

ZONING BOARD MEETING
TUESDAY – APRIL 28, 2015
ZONING BOARD
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12
BINGHAMTON – NEW YORK – 13901

PRESENT: Mr. Donald Phillips, Chairman
Messrs. Doolittle, Ruston, Waskie, & Grannis
Ms. Kinne, Alternate

ALSO PRESENT: Donald G. Walls, Esq. - Town Attorney
Jim DiMascio, Councilperson
Tom Geisenhof, Assessor

The meeting convened at 7:00 p.m. at which time Mr. Phillips called the meeting to order and welcomed the audience. Mr. Ruston read a statement which explained how the Zoning Board members are appointed, along with the Board's functions, limitations and duties. Mr. Ruston noted that the reading of this statement not only informs the audience about the Zoning Board of Appeals, but it also reminds the Board members of their responsibilities. Mr. Ruston also read the Notices of Publication for each case, which was duly published, as required by law, and as evidenced by Affidavits of Publication received and placed on file.

APPROVAL OF THE MINUTES

- Approval of the Minutes for March 24, 2015, Zoning Board Meeting.

Mr. Ruston, ZBA Member, had a correction for the minutes – Page 10 – where it says “measurement in square feet and it should be in linear feet” should be “measurement in linear feet and it should be in square feet.

A motion was made by Mr. Doolittle, seconded by Mr. Grannis, to approve the Amended Minutes of the March 24, 2015 Regular Meeting.

ROLL CALL: AYES – 5 NAYS – 0

PUBLIC HEARINGS

- MICHAEL BREWER – Michael's Auto Sales – 226 East Hill Rd. – TM#066.10-1-37 – Application for a Double Area Variance for minimum lot size from 6 acres to 2.8 acres and minimum lot depth from 450' to 185'.

Mr. Walls conducted the Public Hearing.

Mr. Walls understands that the map of the area is an irregular shaped lot. As a practical matter the owner/applicant can't expand the frontage due to the topography. Is that correct?

Mr. Brewer explained that was correct.

Mr. Walls wanted to know the interest in the parcel if the variance is granted. Are you going to lease or own?

Mr. Brewer explained he was going to lease it from Mr. Lumsden who is the owner.

Mr. Walls asked to please give a brief description of the business.

Mr. Brewer explained there would be a temporary office trailer which would be painted/dressed up. The size of the trailer is 12' x 60' which would have a main room and a bathroom. The lot would be landscaped with shrubs and flowers.

Mr. Walls wanted to know if there was also going to be a shed as the map indicated one. If there was a shed please tell us the purpose of it.

Mr. Brewer explained yes there will be a shed. The shed will store supplies – parts we may order for repairs that are done off site.

Mr. Walls wanted to know how many cars will be processed there – on an average at any one time. Also what are the business hours and how many employees.

Mr. Brewer explained he will have approximately 45 cars on the lot. His business hours will be from 9 am until 6 pm Monday – Friday and 9 am until 3 pm on Saturday. There are no other employees just him.

Mr. Walls wanted to know if the free standing sign would be illuminated.

Mr. Brewer explained the free standing sign would not be illuminated.

Mr. Walls wanted to know if Mr. Brewer thought his business venture would have a negative impact or change the neighborhood in any way.

Mr. Brewer explained he felt it would not as there are other commercial buildings in the area.

Mr. Walls wanted to know if Mr. Brewer had anything else he'd like to tell the Board.

Mr. Brewer felt he had nothing else to say at this time.

Mr. Walls closed the Public Hearing.

Mr. Geisenhof, Ordinance Office, recommends the ZBA grant the variance with a Building Permit and compliance inspection being required.

Mr. Doolittle, ZBA Member, has a questions/suggestion regarding vehicles on the lot. That all the cars need to be operable – can't start storing parts or inoperable cars. Plus no major repairs on the lot.

Mr. Brewer explained there won't be any repairs on the lot and all vehicles will be operable.

