

**ZONING BOARD OF APPEALS  
Town of North Greenbush  
2 Douglas Street  
Wynantskill, NY 12198  
Meeting Minutes  
January 9, 2019**

**Attendance: John Dalmata, Richard French (Chairman), Leanne Hanlon (Secretary), Michael Miner (Building Department), Robert Ewing-absent, Tony Crusetti, Louise Germinerio, Al Kolakowski (Legal Counsel).**

Chairman French opened the meeting with the Pledge of Allegiance and roll call. Chairman French also explained the special permit rules.

**Old Business: None**

**New Business**

**Application 18-41, for the area variance request of Ken Raymond, 569 North Greenbush Road, Rensselaer, NY 12144, for relief of front setback requirements for a freestanding sign of 15 feet for the purpose of constructing a freestanding sign 3 feet from the front property line at the property located at 569 North Greenbush Road, Rensselaer, NY 12144, in a C (Commercial District), having parcel ID#: 144.02-4-21.**

Eric Westfall representing the applicant. 16 x 16 feet sign with landscaping around it. He would like to place the sign 3 feet from the road if possible. If they move the sign to the south part of the lot it will be too far back. There will be no led sign at this site per Mr. Westfall.

Public Hearing Opened:

Andrew Mair, Brinker Drive: He calculated the percentage of variance and it is 80%. Traffic safety and aesthetics is a concern as well. It is important to make sure there is no line of site impairment on Route 4. It is important motorists do not have a site issue with this sign pulling out of taco bell.

Motion made to close public hearing by Mr. Crusetti and seconded by Ms. Germinerio. All in favor.

Mr. Miner stated moving it south but same distance from the curb would assist in ensuring there is no line of site issues.

Chairman French states the sign has to be visible but not in or on the road too close. At the Taco Bell exit there is roughly 10-11 feet to the property line to where people actually make the right turn onto route 4. The board feel there is not that big of an impact and if it is placed where he stated there will be no line of site issues.

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Mr. Dalmata's concern is that the property line continues to go closer to the road up the road. Will people try to put their signs closer to the road to be seen as the road narrows? Mr. Miner suggested going to the site at time of placement to ensure there are no issues.

Conditions: no closer than 13 feet from the curb line while still on property.  
Sign base and landscaping per architectural guidelines and town code.  
Site visit before installation by the Building Department to ensure no visibility issues.

Undesirable change character of neighborhood: No  
Benefits sought by applicants are pursued other than area variance: No  
Substantial: No based on the width of the green state highway area  
Adverse effect on physical and environmental conditions: No  
Self created: Yes but does not preclude

SEQRA is required. Unlisted action.

All questions were reviewed by the board and answered.

Motion made for a neg dec by Mr. Dalmata and seconded by Mr. Crusetti .  
Roll call vote: Dalmata, Crusetti, French, Germinerio, all in favor.

Motion made to approve with above conditions by Ms. Germinerio and seconded by Mr. Crusetti.  
Roll call vote: Dalmata, Crusetti, French, Germinerio, all in favor.

**Application 18-42, for the area variance request of John Convertino, 7 Van Dyke Drive North, Rensselaer, NY 12144, for relief from restrictions prohibiting an accessory building in a front yard, for relief from maximum square footage of an accessory building of 1200 square feet and for relief from total square footage of accessory buildings of 1600 sq feet, for the purpose of constructing a 1500 sq. foot garage with a total cumulative sq foot of accessory buildings of 2850 sq feet, at the property location at 7 Van Dyke North, in a R1 district, having parcel ID#: 145.05-7-7 & 145.05-7-8**

No one present for this application. Mr. Miner gave the board some basic information even though applicant was not present. The applicant tore down old house that was there and built new home and received a variance for a 1300 sq foot garage a couple years ago. Now he wants to combine two lots and build another garage. This application is at an adjoining site. Applicant told Mr. Miner there is no business use. Mr. Miner stated he is considerably more than the allowed and is over the 50%. It is for additional garage space. He also would like to attach the

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current garage to the house with a breezeway of some sort. That would eliminate the “accessory building” minimum if he does that.

