

TOWN OF WARWICK
ZONING BOARD OF APPEALS
MARCH 25, 2019

Members Present:

Jan Jansen, Chairman

Robert Fink , Attorney

Diane Bramich

Kevin Shuback

Chris Daubert

Members Absent:

Mark Malocsay, Co-Chairman

PUBLIC HEARING OF View Wireless Infrastructure Fund LP and Orange County Poughkeepsie Limited Partnership - dba Verizon Wireless for property owned by Pine Island Warehousing & Storage LLC and located at 39 Transport Lane, Warwick, New York and designated on the Town tax map as Section 3 Lot 2 Block 2.222 and located in an AI District for variances of Sections 164.77(C)(1) – maximum height – an increase from permitted height of 120 feet to 164 feet; 164.77(C)(2)(c) – setbacks - a decrease from the required 164 feet to 138 feet and 145 feet; 164.79(C)(3) – foundation - delaying the submission from a professional engineer until a time concurrent with the building permit application, and 164.80(C)(8) omitting the requirement of a landscaping plan, for the purpose of construction of a wireless communications facility.

As per letter, dated November 15, 2018 – Applicant has placed application on “HOLD.”

PUBLIC HEARING OF Blue Arrow Too, LLC. – for property located at 86 Glenwood Road, Warwick, New York and designated on the Town tax map as Section 24 Block 1 Lot 46.22 and located in RU & CO Districts for an interpretation or a variance of the Bulk Area Requirements of the Code as they may or may not apply to approval under Use Group 88 (outdoor amusement) with accessory food services which require a Special Use Permit and site plan approval. The subject of the variances and/or interpretations pertain to wall signs Section 164.43.1.G(3)(a); monument signs Section 164.43.1G(3)(b); parking setback Section 164.43.2A(4); area variances related to 3 buildings and movement of a proposed indoor riding arena. The specifics of the application are located in the Office of the Town Building Department and open to inspection.

CHAIRMAN JANSEN: Please identify yourselves for the record and tell the board what exactly it is you want to do here.

MR. GETZ: David Getz, Lehman & Getz Engineering.

MR. GRIGGS: David Griggs, ERS Consultants.

ATTORNEY KRAHULIK: Bob Krahulik, Beattie & Krahulik, Attorney-at-Law.

MR. GETZ: I'll give you a little bit of history on the application. Actually, you've seen this applicant and property before. A couple years ago they received variances related to the proposed indoor riding arena and a work/storage/maintenance building that was approved as the standards for an accessory building. We're here tonight because the applicants have been before the Planning Board for many months now. We're in the midst of going through the technical review there. We've received outside agency approvals from: the New York State DEC, Orange County Health Department, and Orange County Department of Public Works. So, we think we're well along in the design phase for the project. The Planning Board under-seeker declared themselves lead agency and so at this point we're addressing technical comments from the Town Engineer, Planner, and Attorney who all directed us to come before the ZBA.

ATTORNEY FINK: Let me interrupt for just a second. The Planning Board typed this as a Type 1 Action. Therefore, it's up to the Planning Board to make a SEQRA determination and until that's made this board can't officially act. So this board is going to hear what it is you need from the board, and the board will attempt to come to a consensus on each of those items. The consensus will then be sent to the Planning Board so that they can move forward with a SEQRA determination. Then when they make it, it will be sent back here to officially act on what this board determined. There will be no decisions tonight but there will be, hopefully, a consensus on what it is you want to do.

MR. GETZ: OK, thank you. As you described when you read the notice, we're here for a couple different types of variances. The applicant proposes wall signs that exceed the number that's allowed according to Code and in some cases the size is prohibited by Code. We are also applying for a variance for the size of the sign (that construction has started but is currently on hold) which we're calling a pillar sign at the southern-most entrance because the dimensions of that sign exceed the standards in the Zoning Code. We are proposing to have parking within the 50-foot front setback in a few locations. In one spot it is 31 feet from the front property line along Glenwood Road and in some other cases it's between 42 and 50 feet. The other variances (or interpretations) relate to the indoor riding arena and, what we call, existing building #3 on the plans. Existing building #3 was originally approved by your board as maintenance and storage building. Now it's being reviewed by the Planning Board for uses such as event space and/or food usage, that type of thing. The Planning Board directed us to request from your board an interpretation or, if needed, a variance for modifications to the variances previously granted.

ATTORNEY FINK: If you would, very briefly, tell us what is it you are trying to do to get your approval from the Planning Board?

ATTORNEY KRAHULIK: It's Use Group 88 which allows for outdoor amusement and as an accessory use, food service is permitted. In order to get that approval we need some of the minor variances that we seek tonight.

MR. GETZ: We're prepared to talk in more detail about the specific variances and the factors we feel litigate those, if you'd like to hear.

CHAIRMAN JANSEN: Maybe we should take them one at a time?

ATTORNEY FINK: Yes. Two things: 1) we'll take them one at a time, that way the Public can address that particular item; 2) this board will look at it and attempt to come to consensus on that one item. Then we'll move onto the next one.

MR. GETZ: Let's start then please with the wall signs. You'll see in your paperwork the photographs of existing signs, their locations, as well as all proposed signage and locations. The applicant has many decorative signs that he would like to keep and we seek your guidance on that.

ATTORNEY FINK: Are any of these signs that you want presently existing?

MR. GETZ: Yes, all these that are photographed are there.

ATTORNEY KRAHULIK: We are seeking an interpretation on some of the smaller signs and if you don't agree with their interpretation, we'll be seeking a variance. They are very small signs but because of the number of signs, we will need a variance.