Mr. Doolittle would like this statement in the motion.

Mr. Lumsden explained that as the owner the lease agreement has that restriction within it.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the case and has not identified any significant countywide impacts associated with the proposed project however recommends the site plan show the proposed areas of disturbance, existing and proposed grading, and existing and proposed ground coverage, should ensure the project includes appropriate drainage and spill prevention plan and project include landscaping.

Urda Engineering recommends a favorable advisory as long as the site plan should show the proposed areas of disturbance, existing and proposed grading and existing and proposed ground coverage, ensure the project includes appropriate drainage and spill prevention plan, and no signage be attached to any NYS structure, nor shall anything be placed within the NYS right-of-way.

Town Planning recommends a favorable advisory.

Drainage Coordinator has no comment.

BMTS has no issues with site access or traffic impact.

NYSDOT have the following comments – no signs shall be attached to the existing NYS right-of-way fence that borders the highway boundary and nothing shall be placed within the State's right-of-way.

Broome County Heath has reviewed the application – applicant plans to sell cars at the site with no maintenance work done and presumably minimal automotive fluid use and storage. If this ever changes, precautions should be taken to prevent accidental spills from contaminating the aquifer.

Letter from owner Michael Lumsden, owner giving permission for Michael Brewer , applicant, permission to proceed with variance application.

Letter from applicant regarding shipping/storage container/structure on the site plan. It is his intention to not use said container/structure for his business. He will be using a 10' x 20' pre built wooden shed as storage. Storage examples are battery charger, floor jack, air compressor and similar items.

- JAMES & SUSAN BOHN – 21 S. Morningside Dr. – TM#128.11-5-10 – Application for an Area Variance to expand a driveway with less than required side yard setback from 10' to 1' in a residential zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls wanted to know why they wanted to expand their driveway.

Mrs. Bohn explained the existing is in disrepair – want to make their house look better. Plus the parking would be easier.

Mr. Walls explained that the application shows the driveway to be concrete and would like it to be 2' from the property line. The reason for this is the off street parking?

Mr. Bohn explained the driveway will be concrete and they have two cars.

Mr. Walls wanted to know if they have a driveway and how do they park now.

Mr. Bohn explained they do have a garage and as for parking they “piggy back” – park behind each other.

Mr. Walls wanted to know if they had a survey as the driveway was 2' from the neighbor's property boundary. Do you know where the pins are?

Mr. Bohn explained that yes the property is surveyed with pins set.

Mr. Walls wanted to know how they will handle the snow in the wintertime. You understand you won't be able to place the snow onto the neighbor.

Mr. Bohn explained they will continue to blow the snow onto their front yard. He also takes care of her driveway. His snow will not be placed onto her property.

Mr. Walls wanted to know if they had any alternate plans that would accomplish the same purpose.

Mr. Bohn explained he did look for an easy fix. He wanted to fix the existing driveway but all three contractors said it couldn't be repaired. The estimates for the new paving were apples to oranges – paved or cement. They felt concrete would look nicer so they are spending the extra money for it.

Mr. Walls wanted to know what if any impact would there be on the neighborhood. Are there currently any driveways that are that close to their neighbor? In other words driveways that are within 2' of their neighbors property?

Mr. Bohn explained the neighbors across the street received a variance to replace their driveway.

Mr. Walls wanted to know if the Board turns you down what impact you would suffer.

Mr. Bohn explained they are trying to improve their property.

Ms. Ostrander, 15 S. Morningside Dr., explained the neighborhood went through this a few years ago and it was voted down. They weren't allowed to put in a permanent driveway. They did park behind the house. She doesn't object to this as she hasn't seen the application. The laws are in place for a reason.

Mr. Geisenhof, Ordinance Office, recommends approval.

Mr. Doolittle was trying to recall the one they turned down.

Mr. Grannis, ZBA Member, explained they wanted to put a camper and garage in the back yard. They wanted to have a second driveway on the property which was close to the property line.

