

ZONING BOARD MEETING
TUESDAY – DECEMBER 19, 2017
ZONING BOARD
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12
BINGHAMTON – NEW YORK – 13901

PRESENT: Mr. Donald Phillips, Chairman
Messrs. Ruston, Waskie, & Smith
Mrs. Kinne & Pandich

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

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 November 28, 2017 Zoning Board Meeting.

A motion was made by Mrs. Kinne, seconded by Mr. Waskie to approve the Minutes of the November 28, 2017 Regular Meeting.

PUBLIC HEARING

- HOFFMAN DEVELOPMENT CORP. – 1261 Upper Front St. – TM#111.16-1-34 – Application for a Triple Area Variance to construct a car wash with less than required acreage from 6 acres to 1.07 acres, road frontage from 350' to 150.19' and lot depth from 450' to 302.61'. Use Variance for a car wash not expressly permitted in the PDD-C zone. Short Environmental Assessment Form to assume "Lead Agency" and Determination of Significance.

Mr. Walls conducted the Public Hearing.

Mr. Walls – Who on behalf of Hoffman is going to present? While they are setting up he'd like to remark that they have a lot of data that was already given them, but to refresh the Board and members of the public please give them a brief overview of the project including the construction, operation traffic, and impact on Front St. Then we'll talk about the criteria that this Board must find in order to grant the area and use variances.

Mr. Christopher Stastny, Project Engineer, Griffiths Engineering, LLC. – What they are proposing is at the existing Ponderosa on Upper Front St. – plan on demolishing the building and build a tunnel car wash with vacuum stations. This is a plan view of the layout of the site. Building would be located central of the site with one way in around the car wash and one way out and vacuum bays along the south side of the building.

Currently the site as it stands right now is smaller than what's required under the current zoning. That's why they are looking for the variances regarding the lot size. The use variance as the car wash use is not specifically called out as a permitted use.

On this board there is a rendering of the proposed building would look like. They did present to the Planning Board last week information and based on the 239 comments they have been addressing those with the Town. Traffic impact assessment done for the proposed car wash and basically it was indicated they had minimal impact to the traffic. They have a report they will be presenting to the DOT for the driveway openings.

Mr. Walls – You say that's a rendering of the proposed building. Will there be any other uses in that building?

Mr. Stastny – No.

Mr. Walls – Can you tell them how many cars will go through there in a course of a day?

Mr. Tom Hoffman, Jr. – About one hundred cars an hour. So on a sunny day there could be as many as one thousand cars.

Mr. Walls – What hours are you going to operate?

Mr. Hoffman, Jr. – Typically from 8 a.m. to 7 p.m. this time of year and during the summer months they shift the closing hours to 8 p.m. What's unique about a car wash is during rush hour traffic in the morning they are not very busy and the volume seems to peak midday and at the end of the evening especially this time of year when it's dark out the volume drops off dramatically – very slow during rush hour.

Mr. Walls – How many employees will you have?

Mr. Hoffman, Jr. – Approximately five to eight and that's total employment. During the busy times for the whole week three to five.

Mr. Walls – How many days during the week do you operate?

Mr. Hoffman, Jr. – Everyday seven days a week.

Mr. Walls – Do you have any traffic controls for people exiting onto Front St.?

Mr. Hoffman, Jr. – There are no traffic lights in that area.

Mr. Stastny – When the traffic impact assessment was done they also did a gap analysis for the gaps of traffic that would occur on Front St. The report indicates there are sufficient gaps in traffic on Front St. There should not be any problems with entering or making left hand turns out of the car wash.

Mr. Walls – What is the average gap time say during peak hours?

Mr. Stastny – Give me a minute to find it in the report.

Mr. Hoffman, Jr. – What's nice is there are traffic signals on each side of them and it creates gaps during the day.

Mr. Walls – Think it was in the traffic study...

Mr. Phillips – From the time you go from the back to front how long is that?

Mr. Hoffman Jr. – Could be as little as four to five minutes.

Mr. Phillips – Depending on what wash they select?

Mr. Hoffman, Jr. – No it takes approximately four to five minutes to go through the process once the car starts moving through the facility.

Mr. Walls – Will the building be illuminated?

Mr. Hoffman, Jr. – Yes.

Mr. Walls – Is that the only sign?

