

ZONING BOARD MEETING
TUESDAY – OCTOBER 27, 2015
ZONING BOARD
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12
BINGHAMTON – NEW YORK – 13901

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

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 September 22, 2015, Zoning Board Meeting.

A motion was made by Mr. Doolittle, seconded by Mr. Ruston, to approve the Minutes of the September 22, 2015 Regular Meeting.

PUBLIC HEARINGS

- KIMS KUTS & KURLS HAIR SALON – Kimberly Hayes – 1946 NYS Rte. 12 – TM#078.19-3-15.12 – Application for a Special Permit to operate a home occupation (hair salon) in an agricultural zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls – Are you the owner of the property located at 1946 NYS Rte. 12?

Ms. Hayes – Her mother and herself.

Mr. Walls – Do you live there?

Ms. Hayes – Yes.

Mr. Walls – Is your mother in agreement with this application?

Ms. Hayes – Yes.

Mr. Walls – Tell us about the operation – the business you want to conduct there.

Ms. Hayes – Very small maybe 20 hours a week. She is the only one, one person at a time. She does cuts, colors, highlights, perms by appointment only. No signs.

Mr. Walls – Is this operation conducted in a separate part of the residence? Separate entrance?

Ms. Hayes – Yes separate entrance and bathroom.

Mr. Walls – What type of equipment do you have?

Ms. Hayes – She has her station, a chair, closet for the colors, perms, developers, a blow dryer, scissors, and back bar which has her sink.

Mr. Walls – You are the sole owner and employee?

Ms. Hayes – Yes.

Mr. Walls – Do you have specific hours of operation?

Ms. Hayes – Kind of sort of. She does not work the typical 9 to 8 Monday through Friday. It's more like 11 a.m. until 8 p.m. or 9 p.m. She may work one day for a couple of hours and one day might be six hours. She works usually 20 hours a week by appointment only Tuesday through Saturday.

Mr. Walls – Maximum number of customers that you have in a day?

Ms. Hayes – Six maybe very low key.

Mr. Walls – Do you sell any products?

Ms. Hayes – She does have some products.

Mr. Walls – How about parking?

Ms. Hayes – Parking is right at the front door. Enough space for four people. She also has enough room on the property. There's room for at least eight more.

Mr. Walls – How about signs – advertisement?

Ms. Hayes – No. No signs.

Mr. Walls – Anything else you'd like to tell the Board about the operation? Any reaction from your neighbors?

Ms. Hayes – They haven't come to her.

Mr. Walls – What impact would your operation have on the neighborhood?

Ms. Hayes – No negative impact. Dr. Allen's is in her back yard. It's just the matter of a couple more cars go down the driveway. Dr. Allen has a R.O.W. and she owns the driveway. It's literally just a couple more cars a day maybe on her driveway.

Mr. Mark Kenyon, 1938 NYS Rte. 12 – owns the property right next door. He's opposed to it for a couple of reasons. Feels there should be an environmental review done. Believe they have a septic so any of the chemicals dyes etc. go into the septic then leach field and possible to the aquifer. He has a well so it's a problem for him. Secondly, there has been quite a bit of traffic over there already. He lives next door so he sees it every day. Some days there is none and somedays there is quite a bit. Up until the time, something happened with the Town of Chenango, it was going full bore.

One of the things he will point out is Beverly Seiber is the only person on the deed no one else as he's already checked into it. The application is for whom? Kimberly Hayes. So the owner of the property isn't the person applying for the use permit. He believes under the use permit that might be required – ownership of residency as well. As far as she says she's the only one there that cuts hair – he doesn't believe it as he feels there are other people cutting hair. Wants to know if there is anyone else cutting hair.

Ms. Hayes – How does he know who's coming for a hair dye.

Mr. Kenyon – Since he resides next door and he uses his side door everyday he sees the parking lot.

Ms. Hayes – Her sister, her daughters....

Mr. Kenyon – Humane Society owned the property and they wanted to put kennels in the pool area and open their offices there. This Board turned them down. This is the same thing this is not a commercial area that's down on the other part of Front St. – Rte. 12A. We're starting to get businesses up here we don't need them!

Mr. Walls – Anything else you'd like to say?

Ms. Hayes – Just that everyone seems to use that door, whether it's a client or family members.

Mr. Walls closed the Public Hearing.

Mr. Geisenhof, Ordinance Office, recommends approval with a building permit being required.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the above cited case and has not identified any significant countywide impacts associated with the proposed project. The Town ZBA should ensure that the project complies with the Town Aquifer Protection District Local law.

