

TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

TOWN HALL, 225 COLUMBIA TURNPIKE, RENSSELAER, NY 12144 (518) 694-4011 FAX (518)477-2386

MEMORANDUM

EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES

June 27, 2017

Members

Jeff Pangburn, Chairman
Joyce Lapham
Matt Ostiguy
John Conway, Jr
Domenico Pirrotta
Bob Seward III
Kurt Bergmann

Also Present:

George Hoffman, Attorney
Kateri Rhatigan, Stenographer
Alison Lovely, ZBA Secretary

CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Pangburn called the meeting to order and determined a quorum of seven (7) members were present. Introductions were made.

OLD BUSINESS:

PUBLIC HEARINGS:

Recovene ZBA Appeal #2017-02 – Fuccillo Ford–634 Columbia Turnpike– 5 Area Variances & a Special Use Permit for the construction of a new/used car facility

Victor Caponera from the Caponera Law firm presented the proposal to the Board. Also present was Steve Hart from Hart Engineering. Victor Caponera stated that the Town Board issued a Negative Declaration under SEQR and granted final site plan approval with conditions. Victor showed the Board an aerial of the site and existing building footprint and stated that the proposal is allowed by Special Use Permit and has previously gone through the Area Variance criteria and is not going to go through it again. Victor talked about lighting and it's a big concern of all the Boards and neighbors. The light poles proposed are 25', 18' poles are allowed with shoebox lighting. Victor stated that they are working with the Town to make sure that the lighting complies. Victor stated that a sidewalk the entire length of the front of the site is proposed for the project. Steve Hart is still working on the SWPPP with the Town's designated engineer as well as landscaping. Victor stated that the landscaping is a huge improvement to what currently exists. The required landscaping is 25% and they are proposing 30%. Victor stated that the total signage allowed is 170 square feet and the applicant is proposing 180 square feet. Chairman Pangburn asked the Board if anyone had any questions.

●John Conway asked Steve Hart to explain the water treatment process. Steve Hart stated that since the greenspace is being increased that they are not concerned with detaining the water. He pointed out two potential sites on the site plan for an underground system. Joel Bianchi the Town's designated engineer is currently reviewing.

●Chairman Pangburn talked about parking in front yard, signage, landscaping and the Special Use Permit & the sign variances needed and also if display vehicle parking has been addressed. Steve Hart stated that he will add it to the plan.

Chairman Pangburn asked if there was anyone present to speak in favor of or opposition to the application. No one spoke in favor of or opposition to.

Motion by Bob Seward to close the public hearing. Seconded by Kurt Bergmann.

Motion carried 7-0

ZBA Appeal #2017-09 – Kowalski –45 Louis Drive – Area Variance for the proposal to construct a two car garage with ADA access to the principle dwelling and located in the side yard with a proposed side setback of 33 feet.

The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendation
- ZBA Application, Authorization Form, Short EAF, Denial, Area Variance Criteria, diagram of location of proposed garage
- Bldg. Permit Application
- Planning Board Recommendation with supplemental report by Matt Polsinello

Mike Kowalczyk from Affordable Homes presented the proposal to the Board on behalf of the applicant who has failing health, her mobility is decreasing. The location proposed for the garage is the best location due to grade slope on the left side of the house, currently there is no garage. A ramp will be built into the breezeway to take the applicant into her house. Mike stated that there is a row of trees existing between the applicants and neighbors house. Chairman Pangburn asked the Board if they had any questions.

●John Conway Jr. stated he was confused at the setback and wants to know what footage is actually needed. Chairman Pangburn stated that 33' is what the diagram shows and the applicant's representative was using the figure of how much footage is encroaching into the setback.

●Domenico Pirrotta stated that the grade on one side of the house was an issue, what about constructing the garage in the rear of the house? Mike stated that the septic/leech field is in the back of the residence and it's not cost effective.

●Matt Ostiguy asked if there are existing trees. Mike stated that there are a line of evergreens 17' from where the garage will end.

●Chairman Pangburn asked if the garage entrance will be straight in. Mike stated yes.

●Kurt Bergmann asked if there will be a turn around. Mike stated yes.

●Chairman Pangburn asked if there were any objections to planting more shrubs to fill in the gaps. Mike stated that would be fine.

●Kurt Bergmann asked if there was any plan for runoff. Mike stated that gutters will be directed to back of the property.

●Chairman Pangburn asked if they would mind meeting the Building Inspector on site. Mike stated that would be fine.

Chairman Pangburn asked if there was any present who wanted to speak in favor of or against the application. There was no one present to speak in favor of or opposition to.

