

ZONING BOARD OF APPEALS MEETING MINUTES – FINAL
WEDNESDAY, MARCH 27, 2013

MEMBERS PRESENT:

Rocco Mancini, Chairman
Stephanie Fitzpatrick
Martin Otter
John Schneider

MEMBERS ABSENT:

Phillip Zemke

ALSO PRESENT:

William Gallagher, Supervisor
Jack Campisi, Town Board Liaison

Chairman Mancini opened the meeting at 7:00 p.m.

Public Hearings:

1. **Schmidt Area Variance** - Mr. Otter motioned that the ZBA adjourn the public hearing for the Schmidt area variance application to be re-convened at the April 24th ZBA meeting as per a memo submitted by Marie T. Welch, L.S. dated March 26, 2013. Mr. Schneider seconded. All aye. Motion carried 4-0.

2. **Cobble Pond of Milan** - George Carrothers, Project Contact, and Ray Nelson, Project Architect, were present on behalf of the owners, GRJH, Inc. for their area variance application for property located at 1165 Route 199, tax grid number 6471-00-904454. The applicant is seeking area variances for the front setback for the convenience store, a side and rear setback for the fence enclosure around the dumpster, a lot coverage variance from the allowed 10% to 10.3%, and a variance to allow a 4,000 square foot convenience store where 2,500 is allowed under the current zoning. Chairman Mancini read the legal notice that was posted in the paper and sent to neighboring landowners and then announced that the ZBA will postpone hearing the variance for square footage pending the Town Board's decision on changing the zoning code to allow a 4,000 square foot convenience store in the HB Zoning district. Mr. Nelson gave a project overview. GRJH is proposing a convenience store with the accessory use of a gas station. Within the convenience store will be a community seating area, deli, pastry, coffee, prepared foods area and a grocery section. It is a single tenant with multiple uses. They are proposing four pump stations and will be providing diesel fuel. The reason for the variances is the existing building is non-conforming in that it projects into the rear yard and front yard. The shape of the lot is inefficient as it has a skinny building area but is relatively wide. The pumps are placed off on one side. We have placed the building as far back as possible so are seeking a front yard setback for the convenience store building. Our goal was to have as little paving as possible. We have been sensitive to the egress and ingress around the pumps in preparing the site layout. We are seeking side and rear setback variances for the fence enclosure for the dumpster because the proposed location is the most efficient place to put it, keeping the dumpster away from the store and customers

but allowing easy access for the garbage trucks. We have tried to keep the parking as close to building as possible so the walking distance is short. We are seeking a small variance for lot coverage, up to 10.3% from the allowed 10%, as we are trying to accomplish quite a bit in this one building.

Chairman Mancini opened the public hearing. Mr. Carrothers, current property owner, said they have gone over the allowed square footage for the convenience store based on conversations between Cobble Pond and Town residents who stated what they would like to see in the convenience store including a deli, a seating area, fresh produce, and meat - products that residents can pick up and not have to run into neighboring towns to pick up – and so sized the building accordingly. This set up will offer more than the typical gas station/convenience store to accommodate the needs of the residents which is why the square footage is larger than what is allowed by the current zoning code. Sam Lore asked how the proposed square footage compares to the existing building on the site now and Mr. Nelson said the existing building is 3,176 square feet plus the garage which is 288 square feet which brings the existing lot coverage to 3,464 square feet. The proposed is 3,906 so it is about 500 square feet larger than what is there now. Mr. Lore said so the proposed building will not be much larger than what is there now and it will be a very nice building. Chairman Mancini also pointed out that while the existing building is rectangular, the proposed building is more of a square shape which will be easier to accommodate the proposed uses. John White said he has looked over the drawings and asked why the site was designed to accommodate 18 wheelers. Mr. Nelson said that is the size of the tankers that deliver fuel. Mr. White said to maneuver a vehicle of that size in that area will require some space, not just for the maneuvering but for the safety of the other customers. He said he does not think this looks like an overwhelming surface area. Mr. Martin asked Mr. Nelson if he considered the swing radius of the tankers and Mr. Nelson said, yes they have, the site has been designed to accommodate the fuel delivery tankers. Al LoBrutto said he feels it is appropriate for this applicant to be granted the front setback variance as the buildings on either side of this building have been granted the same setbacks so the setback will be in keeping with the neighborhood; the building will not look out of place. Mr. Martin asked how many parking spots were available to customers who want to go to the store but who do not want to buy gas. Mr. Nelson said there are 17 car spaces with an additional 8 spaces at the pumps.