Drainage Coordinator recommends approval,

Urda Engineering has reviewed the above cited case – appears to be in substantial conformance with the Town Code Sec. 73-12 Special Permit Standards. A favorable advisory is recommended with a building permit being required.

Town Planning recommends a favorable advisory.

- AUTOZONE PARTS INC. – Lot A – Kevin Murphy – 1365 – 1359 Upper Front St. – TM#'s 111.12-2-8, 111.12-2-7, 111.12-2-5.2, and 111.12-2-4 – Application for a Double Use Variance to allow retail use in a residential zone and for commercial use (Bus Line) in a residential zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls explained that this was the second public hearing they've had on this. The general outline is the same but since that public hearing there was a modification in the plans on parcel A and B. Could you take each parcel separately and tell us what modifications or changes have been made.

Mr. Nathan Kirschner, Project Manager Langan Engineering – First he'd like to thank the members of the Board and Town staff for working with them to revise the plan. This is the second public hearing. They withdrew the first application submitted a revised one but essentially it's the same.

North of the property is the laundromat and Bishop Rd. to the right Upper Front St. Cup a Joe Coffee Shop (south of property) and then there's Trafford Rd. to the left.

The original application – Lot A – 6800 square foot AutoZone Auto Parts Store was on the left hand side of the site with approximately 34 parking spaces. The right hand side of the site – Lot B – would continue to operate as OBL Bus Line. This particular layout was presented at the last public hearing. Comments received were about the screen buffers, 6' stockade fence along the residential zone and some screening along Trafford and Bishop. At the Planning Board's recommendation it was proposed a second entrance on Bishop Rd. Based on comments received from the public and Zoning Board it was looked at in a very negative light. Went back to the drawing board and threw out five or six separate options with both the property owners as well as AutoZone. This was to see if they could come up with something that addressed both the concerns of the Planning Board and Zoning Board plus also keeping in mind the sensitivity of public with their concerns regarding vehicular traffic in the residential zone.

The left hand plan proposes AutoZone's alternative building prototype a slightly larger building 7300 square feet flipped so Lot A is now A for AutoZone. Kept it AutoZone so Lot A is on the right hand side of the site. Still has 34 parking spaces for AutoZone.

One of the conflicting concerns with Lot B was that everybody wanted to see additional parking. Concerns about the number of parking spaces provided and historically what was on that site. There should be a letter from OBL that states that they have reviewed the plan while they are not exactly certain as to what they will need to do yet they are willing to do what is necessary to ensure that the parking doesn't spill over into the rear of the site or elsewhere. So if it's changing bus schedules or finding an alternative parking lot they are willing to make those adjustments.

The biggest thing this addresses is the bus parking for the ADA spaces and parking on the pavement so they can get in/out of the bus. The current layout has no access on Trafford or Bishop Roads. It enhances the vegetative screening in those areas, and maintains the Planning Board landscape berm as well as the six foot stockade fence on the adjacent residential use. Also provides, internal to the site, the circulation for the bus. Application shows turning templates for the bus as well as the tractor trailer for AutoZone. Easements will be put in place should the application be approved. Cross access between AutoZone and bus lines and vice versa. The intent is the bus will come through here (points on site map). The ADA parking spaces have been moved from the front of the site to the rear as suggested by Chairman Phillips thus giving them a more direct exit.

Given the site constraints does the best job of keeping all the commercial uses as close as possible to Upper Front St. in the commercial zone.

There are use variances before the Board this evening (points to residential line on site map) with a small portion of the bus use in the residential zone and the AutoZone use has a small section as well. This layout also removes the area variance that was previously requested on the prior application.

Hope that brings everyone up to speed. He'll elaborate as need be.

Mr. Walls opened the floor to any questions connected to this application.

Mr. Cowden, 39 Trafford Rd. – Are they going to be able to ask questions and then comment later or do they each have to combine that during their time?

Mr. Walls – Can ask questions on this if you like and comment later.

Mr. Cowden – How many parking spaces on the bus part.

Mr. Kirschner – Believes it is 38.

Mr. Cowden – The width of the spaces?

Mr. Kirschner – They are all 18' with the exception of some compact spaces along the coffee shop.

Mr. Cowden – What's the definition of a compact space.

Mr. Kirschner – It's a shorter space but it's the same width 18' stall can accommodate a full size pickup truck compact stall is 16' which is intended for smaller vehicles.

Mr. Cowden – There is no provision for paving the bus lot.

Mr. Kirschner – The portion of the bus lot that's to be paved is the entrance and driveway throat to the accessible spaces. The remainder of the lot is to remain impervious for several reasons.