Mr. Ruston, ZBA Member, explained the owner next to him already was at the zero lot line.

Mr. Phillips, ZBA Chairman, asked Mr. Geisenhof to explain the chart he submitted to the Board.

Mr. Geisenhof explained he looked at the driveway setbacks on S. Morningside Dr. The distance from the driveway to the property line – four parcels were in compliance the rest were not. There appear to be five parcels that have zero setbacks. The office received four letters - three negative and one positive.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the case and has not identified any significant countywide impacts associated with the proposed project; however, department recommends the town ensure the project would not result in storm water runoff impacts to the adjacent property.

Urda Engineering recommends a favorable advisory with the recommendation that there be no storm water runoff impacts to the adjacent residential property.

Town Planning recommends a favorable advisory.

Drainage Coordinator recommends approval.

Letter from Steve & Vanessa Moschak, 20 S. Morningside Dr. in support of the Area Variance.

Letter from Vincent & Fina Altadonna, owners of three parcels – 23, 25, & 26 S. Morningside Dr. – disagree with the variance.

Letter from Patricia Mulesky, 19 S. Morningside Dr. - disagree with the variance.

Letter from Ronald & Sharon Fairs, 14 S. Morningside Dr. - disagree with the variance.

- MARTHA BUDINE – Bows & Bandanas – 17 Newman Ave. – TM#112.06-3-25 – Application for a Special Permit for dog grooming business has been WITHDRAWN.

RENEWAL

- JOSEPH CONATY – Pet Wash – 1433 Upper Front St. – TM#112.05-1-21 – Use Variance renewal to allow commercial use (Pet Wash) in a residential zone.

Mr. Phillips asked Mr. Geisenhof if there have been any complaints regarding Mr. Conaty's property and to please identify them.

Mr. Geisenhof explained there was one complaint regarding an R.V. (trailer) being parked in the front and it needed to be along the building. Once Mr. Conaty was aware of the rule – he has two front yards – he moved the trailer.

Mr. Phillips asked the Board if they recall there was also a complaint about scrub brush with his rear neighbor. He cleaned that up as well. Also felt some of the folks on Trafford Road had a

problem with the back of the building in the wintertime. He had some drums and the trailer. Understand he (Conaty) has spoken to the owner in the rear and has done what she wanted.

Mr. Conaty explained the neighbor is Mrs. Rafferty and she wanted it bare. He understood that one of the conditions was a barrier be established. No one could tell him what "barrier" was. She wanted the brush removed and left cleared. We maintain the common property.

Mr. Geisenhof, Ordinance Office recommends approval of the use variance.

A motion was made by Mr. Ruston, seconded by Mr. Doolittle, and unanimously carried to approve the application for a Use Variance to allow commercial use (pet wash) in a residential zone.

ROLL CALL: AYES – 5 NAYS – 0

NEW BUSINESS

- SHANE LIVINGSTON – 167 Treadwell Rd. – TM#067.02-1-27 – Quadruple Area Variances to build a detached garage in front of the principle use, exceeding the maximum height from 16’ to 18’, with less than required road frontage from 240’ to 224’ and the front yard setback from 50’ to 15’ in an agricultural zone.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for May 26, 2015.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, and unanimously carried to accept this application for a Quadruple Area Variances to build a detached garage in front of the principle use, exceeding the maximum height from 16’ to 18’, with less than required road frontage from 240’ to 224’ and the front yard setback from 50’ to 15’ in an agricultural zone.

ROLL CALL: AYES – 5 NAYS – 0

- TODD PLOURDE – 42 Ashbury Ave. – TM#096.05-1-15 – Application for an Area Variance to expand a driveway with less than required side yard setback from 10’ to 1’ in a residential zone.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for May 26, 2015.

A motion was made by Mr. Grannis, seconded by Mr. Waskie, and unanimously carried to accept this application for an Area Variance to expand a driveway with less than required side yard setback from 10' to 1' in a residential zone.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Phillips stated we seem to be getting a lot of driveway requests. Usually when we get a lot of variance – for example signs – the Town Board reviews and we no longer have that many requests.