The Board reviewed the Findings and Decision to reduce the setbacks for the fence enclosure as follows: An undesirable change will not be produced in the character of the neighborhood because the fence enclosure is required to screen the dumpster from nearby properties; the benefit sought by the applicant cannot be achieved by a feasible alternative to the variance because this is the most efficient spot to place the dumpster to keep it far away from the general public as they come and go and makes it easily accessible for the garbage trucks; the requested variance is not substantial; the variance will not have an adverse impact on the physical or environmental conditions in the neighborhood because the

fence enclosure will screen the dumpster from the neighbors; the alleged difficulty was not self-created. The Board agreed that the benefit to the applicant does outweigh the detriment to the neighborhood or community and there were no conditions associated with this variance. Ms. Fitzpatrick motioned that the Zoning Board of Appeals approve the Findings and Decision for the variance request to allow the placement of a fence enclosure to screen the dumpster 11 feet from the side property line where 20 feet are required and 41 feet from the rear property line where 50 feet are required. Mr. Otter seconded. All aye. Motion carried 4-0.

The Board reviewed the Findings and Decision to reduce the front yard setback for the convenience store as follows: An undesirable change will not be produced in the character of the neighborhood because the placement of the building will be in keeping with the neighboring properties; the benefit sought by the applicant cannot be achieved by a feasible alternative to the variance because due to the size of the lot, this site layout provides the best orientation for parking, traffic circulation, and aesthetics; the requested variance is not substantial; the variance will not have an adverse impact on the physical or environmental conditions in the neighborhood because the placement of the building will be in keeping with the neighboring properties; the alleged difficulty was not self-created. The Board agreed that the benefit to the applicant does outweigh the detriment to the neighborhood or community and there were no conditions associated with this variance. Ms. Fitzpatrick motioned that the Zoning Board of Appeals approve the Findings and Decision for the variance request to allow a front yard setback of 45 feet where 80 feet are required for the convenience store. Mr. Otter seconded. All aye. Motion carried 4-0.

The Board reviewed the Findings and Decision to allow 10.3% lot coverage where 10% is allowed as follows: An undesirable change will not be produced in the character of the neighborhood because this layout provides the most aesthetically pleasing overall site plan given the size of the lot; the benefit sought by the applicant cannot be achieved by a feasible alternative to the variance because the size and shape of the lot constrains the site layout; the requested variance is not substantial; the variance will not have an adverse impact on the physical or environmental conditions in the neighborhood because this minor increase in lot coverage allows for a fully functional convenience store and an appealing and complimentary canopy to protect the fuel filling stations; the alleged difficulty was not self-created. The Board agreed that the benefit to the applicant does outweigh the detriment to the neighborhood or community and there were no conditions associated with this variance. Ms. Fitzpatrick motioned that the Zoning Board of Appeals approve the Findings and Decision for the variance request to allow 10.3% of lot coverage where 10% is allowed. Mr. Schneider seconded. All aye. Motion carried 4-0.

Ms. Fitzpatrick motioned that the Zoning Board of Appeals suspend the public hearing for the variance request to increase the square footage of the convenience

store from the allowed 2,500 square feet to 4,000 square feet until the April 24th ZBA meeting pending the decision of the Town Board to change the current zoning law. Mr. Schneider seconded. All aye. Motion carried 4-0.

Administrative Items:

- Approval of Minutes: Mr. Schneider motioned that the Zoning Board of Appeals accept the minutes of January 23, 2013 as amended. Ms. Fitzpatrick seconded. All aye. Motion carried 4-0.

Ms. Fitzpatrick motioned to adjourn the meeting at 7:40 p.m. Mr. Schneider seconded. All aye. Motion carried 4-0.

The ZBA next meeting will be held on Wednesday, April 24, 2013 at 7:00 p.m. at the Town Hall.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board