

PRESENT: Margaux Miller Chairwoman, Fredrik Palm, Helen Grosso, Allison G.S. Knox and John F. Harnes Esq.

ALSO PRESENT: Michael Liquori Esq. from the Law firm of Hogan Rossi and Liquori

CONTENT: SGH Chinna LLC. (Area Variances).

SGH CHINNA LLC. Area Variance ZBA 2023-007
851 NYS Route 22
Pawling, NY 12564
Grid Number: 134089-7057-00-297809

Mr. Singh landowner and Mr. Curt Johnson from J Group Designs LLC. were present.

Chairwoman Miller said the property is located at 851 NYS Route 22 in the Highway Business Zoning district, consisting of 1.2± acres. Chairwoman Miller read the Dutchess County Planning 239 GML response, which indicated they had responded on this area variance review. This application is a Type II action, according to SEQRA; therefore, no action is necessary by the Board. A site inspection was held on October 21, 2023, with Chairwoman Miller, John Harnes Esq. Helen Grosso, Fredrik Palm and Allison Knox.

Chairwoman Miller explained that the Zoning Board of Appeals would like to speak with the Town Attorney Mr. Liquori Esq. on procedural clarification regarding the signage code, before proceeding with the application before the Board.

Chairwoman Miller asked how does the proposed area variance signage, setbacks fall under the ZBA jurisdiction. The signage proposed has several components to the area variance, relating to size, lighting and verbiage. What falls under the procedural authority for the Zoning Board of Appeals and/or Planning Board?

Mr. Harnes Esq. asked Mr. Liquori Esq. for this type of area variance can the Board seek legal advice in a public forum or during an executive session.

Mr. Liquori responded that the nature of these questions are not complex. The SGH Chinna LLC. Site plan project is a coordinated application before both Planning and Zoning Board. This application does not qualify for executive session. The Zoning Board of Appeals has not experienced many coordinated projects before them. This project has been before the Planning Board. It is a unique parcel as the frontage runs along the New York State Department of Transportation (Route 22) corridor and the rear of the parcel runs along the Metro North railroad, resulting in long narrow lot configuration. The Planning Board completed a SEQR determination, which fell under no significant impact. Following conclusion of SEQRA the Planning Board conducts a Public Hearing and outside referral commence. The matter or portion of the project, such as area variance falls under the Zoning Board of Appeals jurisdiction. This Board reviews the five criteria measures, relating to signage, setbacks lot size etc. It was noted from attending the Planning Board meetings, that there are pre-existing non conformities on this parcel and that's why the ZBA is looking at several area variances. The Planning Board felt that since this application required several area variances, based upon the parcel non conformities, that the ZBA should review all variances. If the applicant sought future additional building permits, the nonconformities of this site will be addressed.

Chairwoman Miller asked Mr. Liquori Esq. How does the Board handle the proposed number of requested proposed signage, number of canopy signage, lighting under the canopy,

building and road signage. For example, can the ZBA make the recommendation to reduce the number of signs on the canopy, or make revisions without holding up the application?

Mr. Liquori Esq. Responded that the applicant cannot go back to the Planning Board until the area variances application is reviewed and then the number of signage variance granted or denied by the Zoning Board of Appeals.

Chairwoman Miller clarified the number of signage proposed on the canopy and road signage.

Mr. Johnson said there is one freestanding road sign, two separate pump island with canopies and one building sign.

Mrs. Grosso reviewed with the Board, the JPL Group project narrative letter under section §215-40.F. 2 which reads:

A commercial enterprise, including real estate development, subdivision, and apartment complex permitted in each district shall be allowed no more than two signs, neither of which shall be larger than 12 square feet in total area. Such signs shall not be located nearer than 25 feet of any side lot line.

She asked for clarification under the statement that the freestanding sign is approximately 20' tall and located approximately 10' from the side (southerly) property line. A variance was previously granted to permit the freestanding sign to remain in its current location. It is proposed to replace the existing freestanding sign in the same location as existing. The variance will need to be updated per the current land survey. She asked what does it mean if the current land survey requires an updated area variance?