Mr. Walls explained that the Board has asked him and Tom to review the Zoning Code Book and to make recommendations – this maybe one of them.

Mr. Waskie, ZBA Member, explained we are no longer a one car family.

Mr. Phillips explained that when he attends seminars like the one in NYC the one thing speakers tell attendees – that if you continue to receive requests for variances on a particular law maybe the law needs to be changed.

Mr. Grannis felt that a lot of the driveway variances are because people are replacing existing ones. Many are non-conforming already.

Mr. Doolittle – so if he has someone resurface or take his driveway out... He thought if he stayed within the existing driveway he would be okay.

Mr. Phillips explained these are things that are coming up and Tom's hands are bound. People come in doing the right thing because they dug up their driveway and now they need to comply with the 10' setback.

Mr. Barrett, 1 Stever Dr. wanted to say that he was involved with the Comprehensive Plan about 5/6 years ago. They made some changes and now it seems like every time this Board meets They are making variances for what the Comprehensive Board decided. He feels the variances are not being turned down.

Mr. Phillips explained actually the last driveway variance was turned down.

Mr. Grannis explained it's not fair for the owner who wants to replace his driveway that he can't. The ordinance says he has to be 10' – might have to put it in front of his picture window – that's not fair.

Mr. Phillips felt Mr. Waskie made a good point. Most families have two cars and many of the lots are small. If you look on Pamela Dr. there's cars all over the road and it's because the people have small driveways.

- JEFFREY S. KUSS – 21 Woodland Dr. – TM#079.17-2-18 – Application for an Area Variance to construct a 24' x 26' addition with less than required side yard setback from 10' to 7' in a residential zone.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for May 26, 2015.

A motion was made by Mr. Waskie, seconded by Mr. Grannis, and unanimously carried to accept this application for an Area Variance to construct a 24' x 26' addition with less than required side yard setback from 10' to 7' in a residential zone.

ROLL CALL: AYES – 5 NAYS – 0

- AUTO ZONE INC. – Kevin Murphy – 1359 Upper Front St. – TM#'s 111.12-2-8, 111.12-2-7, 111.12-2-5.2 & 111.12-2-4 – Application for Parcel "A" Use & Area Variance to allow commercial business & less than required rear yard setback from 25' to 15' in a residential zone.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for May 26, 2015.

A motion was made by Mr. Grannis, seconded by Mr. Doolittle, and unanimously carried to accept this application for Parcel "A" Use & Area Variance to allow commercial business & less than required rear yard setback from 25' to 15' in a residential zone.

ROLL CALL: AYES – 5 NAYS – 0

- JEREMY HILTS – 1359 Upper Front St. – TM#'s 111.12-2-8, 111.12-2-7, 111.12-2-5.2 & 111.12-2-4 – Application for Parcel "B" Use & Area Variance to allow commercial use (tour bus parking) in a residential zone and minimum lot width from 100' to 75' in a commercial development zone.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for May 26, 2015.

A motion was made by Mr. Ruston, seconded by Mr. Doolittle, and unanimously carried to accept this application for Parcel “A” Use & Area Variance to allow commercial business & less than required rear yard setback from 25’ to 15’ in a residential zone.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Nate Kirschner, Langan Engineering, was present if anyone had questions.

Mr. Phillips wanted to know the intent of Parcel “B”. Do they plan on using the entire lot as new parking area for the bus patrons?

Mr. Kirschner explained that Parcel “A” is the proposed Auto Zone. Parcel “B” will be retained by the current owner and will utilize the L shaped lot for parking and pick up/drop off for the Eastern Bus Tours.

Mr. Phillips explained that the owner may have somewhat of an issue as the additional parking will be in a residential zone. Appears the parking will be behind the Auto Zone; which is also zoned residential.

