

**Town of Wawayanda ZONING BOARD OF APPEALS
December 15, 2016 / 7:00 P.M.**

Members Present: **Richard Onorati, Chairman**
Bruce Lewis
Jeffrey Soons
Ray Spiak
Rosario LaSpina, Alternate

Consultant Present:
David Bavoso, Attorney

Recording Secretary:
Patricia Battiato

The December 15, 2016 Town of Wawayanda Zoning Board of Appeals Meeting was called to order by Chairman Richard Onorati at 7:00 P.M. Chairman Onorati invited alternate board member Russ LaSpina to join the board in the absent of Daniel Post.

I. PUBLIC HEARING

**Rte. 6 Express / SBL# 11-1-30.2 / TC-Town Commercial Zone /
Rte. 6**

Applicant is applying for an Interpretation to determine if the addition of a U-Haul operation on the property changes the use of the property from Motor Vehicle Fueling Station to a General Retail use as defined by the Zoning Law of the Town of Wawayanda, and an area variance of 195 Schedule of Zoning District Regulations for less than the required lot area.

The Secretary read the Public Hearing Notice as it appeared in the Times Herald Record. The certified return receipts were collected and recorded.

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Chairman Onorati read into the record the comments from Orange County Planning. No response is necessary as far as the board's interpretation, but for the area variances the following was noted.

"Our department has reviewed the submitted materials regarding the appeal for an area variance. While the Zoning Board of Appeals must weigh the local issues in balancing the needs of the appellant with the potential impacts on the surrounding areas, it does not appear that intermunicipal or countywide impacts would result if the board finds that granting relief is warranted in this matter".

Chairman Onorati asked who was presenting. Mr. James DeWinter, DeWinter Engineering was present representing his client and stated his name for the record.

Mr. DeWinter went on to explain his request in that the Planning Board has sent them here for an Interpretation as to the use as either the present use as a Motor Vehicle Fueling Station with a convenience store or a change of use to General Retail.

Mr. DeWinter continued that the proposed U-Haul drop off/pickup area will be an expansion of the existing convenience store at Route 6 Express. It is proposed to provide a gravel storage area towards the rear of the property and to limit the number of vehicles/equipment being stored to 10 units at any one time as well as limiting the location of the storage of the U-Haul vehicles and/or equipment to the gravel area.

The applicant has had requests from their customers to provide a few seats and tables within the convenience store so that occasionally they can take a quick coffee break or eat a slice of pizza within the convenience store. The applicant proposes to limit the tables and seating to 20 seats. There will not be any table service and customers will self-serve themselves.

An area variance may be required for the lot area. The minimum lot area in the TC zone is 1.0 and the existing site is 0.67.

Attorney David Bavoso explained that the added concern is that it may become a convenient store or general retail. The reason that becomes important is because a Motor Vehicle Fueling Station required a Special Use Permit where as General Retail just required Site Plan Approval. So the procedure needs to be identified. Also the new zoning standards required that the minimum lot area in that zone for any of these uses would be one acre in that zone for any of the uses. So no matter what, they have to come here for the area variance because the current lot size is 0.67 acres.

Basically the Planning wants some clarification from the Zoning Board as to what they would define the use as, because it will determine the procedure when they return to the Planning Board.

Board Member Raymond Spiak asked how many U-Hauls are involved. Mr. DeWinter explained that it is a drop off pick up and the maximum is ten units by the Planning Board.

Chairman Onorati also said they (Planning Board) also questioned the size and the ability to turn around.

Mr. DeWinter explained, that what we agreed to was the maximum number of 10 units (whether a big truck or a small truck) but limit it to a specific area only on the site plan.

Board Member Raymond Spiak expressed his opinion that if they are all registered and they all have plates on them, if they weren't U-Haul's and were someone else's vehicle coming into their they would be customers of the facility. There would be not change. I don't see the u-hauls as an issue.

Chairman Onorati agreed that was a good point. Chairman Onorati polled the other board members and no one had any issues with the use. Chairman Onorati said, "That now that that was settled, is it allowed".

Attorney Bavoso said yes, and explained that at this time the board has to decide which definition fits better for this use; Motor Vehicle Fueling Stations or General Retail.

Attorney Bavoso continued, that the Code does define the Motor Vehicle Fueling Station and General Retail, and Motor Vehicle Fueling Station which is obviously the primary uses for the sale and automobile products, it does say for the sale, and automobile products, it does say you can have a secondary use for convenience store selling goods and food for off-site consumption, and then General Retail is stores and shops where goods are sold primarily at retail, such as food and beverages. It also includes in that definition; outside storage for display of goods such as permitted with site plan approval. So it allows for the outside storage of trucks.

Chairman Onorati said that what bothers me is that, I talked to the Building Inspector and other people and I don't see any problem with the tables, I didn't see any problem before. Apparently what you are telling me now is they never got approval for the Pizzeria.

Attorney Bavoso replied, correct. He continued that in his opinion the pizzeria would be covered with the general retail use.

Chairman Onorati continued that he knew they have been operating under a convenience store and pizzeria and for a long period of time, selling cars. Chairman Onorati asked if the car sales were allowed. No one knew.

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Chairman Onorati said that he goes there all the time and his only concern is if they have a bathroom facility on the premises, and will the septic handle it. Attorney Bavoso said that they will take it all under consideration and address those issues during site plan review process.

Chairman Onorati said that now that we have the interpretation covered the area variance is needed.

Attorney Bavoso explained to the board that the applicant needs a one acre minimum lot size and has 0.67 acres in total area; they would need a variance of 0.33 acres, and also a front yard setback of five feet.

Motion by Bruce Lewis, seconded by Jeffrey Soons to approve the two area variances that were requested and also to interpret that the use falls under General Retail.

All in Favor

Motion Carried

Upon Roll Call:

Jeffrey Soons	AYE
Bruce Lewis	AYE
Russ LaSpina	AYE
Raymond Spiak	AYE
Richard Onorati	AYE

Chairman Onorati declared the area variances granted and interpretation set.

II. INFORMAL

Contino / SBL# 25-1-35 / Gardnerville Road / AR-Agricultural Residential Zone

Applicant is applying for an area variance of 195-17A (3) and 195-14 of the Town of Wawayanda Zoning Regulations in order to locate an in-ground pool on a corner lot, placing the pool location in the front yard.

Mr. Jon Contino approached the board and explained that his property is on a corner and technically he has two front yards. I am here in order to obtain a variance so that I can put an in-ground pool in.

Motion by Bruce Lewis, seconded by Raymond Spiak to set a Public Hearing date for February 9, 2017.

All in Favor

Motion Carried

III. OTHER BUSINESS

Approval of Minutes for August 13, 2015

Motion by Raymond Spiak, seconded by Jeffrey Soons to approve the minutes for August 13, 2015.

All in Favor

Motion Carried

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Approval of Minutes for November 10, 2016

**Motion by Bruce Lewis, seconded by Russ LaSpina to
approve the minutes for November 10, 2016 as submitted.**

All in Favor

Motion Carried

The December 15, 2016 Zoning Board of Appeals meeting was adjourned at 7:21 by Chairman Richard Onorati.

Respectfully Submitted,

Patricia Battiato
Secretary to Zoning