Mr. Cowden – Can you guarantee that 38 cars can be parked in the spaces that are available.

Mr. Kirschner – Similar to the previous application they are proposing signage for limiting where the cars are to be parked. People can get aggressive regarding space between cars so it would reduce that number more than it would increase the number. Graphically they are showing the 38 spaces as that's the intent.

Mr. Cowden – The fact that there is no place else to park on the site could create a problem. What guarantee that the easement will be granted by the owner of AutoZone today if that property changes hands the bus line will still have an easement. Will it be written into the deeds?

Mr. Kirschner – The cross access easement will be between both properties and it will be tied to the parcel regardless of ownership. If the bus company were to sell their property and AutoZone were to sell their property those easements are in place unless abolished, which requires approval from both parties.

Mr. Billings, 19 Trafford Rd. – What would be the number of busses compared to what’s coming in and out of there now.

Mr. Kirschner – They don’t have a specific number. It might be reduced because of their commitment to ensure that parking doesn’t spill over to the rear of the site or to the AutoZone lot. While AutoZone is supportive of the bus use and supportive of the whole development they were the first to jump on board to make sure that things would be in place to ensure the bus people were not parking in their spaces.

Mr. Billings – What about deliveries to and from AutoZone.

Mr. Kirschner – AutoZone gets once a week deliveries by an eighteen wheeler. They are during the day and off peak hours, which is usually while everyone’s at work. Their operations are as such they schedule the deliveries so the employees of the store can unload the truck. They have to be sensitive to the fact that there are not 15 customers in the store at the same time they are unloading the truck.

Mr. Billings – There will be room for an eighteen wheeler to maneuver?

Mr. Kirschner – The site plan shows, similar to the bus movement, the eighteen wheeler comes into the site, parks at the loading door in the back of the site, and then exits through the bus lot.

Ms. Johnson, 32 Trafford Rd. – second house in from that. Couldn’t see where AutoZone was going. Is it closer to the laundromat? Is there going to be additional lighting that’s going to bother us?

Mr. Kirschner – AutoZone has downcast lighting and only operational when the store is open unless it’s the security lights. All the lights are focused on their parcel, since your parcel is farther away from AutoZone, the lighting will have a minimal effect on your property.

Ms. Bennett, 24 Trafford Rd. – Recently checked out the AutoZone in Endwell and that is extremely garish lighting. That is not good lighting for the neighborhood. It’s very bright all the time and it’s distracting in her opinion. At one of the first meetings it was brought up that the neighborhood was not very pretty so to speak and that’s certainly not going to enhance it.

Mr. Kirschner – He can’t speak about the other AutoZone – knows the lighting plan was provided and reviewed by the Town and Planning Board and they didn’t offer any comments. It is compliant with the zoning regulations – believes the town requirement is a zero candle foot at the property lines. It’s intended to be bright on the site, and it’s designed so there’s no light trespass onto the adjacent properties. With respect to the neighborhood itself again the effort was made to keep the development as close to Upper Front St. as possible. There is additional screening a six foot fence and landscaping to enhance the property.

Mr. Tremark, 73 Grant Rd. – When do they plan on starting construction?

Mr. Kirschner – Typically AutoZone will get all the approvals in place and then go out to bid.

Mr. Tremark – Do you know if they will try to hire someone local?

Mr. Kirschner – As far as general contractors he's not certain.

Mr. Walls – If there is no further questions on this phase let's move on to Lot B.

- ONEONTA BUS LINE – Lot B – Kevin Murphy for Jeremy Hilts – 1365-1359 Upper Front St. – TM#'s 111.12-2-8, 111.12-2-7, 111.12-2-5.2 and 111.12-2-4 – Application for a Use Variance to allow for commercial use (Bus Line) in a residential zone.

Mr. Kirschner – Kind of did already. With respect to Lot B the OBL has shifted from the right hand side of the site to the left side. There is proposed screening along the residential zones. With both Planning Board and Zoning Board comments they've paved both the access onto the site and accessible spaces.

Mr. Walls – Any questions on this other aspect of the plan – realize they are tied together.

Mr. Billings – How about overflow parking from the bus site as he's seen more than 40 cars in there.

Mr. Kirschner – In terms of onsite OBL will make adjustments when necessary. They are motivated to have AutoZone go onto the parcel. AutoZone doesn't want the spill over onto their lot, naturally if the people going on the bus don't find a spot they will head over to AutoZone. Regardless of conditions the town imposes, the first one to complain if that happens is AutoZone. OBL has a vested interest holding to their letter; which is reducing the number of trips, charter, or varying the schedule to make sure there is no spill over.

