

**Zoning Board Public Hearing
3-9-2022**

Members Present: Chairman Dustin Geiger, Mark Connolly, Scott Hulburt, Amy McMahon, Heather Nagel (alt 2022)

Absent: Charity Donnan

Others: Donna Falkner, Kurt Richenberg, Jim Campbell, Esq. Carl Peter, Joe McIlroy, Tim Boyle, Sean Hopkins, Esq., Davies Nagel, Blaine VanRy, Grayce McLoughlin, Chris Geiger, Martha & Ned Edmonds, Becky Lewis, Celia Lewis

7 pm – Chairman Geiger opened the meeting with pledge to the flag. He then opened the public hearing by reading the ad.

Town of York Zoning Board of Appeals

Public Hearing

On **Wednesday, March 9, 2022**, at 7:00 p.m. at the York Town Hall, the Zoning Board of Appeals will hold a public hearing to discuss an area variance for two rows of parking spaces on two sides for the York Travel Center. All are welcome.

Donna Falkner
Zoning Board of Appeals Clerk
2/16/2022q

Mr. Geiger than asked Mr. Hopkins and Mr. Boyle to present their request.

Mr. Hopkins presented the Travel Center project on the corner of Rt. 63 and Rt. 36, which includes a 6,600 sq. ft. retail building (convenience store) with fuel pump canopy and various parking and ingress/egress as reviewed and recommended by the NYS Department of Transportation. The proposed project also includes improvements for overnight truck parking at the rear of the proposed building. Mr. Boyle stated there would be sidewalks at the intersection with a striped crosswalk. The NYS Department of Transportation found no negative impacts from a traffic standpoint. Attorney Hopkins said there were twenty-seven parking spaces for trucks in the back of the building and that he believed the project to be consistent with Comprehensive Plan. There is proposed a Tim Horton's drive through and Bank of Castile kiosk. The variance request is related to the proposed parking layout that includes two (2) rows of parking in front of the building, between the building and the right-of-way (and a similar situation in the rear with the truck parking, even though Applicant thinks that situation probably does not require a variance) which is in violation of §519. F. (4) of the Zoning Code. The second row of trucks is well behind the building. The Applicant's plans show various landscaping along Genesee Street and Main Street. Mr. Boyle said the owners also wanted to create a memorial for veterans somewhere on the property. Attorney Hopkins said the board could not vote tonight because SEQR has to be completed before any action can be taken and the Planning Board has sought Lead Agency status for purposes of conducting the SEQR review. Attorney Hopkins also went through the five (5) criteria necessary for granting an area variance as contained in the Town of York Zoning Code and New York State Town Law §267- B 3. (b). Attorney Hopkins stated that he believes the benefits are quite clear. The Applicant needs two (2) rows of parking in front for people, especially women, to feel safe when entering or leaving the store at night,

as opposed to parking out back of the store. Customers prefer to be able to look out window at their car to see that it is safe to exit the store and go to their car. There will be an additional row of parking on the side. Tractor trailers are well back with dense landscaping.

Attorney Hopkins continued with a review of the five criteria for an area variance:

Criteria for area variance and answers given by Attorney Hopkins on behalf of Applicant

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
Not a detriment to the community
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
Does not make sense to push the parking to the back for safety reasons discussed.
3. Whether the requested area variance is substantial.
Not substantial according to state law
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
No negative impact on the neighborhood or the zoning district
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.
It may be self-created but it makes sense the way parking is laid out. Elevation of previous layout has changed slightly.

Mr. Geiger asked the board for questions.

Mrs. Nagel asked if the trail would be part of the project. Attorney Hopkins replied that it was included.

Mr. Connolly asked where the cross walks go, impression it is to back of lot. Applicant responded by showing on map.

Mr. Boyle said there was an environmental condition on the other corner with oil saturation that may close them down, need to get tanks out of the ground and remove 2500 ton of impacted soil. Asked for suggestions for what would work best on that corner.

Ms. McMahon – Has the next-door parcel been purchased from Patricia Ryan – Yes, it is under contract.

Mr. Hulburt asked if the gazebo in back would be the trail access point. Mr. Boyle replied yes.

Mr. Boyle said the gazebo is a point of joining with other trails, committed to access trail with benches and kiosk with information.

Mr. Hulburt replied so people would have to walk across truck lot to get there. Mr. Boyle said or they can go through the green space. He said Joe Bucci and Greg O'Connell have been working on the trail part. Mr. Nagel asked them to ask Joe to contact the town trail committee.

Chairman Geiger opened public comments and requested they keep it on topic of variance and allowing each 3 minutes.

Ms. McLoughlin asked how they calculated the double row parking. Will there be enough room for landscaping? Is concerned about pedestrian safety and the school. She mentioned traffic impact study as of 1/31/21, section 11, page 10 regarding a perceptible gap. Mr. Boyle said the car entrance was separate from truck entrance and the traffic study had no negative impact.

Chairman Geiger said we need to get back on track

Ms. Lewis – concern for pedestrians who have gotten to sidewalk and must cross parking areas and fueling areas. Seemed to be lot of congestion. If they moved some of the truck spots would give more car parking in the rear.

Mrs. Edmonds – 2 rows of parking between building and 63 – row of about ten spaces near building, some handicapped. Asked board to refuse variance and change parking. We are stewards of the land.

