

ZONING BOARD MEETING
TUESDAY – OCTOBER 25, 2016
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 & Pandich

ALSO PRESENT: Donald G. Walls, Esq. – Town Attorney
Scott Russell, Ordinance Office
Jim DiMascio, Councilperson

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 27, 2016 Zoning Board Meeting.

A motion was made by Mr. Ruston, seconded by Mrs. Kinne, to approve the Minutes of the September 27, 2016 Regular Meeting.

PUBLIC HEARING

- HILLSIDE GARDEN CENTER, INC. – James & Lisa Hoteling – 751 Dimmock Hill Rd.
– TM#076.04-2-7.221 – Double Area Variance to construct an office building with less than required front yard setbacks from 50' to 20' and for an accessory structure (mulch bins) from 50' to 5'.

Mr. Walls conducted the Public Hearing. Assume you are a principle in this corporation – Hillside Garden Center.

Mr. Hoteling – Correct.

Mr. Walls – See you have several people associated with your venture. Do you want to make a formal presentation?

Mr. Hoteling – Yes.

Mr. Jacob von Mechow, Haas Landscape Architects – The site is located at 751 Dimmock Hill Rd. The parcel is on the corner of W. Chenango Rd. and Dimmock Hill Rd. The hi-lighted area is where the building will be located. The dotted black line indicates the property line. Along W. Chenango Rd. the majority of the road the property lines are close to the road. That changes at the corner where the intersection is there's almost 150' of additional county setback. Talked to various people at the county and they indicated that this is unusual. The original design – assumed the property line followed the road which was common elsewhere – it was later discovered that the boundary was a lot further back. Had already laid out the site and believed where the building was located was the optimal location. It is well screened from the roads and from surrounding properties. In order to limit the amount of alterations as it's already pretty level there and to have all of the existing trees remain where they are they are requesting the two variances so they can keep the plan as it is without making excessive changes.

They are asking for a 30' variance for the building because it is a corner lot – setbacks are to be 50' from the road from the property line because they are both considered front yards. They had initially believed that one of these was a side yard, wasn't until later that they were made aware that they were both in fact front yards, therefore, both have to have the 50' setback. The mulch bins have been interpreted as a permanent structure – asking for a five foot setback from the property line as opposed to 50' setback. Even with the variance there will still be considerable setback from the road more than 50' from the edge of the pavement. The mulch bins are located at the north edge of the property and this is a cross section showing the height of the mulch bins as they are set into the grate.

Mr. Hoteling – So there will only be a foot and a half that the mulch bins will be visible from W. Chenango Rd. if there was no screening, but they will have additional screening with plants.

Mr. Doolittle – So the mulch bins are 5' from the property line. Who owns the other?

Mr. Hoteling – Broome County. They have talked to the County to buy that small piece.

Mr. Walls – Are you going to move your entire operation from Front St.?

Mr. Hoteling – They are moving the landscape portion of the business.

Mr. Walls- Are you going to operate a similar at the Front St. location?

Mr. Hoteling – They are not anticipating doing a retail business there. They will be running the landscape part there. They will be growing and holding plants. It is not their intention to have customers come there to shop and buy.

Mr. Walls – No retail traffic but you will have deliveries.

Mr. Hoteling – Yes.

Mr. Walls – You will have regular hours of operation?

Mr. Hoteling – Not posted hours of operation but usually around 7 to 5ish.

Mr. Walls – In connection with the area variance there are criteria. One of them is that it won't have any adverse impact on the neighborhood. Can you give us what your impression is there?

Mr. Hoteling – If you are familiar with the business on Front St. trying to keep the property neat and planted. The intention here is to have the area behind the building well landscaped into a display garden and down the W. Chenango side very well planted. Visually they want people that do business with them to look at that and say wow I like that I want to do business with these people. They won't have a lot of equipment lying around.

Mr. Walls – So this operation will be compatible with the present use up there. The area is pretty rural at least on that side.

Mr. Hoteling – Yes.

Mr. Walls – Is there anyway you could relocate the buildings to come into compliance with the zoning ordinance without substantial hardship?

Mr. Hoteling – Not without taking some major trees down plus a lot of grading there and changing the character of place. His wife is a co-owner and she has already said that certain trees will stay.

Mr. Walls – The print is pretty comprehensive. Any comments from the audience?

Ms. Jan Houlihan, 711 Dimmock Hill Rd. – Just curious as they received a postcard. She thought 5' was not very much. The intersection – it's a terrible intersection – will anything interfere with view as cars come up both sides of the hill fast. Wants to make sure there is no obstructions. Didn't know there was going to be a business there. Landscapers start early and if there are deliveries and trucks that's going to be a lot of noise. Dimmock Hill – people use that to get to Johnson City and Vestal. A lot of traffic and noise already she is not interested in more.

Mr. Walls – Would you like to answer her comment?

Mr. Hoteling – First of all the actual building is about 120-150' away from the road – for a visual. The buffer zone the county land gives you that.

Ms. Houlihan – Did you say you were in negotiations to buy that? So if you were to buy that would you put something there?

Mr. Hoteling – Once the building is there he wouldn't change that. At one point they discussed purchasing and are agreeable to it. Met with county officials about the logistics of trying to get all of that done in a timely manner and costs involved they figured it would be easier to get this done first. They would not be moving anything closer to the road.

Ms. Houlihan – How about the noise from trucks and deliveries? Your people coming back and forth.