Mr. Cowden – Wants to make it absolutely clear he has no objection to OBL/Eastern Travel. Personally he loves getting on the bus and going into the city. Every fourth trip is free – really low price when you travel. Very pleased with many of the changes that have been made; but he also knows there have been things said here tonight that unless this Zoning Board writes them in tonight before they approve it there is no guarantee whatsoever that there will not be spill over parking to the residential area. The expression was very clear at this time and a very solid guarantee as far as spill over onto the AutoZone. Unless that is written in there must be no spill over into the residential area there's going to be spill over parking in the residential zone. Also, he wants to know what a special permit is. Can a special permit be granted pro tem as long as this usage – then the variance would be granted with the condition that there be no spill over

parking, but it would only be out of the kindness of the Town's heart because of the long faithfulness of OBL. As far as he's concerned that would solve the problem. Is that what a special permit is?

Mr. Walls – No this isn't an application for a special permit it's an application for a use variance. There is a specific difference. A special permit; like the application before, there are specified uses and certain restrictions on those uses. Understand that if they grant this use variance this Board can tie conditions to that.

Mr. Cowden – Unless they are written in it's not going to happen. Any use of the residential lots will degrade the neighborhood as far as parking. This is the last block on Trafford Rd. that has total residential integrity. In a meeting a couple months ago he sat here – this is a problem for residents. If we can guarantee that this is exactly what we are going to have because there will be no degrading of the neighborhood. This gentleman made a comment that this gentlemen said to him in passing one time, he didn't see what the problem was. It's all going to be C1.

Mr. Kirschner – Believe you are paraphrasing and it's in a negative light.

Mr. Cowden – Yes he knows he is and it is in a negative light.

Mr. Kirschner – He made reference to a discussion that he had with town staff about the Comprehensive Plan for Upper Front St. He is not speaking for or against it.

Mr. Cowden – That's not the Comprehensive Plan for Upper Front St.

Mr. Kirschner – As he stated previously and will state again it was a conversation with town staff and they indicted and he has not reviewed that plan. Mr. Geisenhof can most likely talk about that plan.

Mr. Walls closed the Public Hearing.

Mr. Geisenhof, Ordinance Office, recommends approval of the double use variance (Lot A) contingent on the adoption of a negative declaration of the short form EAF for both Lot A & B with a building and sign permit being required and use variance to allow for commercial use (Bus Line) in a residential zone.

Mr. Phillips read the following correspondence.

NYSDOT has reviewed the revised site plan and have the following comments –

- NYSDOT requests to review the project's drainage study, including evaluation of the existing drainage system the site drainage is entering to ensure the system can handle the direct flow – previous design detailed underground detention.

- This project will require a minor commercial driveway PERM 33-COM Highway Work Permit for both parcels.
- Per NYSDOT's Policy & Standards for the Design of Entrances to State Highways there must be a 5' offset between any property line and beginning of driveway radius. The plan shows a 3' offset between the bus lot and property line.
- Please verify driveway entrance layout on NYSDOT's Driveway Entrance Layout Standard Sheet as the projected curb line should intersect the outside edge of travel lane unlike shown on the site plan.

Town Planning recommends a favorable advisory with a building permit being required.

Urda Engineering has reviewed the above cited case and has found the following –

- 1-The project is contingent upon the applicant merging all 4 parcels involved and then subdividing into 2 parcels noted as Lot A and Lot B. The resultant Lot A is for this project.
- 2-The applicant provided a combined plan set and storm water plan with the Oneonta Bus Line project (2015-PB 16) to provide ease of review of the adjoining projects. The project storm water design spans both lots and requires the SWPPP and NOI/SPDES permit as provided by the applicant.
- 3-Provide a finalized signed/sealed plan set prior to obtaining a building permit.
- 4-The applicant shall assure that they provide and maintain the ADA accessible parking spaces, aisles, access routes, markings, slopes, and signage in accordance with ICC/ANSI, A117.1, 2009 (or latest revision) and the 2010 Building Code of the State of New York, Chapter 11 (or latest revision).
- 5-Reminder, the project parcel is within an aquifer Protection Zone 1 "Wellhead Protection Zone." The site currently complies with the associated Town Code Sec. 73-55, Attachment XII, "Schedule of Regulations – Wellhead Protection Zone" and shall continue to do so.
- 6-The landscaping, fencing, screening, and berms are as previously requested.
- 7-The applicant shall assure that landscaping is installed and maintained per the project plans.
- 8-The applicant shall submit a signage plan/application to the Town Ordinance Office for review and approval.
- 9-The project is subject to 239 Review by Broome County.
- 10-The project is a Type II action under SEQR and was previously reviewed with a recommendation of a "negative declaration" with NO conditions by the Environmental Review Board October 5, 2015.