Mr. Johnson said the applicant was before the Zoning Board of Appeals on July 25, 2016, where they were granted area variances based on a 2016 survey. Subsequently, the 2016 survey consisted of errors resulting in the older survey being incorrect. Previous area variances were granted in 2016, based on an incorrect survey. The sign remains in the location approved, nonetheless, the property boundary lines have moved per the latest survey. As a result of the updated survey, this is why the applicant requires updated area variances to meet the Bulk Regulations setbacks and code section §215-40 Signs.

Mrs. Grosso asked Mr. Liquori Esq. If the 2016 survey was incorrect, does that mean the 2016 variances are no longer valid. Does the Board review the variances based on the new survey, or does section §215-52. F., apply?

Mr. Liquori Esq. responded that the variance granted, is not an agreement with the applicant, it is a determination by the ZBA that runs with the land. The 2016 variances granted by the ZBA were done in good faith as they believed the survey was correct. It is very unusual situation to find out a survey is incorrect, but sporadically it does occur. Let's say the prior variance was 8 feet from the property line, but it's now 2 feet closer, resulting in a 6 foot difference. The line has moved, therefore, the Board should consider these factors. The Code of the Town of Pawling pursuant to Section §215-52. F., is considered vested for the reason the applicant was issued a building permit, and the applicant did not allow their building permits to lapse.

There was discussion held by the Board on the fire suppression systems for canopies.

Chairwoman Miller said gas station canopies provide shelter and protection during emergencies such as storms, hurricanes or extreme weather conditions. These

sturdy structures shield customers from rain snow or hail. It is also good for vehicle safety.

Mr. Harnes Esq. read Code section §215-40.F (7) **One permitted sign may be illuminated with artificial light only, provided that such illumination shall not be twinkling, flashing, intermittent or changing degrees of intensity, except for time and temperature signs, and provided that the source of illumination shall not be visible beyond the boundaries of the lot on which it is located.**

He explained that prior to the meeting he drove pass the gas station to view the current gas station lighting in the dark. One of his observation was it was clear that the lights go beyond the property line. He asked how lighting intensity is outlined pursuant to the Code of the Town of Pawling.

Mr. Liquori Esq. explained a photometric plan illustrates downward directed lighting that is reviewed under site plan approval by the Planning Board. It is the source of light illumination referenced in the Code. The Town code outlines all building, signs or other uses shall be directed away from adjoining streets and properties and shall not cause any objectable glare observable from such streets or properties.

Mr. Johnson explained the offsite lighting is light spillage from the source of downward directed light illumination.

Mrs. Grosso asked how area variance are analyzed relating to the cooler versus the upgrades of a sanitary sewer disposal system (SSDS). Is that why the sanitary sewer disposal system has been expanded? She asked if these items were reviewed under SEQRA by the Planning Board. Was the Seqra determination completed in 2016 or in 2023?

Mr. Johnson said the sanitary sewer disposal system (SSDS) and water treatment system were approved by Dutchess County Board of Health. The SSDS was an older system that required upgrading per the outside agency (DCBOH) regulations.

Mr. Liquori Esq. said SEQRA was reviewed by the Planning Board in 2023. The ZBA can review the five criteria questions noting the Planning Board has reviewed the environmental impacts for this site. The New York State law is set up this way, as often applications before the ZBA are not reviewed by the Planning Board because they often do not have the same projects/application before both Boards.

Mr. Harnes Esq. said the Zoning Administrator wrote in his denial letter, the canopy and wall signs do not meet the standard set forth in Code of the Town of Pawling.

Mr. Liquori Esq. said the discrepancy is the proposed number of illuminated signage. There is multiple internally illuminated signage proposed (i.e. road, canopy and gas pumps) as opposed to the only one illuminated sign that is permitted.

Mr. Johnson said there is only one internally illuminated signage permitted. This application has been before the Planning Board for over five years. It was service station since 1950. Approvals were granted to turn the service station into a convenient store with gas pumps. The amended Site Plan includes the following.

- Placement of a 10' x 28' long prefabricated cooler element at the south sides of the existing building.
- Placement of a 24' x 32' safety and weather protection canopy over each of the existing pump islands (two total).
- Enhanced site lighting.

- Exterior façade updates & addition of outdoor seating area (for AT hikers).