Motion by Domenico Pirrotta to close the public hearing. Seconded by Joyce Lapham. Motion carried by a 7-0 vote.

ZBA Appeal #2017-11 – O'Reilly's –40 Iroquois Place – 5 Area Variances for the proposal to construct a single story 7,500 square foot auto parts store.

The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendation
- ZBA Application, Authorization Form, Short EAF, Denial, Area Variance Criteria, site plan of proposed building
- Bldg. Permit Application
- Planning Board Recommendation with supplemental report by Mike Bottillo
- Letter from a resident dated 6/26/17 and an email dated 6/27/17

Rob Osterhoudt from Bohler Engineering presented the application to the board on behalf of the applicant. Rob referred to an aerial exhibit. The site is a 2 ½ acre parcel with frontage on Route 4 and Iroquois Place. The topography steps up about 10 feet from Route 4. The proposal is to construct a brand new facility, with the building sitting back from Route 4 due to the grade changes. The grade is the primary driver to the site layout. The plan has been revised and the building has been moved back in order to line up the second entrance to this site to True Value's second entrance. They are seeking relief on the north side of the building so that there is more greenspace on Iroquois Place. Rob quoted the part from the Zoning Law regarding the two story height requirement as they believe they don't need this one variance according to the way they read the Zoning Law. Chairman Pangburn stated that Bohler Engineering provided a narrative dated May 25, 2017 to the Board members and it was put on the web site and stated that the applicant can go the Interpretation approach. Rob stated that the proposal is for a single story building. Chairman Pangburn asked the Board if they had any questions.

•Matt Ostiguy asked why the parking can't go in the rear of the building. Rob stated that it would be hard for the public to see if the business was even open.

•Kurt Bergmann asked if the parking meets the square footage of the building.

Rob stated that the plan shows 1 space over them maximum but would drop it to comply.

•Chairman Pangburn discussed parking and asked if building design change was to have parking in the front. Rob showed earlier renderings of building.

•John Conway Jr. asked if the buffer towards Elliot Road could be discussed & asked how far the parking lot is from the property line near Elliot. Rob stated the O'Reilly's doesn't need to use the entire parcel, but it will be maintained in its vegetative state. Rob stated that there is approximately 45' from the parking lot to the property line.

•Kurt Bergmann asked if there were any future plans of expansion. Rob stated that no there is not. The property is not owned by O'Reilly's; there is a contract to purchase it.

•Chairman Pangburn asked Rob to go over the parking circulation of the site.

•Domenico Pirrotta asked if there will be traffic flow issues and if deliveries will be all day and if the jagged line in the front was a sidewalk and if O'Reillys has looked at other sites. Rob stated that there will be approximately 5 deliveries a week and they happen when the store is closed and there will be less than 50 peak trips per busy time. The line is a proposed sidewalk and local brokers were used to find sites.

•Chairman Pangburn asked if the application has gone in front of the Planning Board. Rob stated that it had but that the sketch plan hasn't been accepted.

Chairman Pangburn asked if there was any present who wanted to speak in favor of or against the application.

- A woman spoke that the Town has 5 auto parts stores and we don't need a 6th.
- A man agreed with the concerns raised in the emails. It's a poor location and isn't appropriate, it's not consistent with the plan, parking in front is unsightly, not safe, it's not needed and the Board should deny the variance.
- One of the Casatelli children spoke and stated that the house has been on the market for a long time and it can't be sold as residential, they have been pushed out, it's all businesses now.

- Another Casatelli sister spoke and stated that their parents built the house and they hate to see it go, but they have to move on.

Chairman Pangburn stated that the Board would prefer to tackle all the variances at the same time so if the applicant wished to pursue the Interpretation, they can table until the August 8th meeting and they will keep the public hearing open.

Motion by Chairman Pangburn to table the public hearing to the August 8th meeting. Seconded by Bob Seward. Motion carried by a 7-0 vote.

SEQR DETERMINATIONS & RECOMMENDATIONS:

ZBA Appeal #2017-02 – Fuccillo Ford–634 Columbia Turnpike– 5 Area Variances & a Special Use Permit for the construction of a new/used car facility.

Chairman Pangburn stated that the Town Board issued a Negative Declaration with conditions at their June 21, 2017 meeting.

ZBA Appeal #2017-09 – Kowalski –45 Louis Drive – Area Variance for the proposal to construct a two car garage with ADA access to the principle dwelling and located in the side yard with a proposed side setback of 33 feet.

This is a type II Action-there is no further action necessary.

WORKSHOPS:

ZBA Appeal #2017-02 – Fuccillo Ford–634 Columbia Turnpike – the ZBA deliberated on the variances and public comments.