Public Hearing opened:

Andrew Mair, Brinker Drive: He stated the current lot that has been built on is at the corner of 43 and Van Leuven North. The two lots are next to one and other. The residence that has been built on Van Dyke and 43 there is already a four car garage there. Can a breezeway be built there and still meet fire codes? 78% variance on square footage and that is substantial. He also stated will the building be used for business? Will there be water and sewer to this new building? If that is the case that would bring the thought of a residence. That would have two residences on the same lot.

Chairman French commented that in the past they have had a condition to prevent abuse that no water or sewer be hooked up to the new building. Mr. Miner stated he would talk with the applicant to have him decide what variance he wants to present next month because he has a few options.

Motion made to table application and keep public hearing opened by Mr. Crusetti and seconded by Mr. Dalmata.

**Request for zoning interpretation regarding carwash in a commercial zoning district: Application 18-40, for the area variance request of Brian T. Sipperly, Verity Eng. DPC (agent for Peter Enzien), PO Box 474, Troy, NY 12180, for relief from minimum lot size requirements of 5 acres and rear setback requirements of 50 feet for the purpose of constructing a carwash on a 3.8 acre lot with a rear setback of 36.4 feet, at the property located at 531 North Greenbush Road, Rensselaer, NY 12144, in a C (Commercial District), having parcel ID#: 144.2-4-8.**

Mr. Miner stated he presented a zoning interpretation of his own for the board to review. There is also correspondence from the applicant’s attorney the board received. There is nothing noted in the zoning regarding a car wash but they can look at something similar. He looked at it as a service establishment. The board has the application that was presented last month and the application has been submitted to the planning board. There is two buildings on the property and one of the two is an accessory use per the applicant. Mr. Miner stated that has changed.

Chairman French stated he is the decision maker for a property down the road for the same use for another application. He has a legal obligation with his association of that property to make that his priority therefore he is recusing himself from the application and interpretation of this application. Chairman removed himself from the board seating.

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Al Kolakowski concurs with Mr. Howard's interpretation of this applications. Mr. Howard spoke about this and feels with all his research that it is a service establishment. And a business establishment is a required use in this commercial district. He also stated when there is a concern that someone might bring a use in a service establishment that it should be approached to state that a carwash is not included in the service establishment in a permitted use. Mr. Dalmata stated this is a common sense decision and agrees it is a service establishment.

Andrew Mair spoke and distributed the uses allowed in three district, commercial industrial and general business. He read that neither term is in town code. Automobile establishment is noted as a service establishment. He would like the board to determine that this is an automobile service establishment because it involves automobile maintenance and it is a part of automobile service maintenance. Automobile service facility that is his belief. The applicant plans on building two new structures. He maintain a car wash facility that it is an automobile service facility not a service facility such as a bank etc. Therefore he feels this is not a permitted use. He feels this should continue to the February meeting if the board needs more time. He said the applicant can seek to have the property rezoned so the applicant has other options. He feels a service establishment is not a car wash.

Mr. Dalmata stated that any automobile selling service all have auto detailing and fall into the category of a service establishment and do we out automobile in front of that and he feels this is a service establishment and falls within that guideline. It is an establishments that is providing a business service. He agrees with Al Kolakowski. He is not stating a special permit is required at this point. Mr. Dalmata does not feel a special permit is necessary and the board agrees. Nothing is calling out to prohibit this according to what they have read.

Mr. Miner stated when the code changes were drafted he did not remember a car wash being discussed and Mr. Dalmata feels it is an oversight. Mr. Miner feels the service building listed were not examples.

Mr. Mair disagrees according to his interpretation and urges the board to determine that as well.

Mr. Crusetti feels the same as Mr. Miner and Mr. Dalmata. Mr. Miner read some examples in the code but not limited to.....

Mr. Howard stated that automobile service was intended to be automobile service and this is not part of normal automobile service. Some people do not wash their cars.

Mr. Dalmata feels confident in making the determination as this would be a service and

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Motion made that the interpretation is that the car wash is a service establishment by Mr. Dalmata and seconded by Ms. Germinerio.

Roll call vote: Dalmata., Crusetti and Germinerio. Chairman French recused his interpretation vote.