The two proposed gas pumps island canopies are located within 25' of the front property line (1'1" and 7'2" respectively). The canopies are 25'+ from the lease line along Route 22. The brand name of the gas station will be changed from Pawling Gulf to Valero, and then DBL for the convenience store. Each canopy will have a Valero sign (40.5sf each) on front face (Route 22) and Valero logo (10.5 sf each) on the north and south sides. The sign panels on the canopy faces shall be internally illuminated, with additional LED strip lighting. There will be a DBL Express' (10 sf) sign on the building front. This sign shall be lit with wall mounted goose neck sign lights. The property line is 25 to 30 feet from the curb isles. The front yard setback requires 100 feet, the property in itself is 90 feet deep. This is a pre-existing hardship. The road sign proposed is located in the same location as the existing road sign, the panels would be removed and then replaced. Mr. Johnson submitted an illustrated photo of a property owned by the applicant in western New York. The photos illustrate similar signage. In terms of the changing signs it is the price change from cash to credit card amounts.

Mrs. Grosso asked several questions, how often does the price number changing periodically, and could the applicant present the cash and credit numbers at one time without blinking.

Mr. Johnson said the prices are not blinking they are changing in a slower motion. Chairwoman Miller said she understands this is a franchise. Following research on Valero franchise, there was one photo of a Valero station with minimal blue and grey corrugated roofing, colors matted or dulled down without the extra lighting. Is this an options to reduce or dull down the proposed signage?

Mr. Johnson said the Valero franchise package before the Board is the signage franchise package provided by Valero Company.

Mr. Palm said in the signage package, one is an illuminated sign with neon colors and the other looks like a painted sign. A motorist coming down Route 22 would visually see the neon sign?

Mr. Johnson said the neon sign would be seen coming south and the other signs can be seen driving north on Route 22. This is the proposal in a nut shell. It goes hand and hand with the nature of the site. Currently, it's not the best looking site, and the proposed illuminated signage would enhance the site aesthetics. The canopy installation provide customers weather protection.

Mr. Harnes Esq. said the letter received from Dutchess County Planning states the blinking light is not in compliance with the Code of the Town of Pawling. What exactly does this mean in reference to code?

Mr. Liquori Esq. said Dutchess County Planning is referencing the Code of the Town of the Town of Pawling section §215-40 signs.

Mr. Harnes Esq. said the Dutchess County Planning letter reads Sections §215-40(F)(13) and 215-35(N) both require that no use shall produce glare so as to cause illumination beyond the property on which it is located in excess of 0.5 foot-candle. The applicant should provide a detailed photometric lighting plan showing

lighting levels measured in foot-candles, and all fixture specifications, in order for the Board to properly determine if the proposed lighting achieves this standard. Of additional concern are the unspecified "additional LED strip lighting" under the canopy structure. No detailed information was provided regarding the under-canopy lighting. All under-canopy fixtures should be fully recessed into the underside of the canopy, and lighting levels should not exceed five (5) foot-candles beneath the canopy, nor one (1) foot-candle or less beyond the canopies.

He has grave concerns to approve additional lighting, it goes back to the original question, exactly what and how many signs is the Zoning Board of Appeal approving. He does not want to approve a signage application that exceeds the Code of the Town of Pawling. It's not a good decision by the Board to approve items that are not clear. The Board will set precedence for future area variance application relating to signage.

Mr. Liquori Esq. said the Zoning Board of Appeals can approve the variances as presented. There are options, the ZBA can send the applicant back to the Planning Board to review the photometric plan to review the potential off site glare. Another option is this Board can approve the canopies as presented, the lighting underneath the canopies can go back to the Planning board for approval by the photometric plan. It's hard for the ZBA to understand what they're approving by not reviewing a complete full design of the canopy presented for both Board reviews. Under the jurisdiction of the variance, the ZBA does not want to be caught up between both boards

Mr. Johnson said he appreciates Mr. Harnes Esq concerns. It is a function of where does it land, with the Planning board or the Zoning Board of Appeals, or both. If the ZBA allows the applicant to have a lighted canopy, then they go back to the Planning Board for the lighting underneath the canopy. Ultimately, they will need to provide a photometric plan, if they cannot meet Town code, they would have to return to the Zoning Board of Appeals.

Mrs. Grosso asked what the canopy height is.

Mr. Johnson said 17'.6 in height.

Mrs. Grosso asked at what point the applicant chose to install a cooler in the convenience store. Did the cooler trigger an amended site plan by the Town? Additionally what is the cooler function?