Mr. Hoffman, Jr. – Will have a low podium sign for a street sign.

Mr. Walls – Freestanding?

Mr. Marty Andrews, Director of Facilities – Yes a monument sign.

Mr. Walls – Regarding the average gap time – the traffic assessment is very detailed can you give us your best estimate?

Mr. Stastny – It's tough to average – the summary might give us what you are looking for. Based on the gap data analysis, there are sufficient gaps in traffic to accommodate over 450 vehicles turning right onto Upper Front St. from the site driveway or left into the site during both peak hours. There are sufficient gaps to allow for approximately 110 vehicles turning left out of the site during both peak hours. These available gaps in traffic are very conservative in that they do not account for the two travel lanes in each direction or the center left turn lane. For example, a right turning vehicle actually only requires a gap in the outside southbound lane to turn out of the site. The gap review only recorded gaps that occurred in both southbound travel lanes simultaneously. So they took a conservative approach making sure both lanes southbound were clear when they were doing the gap analysis. So if you look at the table in the actual report that does a study that breaks it down vehicle by vehicle it's tough to actually average it out because there are different varying gap lengths in there – anywhere from 6-9 seconds all the way up to 30 seconds.

Mr. Walls – With respect to the area variance – the depth, the width, and frontage. Have you considered any alternative were you might meet the criteria of the Ordinance? Could you modify the plans or reasonably carry out the project without destroying the whole concept?

Mr. Stastny – Actually the problem is the site size it's too small based on the dimensions that are required for the lots in the PDD-C district. Can meet the offset requirements from the property lines but the overall size of the property is smaller than what is currently required. If a new parcel were to be developed in a PDD-C they would require a larger size. These apparently were lots that were created before the PDD-C zoning was set up. They are all sub-standard size lots.

Mr. Walls – As a practical matter there's no other adjacent property to purchase to come into compliance?

Mr. Hoffman, Jr. – No Wendy's is on one side and the car dealer on the other side.

Mr. Andrews – They are existing businesses.

Mr. Walls – You are aware there are certain criteria the statute requires this Board to consider for granting an area variance, for example, as to whether the change is going to be undesirable as far as the neighborhood is concerned. The neighborhood is pretty much commercial. You think it's consistent with other operations there?

Mr. Stastny – Yes.

Mr. Walls – Will there be any adverse effects on the environment as a result of the volume, hours of operation and so forth?

Mr. Andrews – A car wash works really nice on busy streets because they are not busy during rush hour traffic. Won't add any traffic congestion that may occur on the drive to work or the drive back home as they are significantly slower during rush hour traffic.

Mr. Walls – What else would you like to tell the Board?

Mr. Hoffman, Jr. – Obviously the Ponderosa has been closed for years. Being able to improve the community. The new location on the Vestal Parkway will probably have the most landscaping and well maintained on the strip.

Mr. Walls – Landscaping will be part of your design?

Mr. Hoffman, Jr. – Yes.

Mr. Phillips – You will have that much green area?

Mr. Stastny – Yes putting more green area in as much of the parcel is paved – between the building and asphalt lot. They do have opportunities adjacent to the building and some of the outlying areas to put green space back in there and also in the front area along the roadway.

Mr. Hoffman, Jr. – They will also install irrigation, fertilize – they plant everything themselves as they have their own greenhouses.

Mr. Walls – The neutral color will be as depicted?

Mr. Andrews – Yes very close to that. It will be a darker color block on the bottom and then a white block – split face. They have a building very similar which is open in Saratoga Springs, NY. They had a design committee that looked at it and they received rave reviews.

Mr. Walls – How about commercial traffic, deliveries, and things like that: Do you have a lot of that?

Mr. Hoffman, Jr. – They have some supplies that come and that's usually during slow times. Barrels of washing solution, hot wax, etc. That's the only big delivery they have and it's once every two or three weeks.

Mr. Andrews – It's usually a box truck not a tractor trailer.

Mr. Walls – How many parking spaces for your employees?

Mr. Stastny – There are five parking spaces at the rear, which are specifically for the employees. Parking along the side is for the vacuum stations.

Mr. Walls – On the vacuum station do you get backlogged for people waiting?