Mr. Nagel turned in two articles regarding traffic congestion and parking lots waste of space. He said that Becky and he co-chair the Trail Committee and have not spoken with Joe Bucci or Greg O’Connell and asked Attorney Hopkins to please tell them to contact them.

Ms. McLoughlin asked if the property next door that they purchased will remain residential. Mr. Boyle said the resident will be allowed to remain in her home.

Mr. Edmonds said it did not seem necessary for them to purchase it. Why is it relevant?

Mr. VanRy – said that most of the ZBA members are new to this proposal and there was a new drawing tonight. We have existing laws in town regarding what is best for its residents. They could go back and change the plan but hoping the board will approve. Maybe if there were a back entrance people would be more acceptive of the project. We are going to end up with something that does not fit our town. Ordinance is there for a reason, seems arrogant and unnecessary and will impact the people. In the middle of the parking lot are fuel pumps.

Mrs. Edmonds – doesn’t Tim Hortons have to have two entrances? Mr. Boyle said there are two entrances.

Ms. Celia Lewis – Tim Hortons will be a big draw for students and many young people from school will go. Mr. Boyle said that is why the owners are willing to spend lots of money making it safe to improve traffic and pedestrian movement conditions that existed long before the proposed project and that Applicant will be spending more than \$100,000 to make those improvements.

Mr. Richenberg – there is a need for people in the parking lot to feel safe. Is there any language in the code about “feeling safe”? Consider that language and definition of what it really means here tonight.

Attorney Hopkins reminded everyone that we are here tonight about where the parking spots are, nothing to do with the number. Mr. Boyle said female customers request more parking in the front of the store so they can look out and see their vehicles because they feel safer. Landscaping trucks using the facility will park in back. Attorney Hopkins said that the variance request is related to location, not number of spaces and that he believes the only place needing a variance is in front and that with granting the variance, putting in adequate landscaping will not be a problem.

Mr. Richenberg asked how you determine use or area variance. If spaces were not there, would it be used for something else. Attorney Campbell said the use is parking and does not change but it is an area variance because they are requesting two (2) rows vs. one that is permitted by the Code.

Mr. Peter said a use variance is what it is used for, area variance deals with what is on the property and codes.

Mrs. Edmonds went to the map and asked how the traffic moves and was in discussion with Attorney Hopkins and Mr. Boyle.

Ms. McMahon said that in summer months there would be campers, why are there not spots angled to the open area. Mr. Boyle said they based it on the way tractor trailers move. She asked if all the spots were needed? Mr. Boyle said you cannot restrict RV's or landscapers from the car parking but can discourage it.

Mr. Hulburt asked about charging stations. Mr. Boyle said charging stations are not economically feasible at this point but that they did consider. There are currently lots of grants to install them but operators cannot make money on selling the electric to recover the cost of installation, which requires an electric service similar in size to a Loews store.

Mr. VanRy asked if Dollar General had to have a variance. Mr. Peter said Dollar General got a permit three weeks before Zoning was adopted.

Mr. Boyle said that he spent 25 years making traffic and parking corrections to sites for these types of facilities and there will unavoidably be occasional bumps and dings.

Mr. VanRy asked does not Dollar General have exit on sixty-three? Travel Center has two on thirty-six and two on sixty-three.

Mr. Boyle said we are taking business from one corner to the other. NYS Dept of Transportation and Livingston County Planning says the project will result in no negative impact.

Mr. Geiger said Dollar General was denied access on sixty-three by DOT because of the closeness to Retsof Rd.

Mr. Boyle said the NYS DOT had a lot of input. Mrs. Edmonds asked if DOT would put in a turning lane and Mr. Boyle answered no.

Ms. Becky Lewis asked where they would move the parking to if you do not get variance for two rows. Mr. Boyle has not considered that option at this point.

Mr. Richenberg asked how long the hearing would be kept open.

Attorney Campbell said this board cannot take action until the SEQR is done by the Planning Board.

Mr. Richenberg said so people will know how SEQR turns out.

Attorney Hopkins said applicant waives any statutory timelines for approval.

Mr. Geiger is interested in what the County comes back with regarding vertical parking.

Attorney Campbell – County will be reviewing tomorrow night.

Mr. Geiger asked for a motion regarding leaving the hearing open.

Resolution:

Mr. Hulburt moved to leave the public hearing open for written comments until our next meeting on a date to be determined, at which time the Zoning Board of Appeals will determine if additional verbal comments will be accepted, seconded by Mr. Connolly, carried.

Ayes – 4 Nays – 0

Mr. Geiger asked for a motion to allow Planning Board to be lead agency.

Resolution:

Mr. Connolly moved that the York Planning Board be lead agency in SEQR process, Mr. Hulburt seconded, carried.

Ayes – 4 Nays – 0

Dustin asked for a motion to approve January minutes.

Resolution:

Ms. McMahon moved to approve January 19, 2022, minutes, Mr. Geiger seconded, carried.

Ayes – 4 Nays - 0

Discussion regarding the ZBA application form upgrade, should be fillable PDF on town website. Mr. Connolly said what drives the referral process should also be included. Will adopt at our board level.

Discussion about meeting schedule. Should set meetings (like Planning Board does) outside of public hearings and post. Second Wednesdays (open on hall calendar) but need to check with Mrs. Donnan if good for her.

Resolution:

Mr. Hulburt moved to adjourn at 8:34 pm, Mr. Geiger seconded, carried.

Ayes – 4 Nays - 0

Respectfully submitted,
Donna K. Falkner