He recommends approval of the site plan and a favorable advisory of the variance requests contingent upon any items noted above.

Broome County Planning has reviewed the above cited case and has not identified any significant countywide impacts associated with the proposed project; however they have the following comments which are similar to the comments provided on the preliminary plans that need to be addressed.

- They make no determination as to whether the applicants meet the four (4) tests of a use variance.
- The Town should ensure that the project would provide adequate aisle widths to accommodate the bus, pedestrians and motorists, and adequate space for pedestrians queuing to board the bus.
- Recommend the site plan include directional signage for entering and exiting the site.
- Site plan should include the oil storage tank location, waste collection vehicle loading area, and delivery truck loading and unloading area.
- Town should ensure that the project includes an appropriate spill prevention plan.
- Town should ensure that the project would not result in drainage and storm water runoff impacts to the adjacent properties.
- Town should ensure that the project would not result in light and glare impacts to the surrounding residences.

Broome County Health recommends the storage of used motor oil and batteries inside the building while they await pick up will help avoid contamination of soil and groundwater should there be an accidental spill.

- AUTOZONE PARTS INC. – Lot A – Kevin Murphy – 1365 – 1359 Upper Front St. – TM#’s 111.12-2-8, 111.12-2-7, 111.12-2-5.2, and 111.12-2-4 – Environmental Assessment Review – Adopt and File a “Negative Declaration”.

Mr. Phillips read the following correspondence.

Environmental Review Board finds that the proposed project AutoZone (Lot A) should not result in any major adverse impacts and may not cause any significant damage to the environment. They recommend that the Zoning Board as Lead Agency adopt and file a “Negative Declaration”.

Town Planning concurs with the ERB.

A motion was made by Mr. Ruston, seconded by Mr. Doolittle, and unanimously carried to adopt and file a “Negative Declaration” with the appropriate agencies.

ROLL CALL: AYES – 5 NAYS – 0

- ONEONTA BUS LINE – Lot B – Kevin Murphy for Jeremy Hilts – 1365-1359 Upper Front St. – TM#’s 111.12-2-8, 111.12-2-7, 111.12-2-5.2 and 111.12-2-4 – Environmental Assessment Review – Adopt and File a “Negative Declaration”.

Mr. Phillips read the following correspondence.

Environmental Review Board finds that the proposed project Oneonta Bus Line (Lot B) should not result in any major adverse impacts and may not cause any significant damage to the environment. They recommend that the Zoning Board as Lead Agency adopt and file a “Negative Declaration”.

Town Planning concurs with the ERB.

A motion was made by Mr. Doolittle, seconded by Mr. Waskie, and unanimously carried to adopt and file a “Negative Declaration” with the appropriate agencies.

ROLL CALL: AYES – 5 NAYS – 0

NEW BUSINESS

- DONALD J KNAPP – 368 Kattelville Rd. – TM#078.15-2-29 – Use Variance to convert an existing commercial building into a duplex in a NC zone.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for November 24, 2015.

A motion was made by Mr. Waskie, seconded by Mrs. Kinne, and unanimously carried to accept this application for Use Variance to convert an existing commercial building into a duplex in a NC zone.

ROLL CALL: AYES – 5 NAYS – 0

- JOSHUA B. BOND – 306 Ransom Rd. – TM#094.04-2-14 – Area Variance to allow an accessory building in front of the principal use 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 November 24, 2015.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, and unanimously carried to accept this application to allow an accessory building in front of the principal use in a residential zone.

ROLL CALL: AYES – 5 NAYS – 0

- JOHN J TREMARK III – 73 Grant Rd. – TM#111.12-6-18 – Use Variance to allow chickens 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 November 24, 2015.

A motion was made by Mr. Waskie, seconded by Mrs. Kinne, and unanimously carried to accept this application for Use Variance to allow chickens in a residential zone.

ROLL CALL: AYES – 5 NAYS – 0

VOTES ON PUBLIC HEARINGS

- KIMS KUTS & KURLS HAIR SALON – Kimberly Hayes – 1946 NYS Rte. 12 – TM#078.19-3-15.12 – Application for a Special Permit to operate a home occupation (hair salon) in an agricultural zone.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, and unanimously carried to approve this application for a Special Permit to operate a home occupation (hair salon) in an agricultural zone with the condition that Broome County Health Dept. ensure that no chemicals from the hair salon leach into the aquifer and neighboring wells. Health Dept. findings regarding this procedure need to be submitted to the Ordinance Office.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Doolittle – Most of the beauty salons have big round exhaust fans to get the chemicals in the air out. Are you going to put one on the side of your building?