Mr. Hoffman, Jr. – What usually happens is people pulling in to get a car wash there are spaces available they may choose to occupy space, they are not required to vacuum their car, and they may choose a different time.

Mr. Walls – As he reads the information the vacuum service is for nothing and that attracts customers.

Mr. Hoffman, Jr. – They have facilities in Amsterdam, Troy, and Saratoga all in New York. They never have a backup causing any traffic problems. They wouldn't be doing it – they would design a better facility if there was a problem. It's like when there is a gas station full, people will choose to get gas another time. They are not a trip generator people are on their way to the market or shopping around town.

Mr. Walls – There are some residences in the general area. What's your experience with the noise?

Mr. Hoffman, Jr. – There are no residences in the immediate area – all commercial. Behind them is the highway – no noise issues with homeowners.

Mr. Walls – Going to turn it back to the Board for questions.

Mr. Phillips – Please explain the shanty on top of the building. Just aesthetics – he likes it.

Mr. Hoffman, Jr. – Just an architectural feature.

Mrs. Kinne – Is that within the height?

Mr. Stastny – Yes.

Mr. Waskie – Will you be using porous pavement?

Mr. Stastny – Doesn't need - just paved.

Mrs. Kinne – Would it be possible to do screening along the side by Wendy's?

Mr. Stastny – Believes there would not be an objection to the view.

Mr. Phillips – Currently the car dealership seems to park their vehicles there – will that impact you?

Mr. Andrews – Not after they own the property. They are looking elsewhere to purchase property that was a car dealership and they moved all of the cars once they own the property.

Mr. Hoffman, Jr. – Current owner is leasing out the space for the car dealer. They imagine they will make other arrangements.

Mrs. Kinne – Mentioned the employee parking – do you have a room for the employees?

Mr. Andrews – There is an office, breakroom, and restroom which are very nice inside – big area for them.

Mrs. Kinne – All the manholes going to stay?

Mr. Stastny – No many will be removed during demolition – a lot of those were related to the grease traps. They will also run new sewer and water lines.

Mrs. Kinne – Regarding the water – right now the Northgate Plaza well is operating fine, but she knows the Town Board is doing some research and study on the well. If the well should become over taxed you understand you might be without water.

Mr. Russell – Mr. Benjamin, Public Works, had no concerns about the water usage.

Mr. Stastny – This was addressed at the Planning Board meeting and they had no concerns either.

Mr. Andrews – They are recycling a percentage of the water.

Mr. Hoffman, Jr. – Every drop of water at a professional car wash is recycled at sewer treatment plants compared to home car washing; which usually runs down a driveway and into a storm drain. It goes untreated into streams/rivers and pollutes the environment. Car washes are a friendly way to wash your car plus they use way less water versus home car washing. A garden hose at home uses over 100 gallons to wash a car – 10 gallons a minute. They use about 20-30 gallons of water per car. They use high pressure pumps and smaller nozzles to clean the car.

Mrs. Kinne – Don't get her wrong she's not against this.

Mr. Barrett, 1 Stever Dr. – In the Vestal operation you can only turn one way, but on this operation you are anticipating just as many cars but they can exit both ways?

Mr. Hoffman, Jr. – This car wash won't be as busy as the Vestal Parkway due to the nature of the population there and all the extra traffic, but all the businesses along this corridor have a center turn median and allowed to turn left and right.

Mr. Barrett – You don't think their additional vehicles coming in/out will be a problem as far as traffic?

Mr. Hoffman, Jr. – No they have several locations where there is a four lane road similar to this, center turn median, and it hasn't been a problem with any of them.

Anonymous male – He has questions for the Board about use variance and the standard in the statute. It has to maybe a hardship if he understands the statute and he's wondering if they will address that – is this indeed a hardship? It seems the operation is too big for the parcel and if that's the case it's a self-imposed hardship, he would suggest. There are other parcels that are appropriate and in this case for the area variance alone they are requesting an 80% - from 6 acres to 1 acre and hundreds of feet of frontage and so on. The drip problem maybe something for DOT. Aside from that, this statute is firm about what the requirement is. The hardship requirement is one, the idea of the impossibility of profitability using one of the fourteen accepted applications for the property. The burden of proof is on the applicant to show if nothing else is profitable if you go outside the criteria. Doesn't feel the burden has been met.

