

**Zoning Board Hearing Continuation & Meeting
7-13-2022**

Members Present: Chairman Dustin Geiger, Charity Donnan, Scott Hulburt

Others: Donna Falkner, Carl Peter, James Campbell, Esq., Sean Hopkins, Esq., Tim Boyle, Joe McIlroy, Davies Nagel, Frank Rose Jr.

6:30 pm – Chairman Geiger opened the public hearing continuation meeting and read the ad:

**TOWN OF YORK
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Code of the Town of York, and pursuant to New York State Town Law, that a continuation of both public hearings shall be held by the Zoning Board of Appeals of the Town of York at the Town of York Town Hall, located at 2668 Main Street, York, New York at 6:30 p.m. on Wednesday, July 13, 2022, for the purpose of considering public opinion and comment about or concerning the following:

To conclude Coles Milling & Grain Area Variance and the Travel Center Variance

A copy of the application materials and other relevant submissions are available for review by the public are posted on the Town's official website at www.yorkny.org.

All interested persons are invited to appear and be heard at the aforesaid time and place.

Dated: June 16, 2022

By Order of the Planning Board of the Town of York
Donna Falkner – Planning Board Clerk

Travel Center – Mr. Geiger asked for Applicant to provide a brief update on the Travel Center project.

Mr. Hopkins handed out completed plans, new rendering email from Mr. Brabant saying he had completed his review July 8. He continued:

- March 9 -updated landscaping plan
- March 10 – County Planning Board recommended approval
- March 12 – updated plans went to the Planning Board, eliminated some parking, extended recreation trails, tree clearing plan
- March 23 – provided list of trees (on map)
- They have acquired 2251 Genesee St. which will be merged and incorporated into the larger parcel to provide parking for the trails.

- June 13 – County had no recommendation because of no quorum but they had already approved it on March 10
- June 22 – Planning Board completed SEQR and issued a Negative Declaration; storm water facilities are developed to accommodate a 100 year flood event; pedestrian improvements
- Need for area variance is about the priority of providing parking near the front of the store for safety and handicapped. There will be additional parking in rear.

Mr. Hopkins went through the area variance considerations and answered as they perceived them:

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. **NO**
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. **NO**
3. Whether the requested area variance is substantial. **NO**
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. **NO**
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. **YES**, but this cannot be sole decision.

Mr. Geiger asked if there were any public comments?

Mr. Nagle gave Mr. Giger more articles on parking spaces in urban areas – many cities are reducing large areas of parking because it does not provide the economic benefit desired.

Mr. Hopkins – we need these spaces to keep from having problems.

Mrs. Donnan – parking is kind of a concern and has been an issue for several business in the area.

Mr. Hopkins – There will be 34 parking spaces in the front to serve the store and there are designated spaces for larger vehicles in the back. The biggest concern was landscaping at the March 9 public hearing.

Resolution:

After Mr. Geiger asked for any additional public comments and there were none, Mr. Hulburt moved to close the public hearing for the Travel Center, Mrs. Donnan seconded, carried.

Aye – 3 Nay - 0

York Milling – Mr. Geiger asked for comments on the York Milling height variance? There were none.

Resolution:

Mr. Hulburt moved to close the York Milling Public Hearing, Mr. Geiger seconded, carried.

Aye – 3 Nay – 0

Resolution:

Mr. Hulburt moved to open the Zoning Board of Appeals meeting at 6:50 pm, Mr. Geiger seconded, carried.

Aye – 3 Nay -0

Mr. Geiger led the Pledge.

Resolution:

Mr. Geiger moved to approve the May 31, 2022, minutes, Mrs. Donnan seconded, carried.

Aye – 3 Nay – 0

Old Business

York Milling – area variance up to 80 feet, present height is 50 feet. Board consensus there is no problem. Mr. Campbell said we don’t need SEQR. Mr. McIlroy said the Planning Board did the SEQR as part of its coordinated review. Mr. Campbell suggested the Board review the criteria for an area variance.

- 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. Consensus of the Board: **NO**
- 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. Consensus of the Board: **NO**
- 3.** Whether the requested area variance is substantial. Consensus of the Board: **NO**
- 4.** Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Consensus of the Board: **NO**
- 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.
Consensus of the Board: **YES, self-created**

Resolution:

Mr. Hulburt moved to grant the area variance, conditioned on the Planning Board granting approval of site plan, Mr. Geiger seconded, carried.

Aye – 3 Nay -0

York Travel Center – Mr. Geiger asked if the board had any questions?

Mr. Hulburt and Mr. Geiger didn’t see a problem with the requested area variance. Both indicated they would rather have adequate parking near the front of the building instead of double row in back. Mr. Geiger also suggested that any approval of the area variance request would have to be contingent on Planning Board approval of site plan and special use permit requested of the Planning Board. SEQR was completed by the Planning Board as part of a coordinated review and resulted in the issuance of a negative declaration. Mr. Geiger led the Board through a discussion of the criteria for an area variance:

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. Consensus of the Board: **NO**
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. Consensus of the Board: **NO**
3. Whether the requested area variance is substantial. Consensus of the Board: **NO** – The Board felt that the requested area variance was not substantial in relationship to the whole project and noted that other businesses in the area utilize multiple rows of parking in front of their establishments.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Consensus of the Board: **NO** – The Board felt that any adverse impact that may have occurred as a result of granting of the variance will be adequately mitigated by the additional landscaping that the Applicant has included in the revisions to the site plan. The Board acknowledged the concerns shared by Dave Nagle regarding large areas of concrete or paving for parking but thought that the need for adequate parking was important and any potential negative impacts will be outweighed. The Board did not feel that the parking area proposed, including the double rows, was too large for the project. They would rather see that parking where it is proposed to be located, rather than on another part of the site.
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.
Consensus of the Board: **YES** - The Board believes the alleged difficulty is self-created, but that does not outweigh the justification for the variance request.

Mr. Geiger asked the Board if they had any other thoughts, comments or questions. Mr. Geiger indicated that he agreed with Mr. Nagle’s articles about massive parking lots but doesn’t see an extra row being a problem and that it is a better solution than potential parking on the road if there is not adequate parking on site. After no further comments, Mr. Geiger asked how the board would like to proceed.

Resolution:

Mr. Hulburt moved to approve the area variance as requested, conditioned on the Planning Board granting site plan approval and special use permit approval, Mrs. Donnan seconded, carried.

Aye – 3 Nay – 0

The Board had a brief discussion on the proposed new application format.

Resolution:

Mr. Geiger moved to adopt the new application for Zoning Board and put it on the website, Mrs. Donnan seconded, carried.

Aye – 3 Nay- 0

Mr. Geiger asked the board to think about setting meeting dates.

New Business

Frank Rose, Jr. - Mr. Rose said he received a grant from the county to refurbish Rose's Grill. He's in the process of getting a building permit. The Grill last operated in 1993. Wants to add a porch on the front so he will need an area variance. Mr. McIlroy said he'll need a special use permit and site plan. Mr. Geiger said send complete application to Planning Board and we could schedule a public hearing for variance. Mr. Rose said he was proposing a 3 foot wider porch than what was there before and it was 33 ft. from center line. Mr. Peter said the right of way should be on deed. Mr. Geiger gave Mr. Rose a copy of the new application. He will get completed application to Mr. McIlroy by Friday for the meeting on the 20th.

Resolution:

Mr. Hulburt moved to adjourn at 7:17 pm, Mr. Geiger seconded, carried.

Aye- 3 Nay - 0

Respectfully submitted,
Donna K. Falkner