Ms. Hayes – Didn't plan on it.

Mr. Doolittle – Is there an ordinance or regulation to say if that is necessary.

Ms. Hayes – They have them for nail salons due to the smell. She doesn't do nails.

Mr. Doolittle – If you ever do nails would it be on Mr. Kenyon's side?

Ms. Hayes – No and there is no plan of doing nails.

Mr. Phillips to Mr. Geisenhof – Is there a concern regarding the septic?

Mr. Geisenhof – Broome County does the design.

Mr. Phillips – Then it's been designed and approved. He'd like someone to add to their motion that the application is pending approval based on Broome County acceptance of the existing system.

Mr. Ruston – Since he made the motion he will amend his motion adding this condition.

Mr. Waskie – He is fine with the condition.

Ms. Kinne – Is the septic tied in with the veterinary?

Ms. Hayes – It's a brand new septic, was put in just before she purchased it.

Mr. Phillips – Compared to what was originally planned there barking dogs and numerous cats this seems pretty mellow; but the condition is important. Many years ago this Board approved Miss Judy's. It's commercial but is a very positive business and it still looks residential.

- AUTOZONE PARTS INC. – Lot A – Kevin Murphy – 1365 – 1359 Upper Front St. – TM#'s 111.12-2-8, 111.12-2-7, 111.12-2-5.2, and 111.12-2-4 – Application for a Double Use Variance to allow retail use in a residential zone and for commercial use (Bus Line) in a residential zone.

A motion was made by Mr. Doolittle, seconded by Mrs. Kinne, and unanimously carried to approve this application for a Double Use Variance to allow retail use in a residential zone and

for commercial use (Bus Line) in a residential zone with the condition that no vehicles be parked in the residential area or green area.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Phillips – Would like whoever makes the motion that they add the condition about vehicle spill over. Appreciated the extra effort Nathan did by relocating AutoZone and closing off the residential portion to traffic.

Mr. Doolittle – He has seen water puddle in the back and stay for a while. Who is supposed to handle that? Is that a County or Town fix?

Mr. Phillips – It's on their property. They will need to address that. That paving half of it will help get the water to the storm drains. Believes they will handle it.

Ms. Kinne – Believe they will be putting in a catch basin.

Mr. Kirschner – Is confused as to where the ponding is occurring.

Mr. Doolittle – The intersection of Bishop and Trafford.

Mr. Kirschner – The roadway?

Mr. Phillips – That's a Town issue not their issue. There is a ponding that occurs sometimes on the corner of the AutoZone lot. They will be grading the property so it won't be a problem.

Mr. Kirschner – Know the hearing is closed but is it okay to speak?

Mr. Phillips – Absolutely.

Mr. Kirschner – Are you talking about here pointing to the site map?

Mr. Doolittle – Yes. Not knowing how it's graded will it come into that property?

Mr. Kirschner – Some of the concerns that came up at the last hearing. Trafford Rd. itself has ponding. The applicants are not proposing a solution to these ponding issues. If it's draining onto the property, if it's collecting in this area (pointing on site map) it will remain and infiltrate. Neither the owner nor the applicant have concerns about that. There is positive drainage once you get on the site about halfway through the green space where everything is directed into the storm water system. It's accounted for in the design and all the proper calculations have been done. Really from this point forward everything will go to catch basins and there won't be any ponding.

Mr. Doolittle – The green space is for snow storage?

Mr. Kirschner – Snow and snow melt. Everything in the back pretty much stays the way that it is which is green area for filtration. Everything forward drains to catch basins and out to DOT's. Onsite ponding won't be an issue. Ponding that occurs on Trafford Rd. is outside of their analysis outside of the scope of the applicant; so if that's an issue the neighbors would need to bring that up with the DPW.

Mr. Doolittle – If their work enhances the ponding towards their homes that's not a nice thing.

Mr. Kirschner – This whole strip here (pointing to site map) is green and off their property. They are not proposing any work in that area; so they are not worsening the condition at all. This area will be disturbed and planted. The grading will not feed to it – it will feed away from it. The additional landscaping will actually help draw more water off the roadway. The vegetation will actually help soak up water.

Mr. Phillips – He just wanted to say to Nathan – his patience is hopefully going to be rewarded. They have been very open, attended Zoning Board meetings, Planning Board meetings, driving back and forth. This plan is acceptable.