Mr. Waskie – It's not the hardship on them it's the hardship on the owner.

Anonymous male – They will be the owner when this project starts.

Mr. Waskie – The hardship now is on the owner – not on them because he can't use the property for any financial.

Mr. Phillips – Would you please identify yourself.

Mr. Bob Kingsley – P.O. Box 1214, Binghamton, NY 13902 – his business address.

Mr. Waskie and Mr. Phillips – In all honesty they don't like that.

Mr. Kingsley – He'll give his official business address – 32 W. State St., Suite 204.

Mr. Phillips – How about your home address?

Mr. Kingsley – 2 Miller St., Binghamton.

Mr. Phillips – What is your interest in the property.

Mr. Kingsley – He's an interested businessman. Public Hearing isn't it?

Mr. Phillips – Yes that's why you are speaking.

Mr. Kingsley – Another thing that's particular to the statute is the idea of uniqueness. There is nothing really unique about this parcel. He just thinks that 150' tunnel wash jammed into this small parcel is just too big of a project for this parcel. Lastly the environmental impact changed something about an archaeological impact that there wasn't on before...is that what he's understanding? That the applicant changed to yes something about archaeological impact?

Mr. Walls – There has been no changes.

Mr. Kingsley – Thinks that the hardship appears to be self-created. Thinks the project is too big for the parcel.

Mr. Walls – Thank you and the Board will consider your comments.

Ms. Minacci, 23 Woodland Rd. – Has a question on the traffic pattern. Traffic will be coming in on the north end, goes around to the back of the building, comes out then turns right to come out. What is the left arrow for?

Mr. Stastny – That's for people to go back into line for a rewash.

Ms. Minacci – The vacuum stations are on the south end so they come out and then go back...oh I see.

Mr. Walls closed the Public Hearing.

Mr. Russell, Ordinance Office recommends a positive referral with the following conditions – a demolition permit, building permit and sign permit required. They also request that the designer contact the Water Department to make sure sewer and water connections meet the Water Department's requirements for the project.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the above cited case with the following determinations -

- They make no determination as to whether the proposed project meets the four (4) tests of a use variance.
- The town should ensure that the project has the appropriate sewer and water connections and backflow preventer installed on the incoming water line.
- Town should ensure that the project would not result in winter time freezing onsite and offsite. Project application and site plan should show the proposed drying system for the car wash, plans to address excess water, and plans to create a safe environment for pedestrians and motorists.
- Because the project site is located within a prominent gateway, the Town should ensure that the project includes attractive landscaping, building and signage colors, materials, and lighting.

Broome County Health recommends a backflow preventer be installed on the incoming water line.

BMTS – has no issues with site accessor traffic impacts. They concur with NYSDOT’s recommendation that the applicant should ensure that the site is capable of accommodating all waiting vehicles during peak operating times.

Town Planning recommends a favorable advisory with a building permit, sign permit, and fire inspection being required. They also recommend the Zoning Board as Lead Agency, adopt and file a “Negative Declaration” for the Short Environmental Assessment Form. They would like the Zoning Board to consider rounding the dimensions to whole numbers for all of the area variances.

Urda Engineering recommends a favorable advisory given for the variance requests. The area variance is to cleanup a pre-existing condition within the PDD-C zone. The use variance is similar to uses at two other instances within the same zone in close proximity to this location.

NYSDOT has the following recommendations -

- This proposal will require the applicant to improve the driveway apron connections to the shoulder. Therefore, the applicant will be required to apply to the Region for a PERM 33-COM Highway Work Permit. This permit must be issued prior to the commencement of any work within the State right-of-way.
- All new or existing driveway openings shall be designed and constructed or reconstructed in accordance with the NYSDOT Policy and Standards for the Design of Entrances to State Highways.
- Per the PERM 33-COM permit requirements, the applicant will be required to submit a drainage study, completed by a licensed engineer, for review and comment by the Region prior to permit issuance. Drainage study requirements can be found in the NYSDOT Policy and Standards for the Design of Entrances to State Highways.
- Excess wash water and ice may not be present in the State right-of-way as a result of the operations at this facility. Please direct the applicant to submit information detailing the plans to prevent wash water and ice excursions from the facility.
- Vehicles waiting to use the facility may not be present within the State right-of-way at any time, and the applicant should ensure that the site is capable of accommodating all waiting vehicles during peak operating times.
- Nothing may be placed within the State right-of-way, including signage or parking.