Mr. Jonson said the cooler is 10 feet deep, the customer opens the cooler to purchase a beverage from inside the store, and behind the beverages is the additional cooler space. It is the same standard type of coolers used at a CVS store.

Mrs. Grosso asked if the incorrect survey triggered the fact that installation of the 10' x 28' cooler required the parcel to be resurveyed?

Mr. Johnson responded yes.

Mrs. Grosso asked why the applicant requires four (4) signs gas pump opposed to two (2) signs.

Mr. Johnson said the free standing sign is pre-existing. Typically a gas station installs a free standing road sign. His additional signage is the canopy signs, one small building sign and Valero gas pump signs.

Mrs. Grosso said following review of the Valero western New York illustrated drawings, there are several onsite signs throughout the site. The proposal for the Town of Pawling gas station appears as presented like overkill. A motorist will not miss the 20 foot height Valero sign, along with the canopy lights. The landowner is not fighting with Walmart to be seen, the gas station is in the north end of Route 22 that is not commercialized.

Chairwoman Miller clarified the four signs, a freestanding road sign, canopy, building and Valero gas pump signs.

Mr. Harnes Esq. asked for the difference in the pre-existing road sign compared to the proposed free standing sign.

Mr. Johnson said the current sign is 8 feet wide by 6 feet tall, and the proposed sign is increased by 30 square feet.

Mrs. Grosso said a motorist driving down the road will view the canopies. It is redundant to view a 20 foot sign, based on the signs increased height, canopy and gas pump signage. The overall affect is overkill.

Mr. Johnson said for discussion purposes with the Board, one suggestion would be to maintain the current freestanding road signage width and height and then eliminate a few of the canopy signs.

Mr. Palm said the Board could work with a reduction in canopy signs, as long as the Valero sign is not proposed in numerous locations along the canopy and gas pumps. Mr. Palm said he suggests the applicant submit a photometric plan to the Planning Board that conforms to the Code of the Town of Pawling.

Chairwoman Miller said the next steps for this application, is for Mr. Johnson to revise the lighting plan for review by the Zoning Board of Appeals.

Mr. Harnes Esq. said the free standing should be reduced to scale.

Mrs. Grosso asked if the original building service bays have been converted to a convenience store.

Mr. Johnson said the interior of the building has been renovated to a convenience store, to date the final outside renovation has not been approved by the Planning Board.

Mrs. Knox asked if the Valero Company franchise would agree to removal of the signage on the canopy.

Mr. Johnson said they would need to find out if the canopy signs can be removed.

Mr. Palm said the Board requires confirmation on the number of proposed Valero signage on the gas pumps.

Mr. Singh said the current pumps do not have signage, nonetheless, there are proposing signage on the individual pumps. They seek to have additional lighting for safety concerns.

Mr. Palm asked if the lights would be turned off at a specific time at night.

Mr. Singh said there are no lights on River Road. The area is dark at night. Their proposal is for the lights to be on 24/7 hours per day/week.

Chairwoman Miller said canopies will be close to one another. Understanding the proposed signage internally lit will make a difference as how the Board understands the ZBA variances.

Mr. Palm said the total number of pump signage should be included in the variance.

Mr. Liquori Esq. said the pump signage must be reviewed per the Code of the Town of Pawling. The legal notice did not include the pump signage, therefore the noticing will be required to be redone.

Mrs. Grosso said the correct balance for signage and lighting need to be balanced and justified by the Board. It is a great asset to upgrade the site aesthetics.

Mr. Palm said the Board is in agreement to scale back the lighting, it is just a question as how we get to that point.

Mr. Johnson said they will revise the signage area variance and then get back to the Board. The gas pump signage is being increased to eight (8) signs.

Chairwoman Miller said the gas pump signs should be reduced. The applicant can revise the area variance for signage and then get back to the Board.

NEW BUSINESS

i. Training


Mrs. Grosso said Zoning Board of Appeals members attended training. She asked how the members of the Board provide new topic information to share amongst themselves as a Board. Classes she had attended gave legal guidance for Zoning topics.

The Board members agreed that they could hold a work session to review classes all the members have taken this past year.

ADJOURNMENT

On a Motion by Mrs. Knox and seconded by Mr. Palm to adjourn the meeting at 8:20 p.m. All were in favor and the Motion carried.

Respectfully submitted,



JoAnne Daley
Recording Secretary

non-approved minutes