Special Use Permit for the construction of a new/used car facility:

Whereas, This appeal has received a Negative Declaration under SEQR and Final Site Plan approval from the Town Board on Wednesday, June 21, 2017 and has met all the requirements of the SEQR and the TEQR; now, therefore, be it

Resolved, That the Board of Appeals makes the following findings of fact:

1. The application has been reviewed and determined to be compliant with the 7 criteria as defined in Section 3.11 of the Town's Comprehensive Zoning Law; therefore, be it

Resolved, that the application for a Special Use Permit for a new/used car lot be GRANTED with no conditions:

This resolution was moved by Matt Ostiguy and seconded by Bob Seward III at a meeting duly held on June 27, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

3 Area Variances for additional front signs:

Resolved, That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as the additional signs and quality of the signs will be an improvement to what is currently on the current building.
2. There is no other method available to the applicant as the signs provide additional value and appropriate signage for the building.
3. The requested variance is not substantial given that the total square footage of 180' square feet is only 10' feet higher than the allowable square footage of 170' square feet.
4. The proposed variance will not have an adverse effect on the neighborhood given the improvements.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for 3 Area Variances for the installation of (4) façade mounted signs on the east elevation be GRANTED with ONE condition:

1. That the 3 additional signs being approved are the Manufacture brand, Dealership name and for the directional signage.

This resolution was moved by Matt Ostiguy and seconded by Bob Seward III at a meeting duly held on June 27, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

Area Variance for the 25' light poles:

Resolved, That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as the new lighting poles will be an improvement over the existing.
2. There is no other method available to the applicant as these lights are particularly selected for the dealership.
3. The requested variance is not substantial.
4. The proposed variance will not have an adverse effect on the neighborhood as the applicant will utilize a box lighting approach which should minimize the lighting for the neighborhood and themselves.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for an Area Variance for the installation of 25' high lighting poles be GRANTED with no conditions.

This resolution was moved by Matt Ostiguy and seconded by Bob Seward III at a meeting duly held on June 27, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

Area Variance for front yard parking:

Resolved, That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as the current dealership has parking in the front and the enhancements provided by the applicant will be an improvement over the existing parking.
2. There is no other method available to the applicant as front parking is very consistent with the dealership and necessary for the lot layout.
3. The requested variance is not substantial.
4. The proposed variance will not have an adverse effect on the neighborhood as noted; this will be an improvement in comparison to what exists today.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for an Area Variance for parking in the front of the building be GRANTED with one condition.

1. That the allowable display parking areas be coordinated with the Building Department and added to the official site plan.

This resolution was moved by Matt Ostiguy and seconded by Bob Seward III at a meeting duly held on June 27, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

ZBA Appeal #2017-09 – Kowalski –45 Louis Drive – Area Variance for the proposal to construct a two car garage with ADA access to the principle dwelling and located in the side yard with a proposed side setback of 33 feet.

The ZBA deliberated on the variances and public comment heard.

Resolved, That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as there is existing vegetation between the property lines and the applicant has agreed to supplement that existing screening with additional plant materials.
2. There is no other method available to the applicant as site topography and architectural layout of the existing house preclude it.
3. The requested variance is not substantial as the side setback will remain 33 feet and the adjoining house is separated by a significant distance from that lot line.
4. The proposed variance will not have an adverse effect on the neighborhood as lot sizes are large and the adjoining house is far from the property line.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for the construction of a two car garage with ADA access to the principle dwelling and located in the side yard with a proposed side setback of 33 feet be GRANTED with one condition.

1. That the applicant coordinate with the Building Department and neighbor regarding adding additional landscape screening of 5 to 10 plants as appropriate.

This resolution was moved by Jeff Pangburn and seconded by John Conway at a meeting duly held on June 27, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

NEXT MEETING: The next time the Board will meet is July 11, 2017.

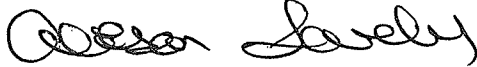
APPROVAL OF MINUTES:

Motion by John Conway Jr. to approve the meeting minutes from the May 23, 2017 meeting. Seconded by Joyce Lapham. Motion carried by a 6-0-1 vote. Kurt Bergmann abstained.

MOTION TO ADJOURN

There being no further business before the Board, the meeting was adjourned upon a motion by Chairman Pangburn. Seconded by Domenico Pirrotta. Motion Carried by a 7-0 vote.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Alison Lovely". The signature is written in a cursive, flowing style.

Alison Lovely, ZBA Secretary