TS Consulting – Traffic Impact Assessment – Proposed Car Wash – Document in applicants file.

NEW BUSINESS

- THOMAS J. LEWIS – 4 Park Rd. – TM#112.11-2-34 – Application to Amend the original Area Variance (V-09 2017) to increase the size of the shed (accessory) from 12' x 20' to 16' x 28' in front of the principal use in a residential zone.

RECOMMENDATION – The Ordinance Office finds this application to be complete and would recommend that the Board accept and schedule a Public Hearing for January 23, 2018.

A motion was made by Mr. Ruston, seconded by Mr. Waskie to accept this application to Amend the original Area Variance (V-09 2017) to increase the size of the shed (accessory) from 12' x 20' to 16' x 28' in front of the principal use in a residential zone.

ROLL CALL: AYES - 5 NAYS - 0 ABSENT - 0

- LINDSAY ROVERE – 256 Mary Dr. – TM#0768.20-3-47 – Application for an Area Variance to construct an addition with less than required rear yard setback from 25' to 11' in a Residential Zone.

RECOMMENDATION – The Ordinance Office finds this application to be complete and would recommend that the Board accept and schedule a Public Hearing for January 23, 2018.

A motion was made by Mr. Waskie, seconded by Mrs. Kinne to accept this application for Area Variance to construct an addition with less than required rear yard setback from 25' to 11' in a Residential Zone.

ROLL CALL: AYES - 5 NAYS - 0 ABSENT - 0

VOTES ON PUBLIC HEARING

- HOFFMAN DEVELOPMENT CORP. – 1261 Upper Front St. – TM#111.16-1-34 – Application for a Triple Area Variance to construct a car wash with less than required acreage from 6 acres to 1.07 acres, road frontage from 350' to 150.19' and lot depth from 450' to 302.61'. Use Variance for a car wash not expressly permitted in the PDD-C zone. Short Environmental Assessment Form to assume "Lead Agency" and Determination of Significance.

A motion was made by Mr. Ruston, seconded by Mr. Waskie to accept this application for Use Variance for a car wash not expressly permitted in the PDD-C zone.

Mr. Waskie – Feels it's going to be an improvement to the site. Less congestion than Dunkin Donuts at 8:00 in the morning. One public comment was about the size being improper – thinks it's probably the same size as Wendy's. Has no problem with Wendy's going to be a vast improvement. He's familiar with the one in Vestal; which is well maintained and an attractive property.

Mr. Ruston – Felt the traffic assessment was a dynamite document. They did a heck of a job.

Mr. Phillips – Agrees 100%. Glad to see something other than a car lot on Front St. Ashamed the Ponderosa sat so long. They have done their homework.

A motion was made by Mr. Ruston, seconded by Mr. Waskie to accept this application for Use Variance for a car wash not expressly permitted in the PDD-C zone.

ROLL CALL: AYES - 5 NAYS - 0 ABSENT - 0

A motion was made by Mrs. Kinne, seconded by Mr. Ruston to accept this application for Triple Area Variance to construct a car wash with less than required acreage from 6 acres to 1.07 acres, road frontage from 350' to 150.19' and lot depth from 450' to 302.61' with the following conditions – demolition permit, building permit and sign permit are required.

Mrs. Kinne – Thinks it would be hard to find a lot in that area that is the correct size.

Mr. Phillips – As Mr. Waskie pointed out the hardship is not self-created as Mr. Altadonna, current owner, has the hardship.

Mr. Smith – They tried to sell it and no one wanted to put a restaurant there – called various chains.

A motion was made by Mrs. Kinne, seconded by Mr. Ruston to accept this application for Triple Area Variance to construct a car wash with less than required acreage from 6 acres to 1.07 acres, road frontage from 350' to 150.19' and lot depth from 450' to 302.61' with the following conditions – demolition permit, building permit and sign permit are required.

ROLL CALL: AYES - 5 NAYS - 0 ABSENT - 0

ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Waskie, and seconded by Mrs. Kinne to adjourn the meeting at 7:44 p.m.

Respectfully submitted,

Nancy Schnurbusch,
Recording Secretary