Mr. Ruston – Feels the same. It's been a long haul and at the end of the day the product is better not only for the Town but for their client. Hope they feel the same way.

- ONEONTA BUS LINE – Lot B – Kevin Murphy for Jeremy Hilts – 1365-1359 Upper Front St. – TM#'s 111.12-2-8, 111.12-2-7, 111.12-2-5.2 and 111.12-2-4 – Application for a Use Variance to allow for commercial use (Bus Line) in a residential zone.

A motion was made by Mr. Doolittle, seconded by Mr. Waskie, and unanimously carried to approve this application for a Use Variance to allow for commercial use (Bus Line) in a residential zone with the condition that no vehicles be parked in the residential area or green area.

ROLL CALL: AYES – 5 NAYS – 0

Ms. Kinne – What happens to the bus line during construction? Are they going to continue during construction?

Mr. Kirschner – He believes the intent is to find an alternative location during construction. He doesn't know where the location will be. He knows on the route they have two other locations they do pick up and drop off from. They might consolidate to those two as it is necessary for the phasing of construction. That's not to say there won't be a point where they are putting up the

AutoZone building and the site work is done that they utilize the bus lot.

Mr. Phillips – If you look at the map really the only thing this needs for the use is the little turn-around area behind AutoZone. The parking itself is off of that and it doesn't require a use variance. A bus could pull in and back out and never encroach on the residential area.

Mr. Ruston – For the sake of discussion is there anything that prohibits parking on that street? There's no sign. Doesn't see how you can say you can't park there unless you have signs to say you can't. There are no signs now.

Mr. Doolittle – They would have to be put there.

Mr. Phillips – Can they address Mr. Kwartler to come up.

Mr. Ruston – Felt the concern was overflow parking on the AutoZone lot and behind AutoZone.

Mr. Phillips – Would rather see parking on the green area than on the roads.

Mr. Ruston – He agrees, but do you want to stop everybody from parking on Trafford Rd.? That's what we're doing.

Mr. Kirschner – If he may the current plan proposes the 4' chain link fence around the entirety of the rear property, but if he was taking the bus he wouldn't park on Trafford to walk down Trafford along Bishop. His understanding from previous discussions was the concerns about parking in the green space.

Mr. Doolittle – His concern is the parking on the streets but yet he doesn't want signs put up to prohibit the grandchildren from parking.

Mr. Ruston – Can't have it both ways.

Mr. Phillips – To answer your question there are no homes behind this property on Trafford. There are no homes as you come down along the laundromat. Those two little sections could be signed – No parking. Why don't we direct Mr. Kwartler as construction finishes that we have no parking in those sections.

Mr. Walls – You've got to have an Ordinance behind the parking.

Mr. Phillips – That's not us.

Mr. DiMascio – With all do respect you are not including the laundromat which has abundant parking and anybody would possible go there to park.

Mr. Phillips – That’s where they would go there first. So maybe we don’t need the signs – forget the signs.

Mr. Ruston – And forget the streets.

Mr. Phillips – Folks are going to report any encroachment to the Town.

Mr. Doolittle – He doesn’t feel comfortable with just leaving it. We’re saying let’s see what happens.

Mr. Ruston – The overflow is still valid. It’s just in regard to overflowing onto the streets.

Mr. Kirschner – Wanted to thank the Board once again. Wants to put it on the record it is not his patience, but it’s his wife that is being patient. Thank you for your time.

INTERPRETATION

- TOWN OF CHENANGO, Ordinance Office – Interpretation of setbacks to define if a deck or porch is considered part of the load bearing wall of the principal structure.

Mr. Phillips – Both the Ordinance Office and Town Engineer seem to have a little concern – a difference on setbacks. The question is when someone puts a deck or porch on does the measurement on encroachments in a requirement for a variance does it get measured from the foundation of the house or from the new deck or porch.

Mr. Geisenhof – Mike and he have a differing interpretation on it – that’s what the drawing is. This one explains it most clearly where you go to this table – 30’ setback. Thirty foot front yard setback nothing can be built in his opinion. Traditionally was handed down to him from Ron Keibel, he pointed out to Tom when he started, this building front line where it talks about the roof overhangs or projections, covered porches, and stuff like that. We were able to use that to allow people to put their front porch on and to come out. Never really had anybody abuse it, used it three times as far as he can remember. It gives a little freedom with the code guy to not send it to you every time someone wants to replace their porch or front step. They could go ahead and do it.

Mike believes nothing can be built in that 30’ and a lot of the houses are 30’ back and there’s the foundation. His code training over the years he learned there’s the table saying 30’ but the text is more powerful than table in interpretation as far as building code and local code as well. That’s where he is coming from, this gives us release, doesn’t think it’s anything abusive. Recently had one build a 6’ porch out and so there is still 24’.