Mr. Hoteling – Usually trucks are going out of there about 7:30. He's up there quite often at that time. W. Chenango Road is a busy road that time of day anyway.

Ms. Houlihan – She's not on W. Chenango she's on Dimmock Hill.

Mr. Michael Haas, Principle of Haas Architects – They created the site plan. There's a considerable slope off of Dimmock Hill Rd. and there is already a bit of a cut into that slope where this building is going to be set into. It will have a gable roof on it. Primarily what you will see from the road is the roof. The earth of the slope as well as the landscaping and the building will help buffer any noise in the area where they will be loading materials.

Ms. Houlihan – She's worried about the traffic. She's far enough behind and down the hill she won't hear the noise.

Mr. Haas – The existing driveway is the only way in or out of the site that they will use. Again there is a generous buffer – there are large sugar maple trees on the Dimmock Hill Rd. side so there will be some activity but the sight lines are very good on Dimmock Hill. Obviously they are not doing anything at the intersection on W. Chenango. In fact this part of the sight is raised 8-10' off of W. Chenango Rd. Anything that would be built here really wouldn't obstruct the view. The slope alongside of the road is enough to cut your line of sight. They have a letter from Broom County they want to submit for the record – short letter.

Mr. Phillips – They actually have this letter.

Mr. Walls – Anyone else present that would like to make comment on this application? The Public Hearing was closed.

Mr. Russell, Ordinance Office recommends approval of this project with a building permit being required.

Mr. Waskie – Assuming on the property you will have loader, skid steer, backhoe. Will they be inside the building?

Mr. Hoteling – No they will be outside for the most part.

Mr. Waskie – Regarding the mulch will you be making it with a chipper or will you truck it in?

Mr. Hoteling – No they will bring in bulk mulch.

Mr. Waskie – Project debris is any coming back to the site? For example vegetation or stumps?

Mr. Hoteling – Not going to be disposed of on the site. They have arrangements that they dump at other sites.

Mr. Waskie – Regarding the noise issues the hours of operation you're staying with 7-5. He has a retention pond down from his property and the town has been working on it this past week. At 7:05 in the morning he hears the backup alarms on the loaders and dump trucks going off before his second cup of coffee. It gets a little irritating. Just saying if you load the night before the job to get it ready – just something to be aware of. As the sound does resonate throughout – beepers can be a little annoying.

Mr. Hoteling – Other than the O'Neil's who live across the road and they have the buffer of trees there no one else is anywhere close to the property. On the other side of the property there's evergreen trees and horse barn.

Mr. Doolittle – Assuming that the letter from Robert Behnke is a letter of concurrence with the entire operation?

Mr. Haas – The letter that was just submitted to you from the attorney's office – Pete DeWind, Sr. Assistant County Attorney – they understand that the R.O.W. is wide. The county does not object to the plan allowing planting near or even within that area of the County Highway Department R.O.W. That was something that was discussed being a landscape business would they be allowed to plant a few trees in that R.O.W. and the county did not object to that.

Mr. Doolittle – does this letter – a letter of complete concurrence from the county with Hillside on this project.

Mr. Haas – Yes.

Ms. Kinne – The septic system is it already present there?

Mr. Hoteling – No it will be built.

Ms. Kinne – Will the barn be connected to it?

Mr. Hoteling – Yes it will.

Mr. Phillips – So this should reduce the amount of traffic in/out of the Front St. lot?

Mr. Hoteling – From the safety standpoint of the machines coming and going that will eliminate that potential traffic.

Mr. Phillips – What is the intent for the upper lot?

Mr. Hoteling – Ultimately it will be available if someone wants to lease it or buy it.

Mr. Phillips- So you don't anticipate storing mulch.

Mr. Hoteling – They will probably be using it for the next year or so until everything gets settled. It will still be used for a short period of time. We've all visited the property and it's a nice use for that site. Doesn't think the traffic or noise will be a problem.

Mr. Phillips read the following correspondence.

Urda Engineering has reviewed the application and does not find it to be injurious to the neighborhood as the variances are a result of an abnormal right-of-way depth uncontrolled by the landowner. Project approval is recommended.

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

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 – The ZBA should determine whether a gravel parking lot would be handicapped accessible and the project should include a dumpster enclosure.

BMTS has no comment.

Broome County Health Dept. proposed building will need to obtain a permit to build the septic system.

Drainage Coordinator recommends approval.

Broome County DPW has reviewed the application – it appears that the applicant has not proposed to modify the existing County Right-of-Way and there are no additional apparent proposed impacts to County-Owned facilities. They do not have any opposition to the project.

VOTES ON PUBLIC HEARING

- HILLSIDE GARDEN CENTER, INC. – James & Lisa Hoteling – 751 Dimmock Hill Rd.
– TM#076.04-2-7.221 – Double Area Variance to construct an office building with less than required front yard setbacks from 50’ to 20’ and for an accessory structure (mulch bins) from 50’ to 5’.

A motion was made by Mr. Doolittle, seconded by Mr. Ruston, to approve this application for a Double Area Variance to construct an office building with less than required front yard setbacks from 50’ to 20’ and for an accessory structure (mulch bins) from 50’ to 5’.

ROLL CALL: AYES – 5 NAYS – 0

ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Waskie, and seconded by Mr. Ruston to adjourn the meeting at 7:30 p.m.

Respectfully submitted,

Nancy Schnurbusch,
Recording Secretary