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input checked="" type="checkbox"/> Absent
Member O'Brien:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Member Mushtare:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Chairperson Oatman:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent

The motion passed.