Mr. Phillips – Let me ask a question – on new construction a raised ranch – the setback. There is usually a 2-3' overhang on the front of it where does the lot line get measured from?

Mr. Geisenhof – That's a really good question as he believes it would be the overhang.

Mr. DiMascio – But Tom doesn't it also say really from the load bearing wall in the Town's code.

Mr. Geisenhof – Right.

Mr. DiMascio – Than the roof overhang not by definition a load bearing structure only the foundation and the wall going up.

Mr. Geisenhof – It was clear in another Town where he worked, measure from the foundation. It's not clear here. Like he said he's used it three times in six and a half years to encroach on the 30' setback and they've all been small porches or decks, to let people get out of their house. Thinks this is a little safety valve for over where we were talking – Trafford. There are a lot of 50' lots, they don't have much room to do anything. It's just an interoffice thing that they want to clear up.

Mr. Waskie – How would you define the footprint of a house?

Mr. Ruston – In his mind he says it's the outside edge of the building and would count roof overhang. That's simplistic.

Mr. Phillips – That's why he asked the question about the raised ranch. Obviously he's not letting someone put in a 20' deck on the front of their house.

Mr. Waskie – In his opinion you look at the footprint of the house. Roof the whole nine yards around it and you create your red zone. Red zone being where your setbacks are and if it encroaches.....

Mr. Ruston – We think alike.

Mr. Phillips – So it's \$90 to come for a variance.

Mr. Doolittle – He thinks of his place put an addition on the back a very solid foundation. If anyone is measuring to a foundation they will go to that not the original foundation that was structured in 1929. Then you get someone that puts up lattice work over their deck or back room. Then someone could measure from the lattice work. Doesn't want to get into construction controls he doesn't know how to do it.

Mr. Geisenhof – When you have new construction, have larger lots can guide the people but with existing little lots they don't have room.

Mr. DiMascio – A comment he'd like to add – Mr. Urda had in his letter – he doesn't want to make this more complicated, but what would be a traditional stoop? 6'x 6'?

Mr. Geisenhof – Yea something like that.

Mr. DiMascio – So if you said 36 square feet as a thought process that you could consider allowing a maximum square footage.

Mr. Geisenhof – When he spoke with Alex he said Windsor's was 50 square feet.

Mr. Ruston – There was one item in his letter that struck him as interesting he mentioned what do you do about a bay window.

Mr. Phillips – If you do roof line a bay window is included. What do you do with handicap ramps? They go out 15' to 20' from the house. They are obviously encroaching.

Mr. DiMascio – They can only go to a 1-12 pitch to meet ADA.

Mr. Phillips – There appears to be two options – one we leave it in the hands here or two we consider a different footprint measurement. The third option would be to limit the size.

Mr. Geisenhof – To limit the size would be a new ordinance.

Mr. Phillips – We can differ it back to the Town Board if that's our recommendation.

Mr. Doolittle – He would rather make a decision and refer it back with their decision.

Mr. Ruston – Ariel view.

Mr. Geisenhof – That would make a lot of them 30' to the foundation non-compliant.

Mr. Phillips – Actually any house you pick on any street are non-conforming to today's standards of house lot size.

Mr. Waskie – Maybe leave it as is and case by case. His daughter was looking to buy a house in the Chenango Valley area. A lot of them are capes and small lots. New construction is clearly defined but old construction is what it is you can't change it. Leave it alone, have the Town Board review, and see if they want to change it.

Mr. Phillips – It doesn't give them answers of the dilemma in the Ordinance Office where Mike is of one opinion and Tom another.

Mr. Geisenhof – If you go by the photo that Mike wants to use and go back to the dotted line in this example here. Nothing can be built inside that. If that's what you decided that's what we will do moving forward, then could leave the definition for the projection of the roof overhang, if they flop over that line.

Mr. Phillips – What do you think of the idea, replacement of the existing at the same size requires no ordinance – no variance; but any increase in new structure it's footprint of the original supporting roof line. That leaves the discretion up to Tom if someone comes in replacing the existing stoop – fine no problem. Any new construction of an enlarge nature would trigger the....

Mr. Ruston – That's reasonable.

Mr. Waskie – That will work.

Mr. Geisenhof – But that has to be a change in the Ordinance or footnote.

Mr. Waskie – That is our recommendation for the Town Board to consider.

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 8:30 p.m.

Respectfully submitted,

Nancy Schnurbusch,
Recording Secretary