Mr. Sipperly explained changes to the original application to the board. He stated a new application has been submitted with the changes and took the notes and re work the project.

Kim and Jim Enzien also present.

The plan consists of 3.8 acre lot. 15,000sq foot commercial structure on the lot. Gently slopping from east to west. Small pocket of wetlands on the site. 1100 sq feet of the wetlands on the property and would use a retaining wall to not disturb that. Full access onto Agway Drive. Right in right out curb cut access now. They revised that to left in as well. DOT has denied that access so what is there today will remain. There is well water now. A water main exists as well. There is also sewer on site. All abutters are businesses per Mr. Sipperly. Principle structure is 4375 sq feet that will have a portion that is the carwash tunnel. They decided to key the "accessory" building to the structure. The building has not changed in size and function and now will be one structure. This will be a full service express wash. (Carpets vacuumed, dash cleaned car wiped off etc.) Site will be connected to municipal water. They are seeking relief for two variances 13.6 relief from setback. There is 88 feet between the two principal structures.

Chairman French stated it is good that they have found a way to remove the "accessory" building. Face of Rt 4 where the vacuums are: They will be vacuums for customers to use. Parking layout has changed as well. Parking allowed increase parking and keeping required setbacks and extend the driveway to 28 feet. If you want additional detailing they customer will then pull into the other building.

Mr. Sipperly answered his own SEQRA questions below. The board will also ask and answer then their selves.

Undesirable change character of neighborhood: No

Benefits sought by applicants are pursued other than area variance: No

Substantial: Not extreme

Adverse effect on physical and environmental conditions: No

Self created: Yes but does not preclude

Chairman French asked Mr. Kolakowski that the notice only talked about the interpretation and not to act on the application but Mr. Miner explained that it is in the notice.



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Public Hearing Opened:

Andrew Mair, Brinker Drive: asked do the vacuum cleaner sites facing rt. 4 are structures and French stated they are not structures it is a vacuum corrals. Miner stated planning board will look at the locations etc. as part of the site plan review. Mr. Mair also asked about the minimum site plan size which is 5 acres but the applicant has 3.8 and this is an existing lot per Mr. Miner. Chairman French also agreed that this is an existing lot and the board agrees.

Motion made to close public hearing by Mr. Crusetti and seconded by Mr. Dalmata.

Chairman French asked if there is anything the board needs to mitigate anything? The board agreed there is not.

Mr. Miner stated 197.15 because there are no windows so they are not adjacent buildings and that is Mr. Miner's interpretation. Chairman French stated the board needs to be careful as to the SEQRA and the planning board is the lead agency for that so this board is only looking at a specific SEQRA for this.

Undesirable change character of neighborhood: No surrounded by commercial buildings.  
Benefits sought by applicants are pursued other than area variance: No not feasible  
Substantial: No per board members  
Adverse effect on physical and environmental conditions: No  
Self-created: Yes but does not preclude

Per the board the 5 acre requirement variance is not necessary it is pre-existing non-conforming lot. Mr. Miner stated he does not agree. He stated because there will be another building on the site they have to consider that. The board will consider that the pre-existing non-conforming lot and they will need to do that variance (3.8 acres instead of 5) now.

Board asked and answered all other SEQRA questions.

Motion made for a neg dec on lot size and 13 foot rear set back by Mr. Crusetti and seconded by Ms. Germinerio.

Roll call vote: Dalmata, Crusetti, French, Germinerio

Motion made to approve as proposed by Mr. Dalmata and seconded by Mr. Crusetti.

Roll call vote: Dalmata, Crusetti, French, Germinerio

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Motion made to approve December 2018 meeting minutes by Mr. Dalmata and seconded by Ms. Germinerio. All in favor.

Chairman French received a letter and is not sure why the board got this letter. It was addressed to Chairman French and all departments. This is a case we have had nothing to do with as this board. This is in regard to the Gables project on Mammoth Spring Road. It was determined the letter went to everyone and all boards but does not affect this board.

Motion made to adjourn at 8:15pm by Mr. Crusetti and seconded by Ms. Germinerio. All in favor.