Mr. Kirschner explained that he will most likely be representing Mr. Hilts. They have used a bus template and parking lay outs – he doesn’t believe the owner’s intent is to pave the site. They will keep the front parcel the way it currently is.

Mr. Waskie explained he’d hate to have the bus park on Front St. and then they load it.

Mr. Kirschner added that the application indicates enhancing the landscape on the lot.

VOTES ON PUBLIC HEARINGS

- MICHAEL BREWER – Michael’s Auto Sales – 226 East Hill Rd. – TM#066.10-1-37 – Application for a Double Area Variance for minimum lot size from 6 acres to 2.8 acres and minimum lot depth from 450’ to 185’.

A motion was made by Mr. Grannis, seconded by Mr. Doolittle, and unanimously carried to approve the application for a Double Area Variance for minimum lot size from 6 acres to 2.8

acres and minimum lot depth from 450' to 185' with the conditions that only operable vehicles are allowed and no maintenance performed on the site.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Phillips explained he's been in that area several times and doesn't feel it will have any negative impact.

Mr. Doolittle explained he would like to add the condition – only operable vehicles are allowed and no maintenance performed on the site. He doesn't want to see parts cars.

Mr. Waskie feels this is a temporary business because of the trailer. Is it possible that if the business is successful and moves someplace else does the owner want it to revert back to the original status? He's just putting this out for consideration.

Mr. Doolittle wanted to know if it does cease to operate do the lot enhancements get removed.

Mr. Walls explained if the operation ceases then the variance goes away.

Mr. Geisenhof wanted to know why would it go away. The next person will need it – it's for the property owner. Its lot sizes we are talking about.

Mr. Phillips explained regardless of use - you want to bring in another person – will this new person understand the restrictions on the parcel. Wouldn't the Ordinance Office make sure that if a different tenant comes in that they tell the new tenant of the restrictions.

Mr. Waskie added or it is removed (variance) and they start from scratch.

Mr. Lumsden – He didn't think the variance would roll over onto someone else.

Mr. Waskie explained the variance follows the property unless we change it.

Mr. Lumsden – Could sell the property – the variance would stay – this would be a plus.

Mr. Phillips explained so we are having the Ordinance Office make sure if someone else goes in they will make that tenant aware of the restrictions.

Ms. Kinne, ZBA Member, explained that Broome County was looking for spill prevention from the applicant.

Mr. Phillips explained that since they are not repairing vehicles then that is not required.

- JAMES & SUSAN BOHN – 21 S. Morningside Dr. – TM#128.11-5-10 – Application for an Area Variance to expand a driveway with less than required side yard setback from 10’ to 2’ in a residential zone.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, and unanimously carried to approve the application for an Area Variance to expand a driveway with less than required side yard setback from 10’ to 2’ in a residential zone.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Waskie explained this is an older development. You see a lot of one car garages. There are some homes in the area that have done some things with pavers – extensions to the driveway in front of the house which block the living room window. You see cars in the front yards – lawns rutted. He’s in favor as the applications aesthetically appealing and the nature of the beast. We’re not a one car family anymore.

Mr. Ruston has reviewed the letters – one of the negative comments was from the neighbor to the left. They have a sidewalk along that house that’s on the zero lot line or minus zero.

Mr. Doolittle – With regards to the position of a finished product. That means you can put the tires over to the edge of the concrete; so some of the car could extend over to the neighbor’s property.

Mr. Phillips felt that a vehicle would not extend two over. None of his vehicles would.

Mr. Doolittle – So they can mow the lawn and do whatever and it won’t be obstructed by anything parked on the edge of the proposal.

Mr. Phillips explained looking at the pictures of snow – he’s concerned about the snow removal. Hopes he blows the snow away from the neighbor. One last thought – life is too short – neighbors are precious and he hopes the neighborhood comes together.

ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Waskie, seconded by Mr. Ruston, to adjourn the meeting at 8:06 p.m.

Respectfully submitted,

Nancy Schnurbusch,
Recording Secretary