CHAIRMAN JANSEN: OK, so we're going to take wall signs as #1. Let me open it up to the Public. Is there anyone that would like to address the signs?

MS. GUERRERA: I'm Tina Guerrero. I lived directly across the street from the farm at 83 Glenwood Road. I'm probably the closest property to the farm and I look directly onto one of the signs and I see the others on my travels. I've lived there 25 years, and I think I speak for a group of people here, we don't consider them a negative impact. That property was rundown, abandoned, and dilapidated for most of my 25 years here. So again, I don't see a negative impact as a neighbor. If anything these signs enhance the property and neighborhood.

MR. KRAVITZ: Bob Kravitz, 71 Glenwood Road. I too live across the street from the farm except my house is set back a bit. As far as the signage, I have to agree in no way does it diminish the property. If anything, it enhances it. The whole overall feel certainly is an improvement to what it was before. I don't think the signage itself imposes any aesthetic issue for me whatsoever.

CHAIRMAN JANSEN: Anyone else? No. Public Hearing is now closed.

ATTORNEY FINK: Will the proposed variance cause an undesirable change to the character of the neighborhood or be a detriment to nearby properties?

MR. SHUBACK: No.

MS. BRAMICH: No.

ATTORNEY FINK: Can the benefit sought by the applicant be achieved by any other feasible method?

MS. BRAMICH: No.

MR. DAUBERT: No.

ATTORNEY FINK: Is it a substantial variance?

MR. DAUBERT: Yes.

MR. SHUBACK: Yes.

ATTORNEY FINK: Is the alleged difficulty self-created?

MR. SHUBACK: Yes.

MR. DAUBERT: Yes.

ATTORNEY FINK: So I take it that the consensus of the board would be favorable? Yes, with the condition that it's specific to this particular use. OK, let's move on to the next topic.

MR. GETZ: The next topic is the proposed pillar sign. It's sign #8 in your paperwork for the southern-most driveway. The County DPW has approved 3 driveways for the property: 1) very close to the southern property line; 2) directly across from Eagle Wood Vista Lane; 3) and near the northern end of the property, by the existing stables, a driveway that's not going to be opened to the public. So the sign we are discussing is at that southern entrance. There's a diagram of the sign showing the construction of 2 masonry pillars with stone facing and the proposed log that I mentioned that would span the driveway with a 14-foot clearance for a fire truck or other vehicles to pass under. That clearly exceeds the dimensions that are standard in the Zoning Code section for signs. Again, the applicant has an artistic viewpoint on it and he wants it to be sort of like a ranch entrance. It's consistent with the rest of the property being agricultural in style. We request the variances needed to create a sign like that.

CHAIRMAN JANSEN: Let me open it up to the Public. Is there anyone that would like to address the pillar sign? No. I'll close the Public Hearing.

ATTORNEY FINK: Will the proposed variance cause an undesirable change to the character of the neighborhood or be a detriment to nearby properties?

MS. BRAMICH: No.

CHAIRMAN JANSEN: No.

ATTORNEY FINK: Can the benefit sought by the applicant be achieved by any other feasible method?

MR. DAUBERT: Only by not putting it there.

MR. SHUBACK: It can't be any lower because emergency vehicles need to pass under it.

ATTORNEY FINK: Is it a substantial variance?

MS. BRAMICH: Yes.

MR. SHUBACK: Yes.

ATTORNEY FINK: Is the alleged difficulty self-created?

MR. SHUBACK: Yes.

MR. DAUBERT: Yes.

ATTORNEY FINK: So the consensus of the board would be favorable? Yes, again with the condition that it's specific to this particular use. Let's move on to parking.

MR. GETZ: The Code requires a 50-foot setback from the front property line for parking spaces and in a few places we are proposing to unexceed that. Overall there are 3 parking areas on the property. One exists already with about 15 spaces near the stables. Another area which is currently used by visitors to the site, that is just to the south of the existing barn. The third one has not yet been constructed but will be down near the covered bridge and that large building #3. The variances we are seeking are to have parking in the existing parking areas. By the stables the current setback is about 42 feet there, where 50 feet is required. The topography of the site mitigates that parking area and the central parking area quite a bit. The parking areas are down from the road so that helps screen it. Also as per Planning Board code, our proposed plan includes trees and vegetation to block as well. So the central parking area comes within 43 feet instead of 50. There is 1 handicap parking space closet to the existing handicap ramp to the barn that would be at 31 feet. Numerically that's our biggest request at 31 feet. All the other spaces would be more than 40 feet. If we didn't get the variance we could fit spaces elsewhere on the site to meet the parking requirements but the granting of the variance would allow this existing parking to remain and to get help with the handicap ramp parking.

MR. SHUBACK: There's just 1 handicap parking space there?

MR. GETZ: No, there are 3 but it's just the 1 that sits at 31 feet.

CHAIRMAN JANSEN: OK, let me open it up to the Public again. Is there anyone that would like to address the parking? No. I'll close the Public Hearing on that item.

ATTORNEY FINK: Will the proposed variance cause an undesirable change to the character of the neighborhood or be a detriment to nearby properties?

MS. BRAMICH: No.

CHAIRMAN JANSEN: No.

ATTORNEY FINK: Can the benefit sought by the applicant be achieved by any other feasible method?

MR. SHUBACK: Not really unless they reduce the amount of spots.

ATTORNEY FINK: Is it a substantial variance?

CHAIRMAN JANSEN: No. Only the 1 handicap spot, but not the rest.

MR. SHUBACK: No.

ATTORNEY FINK: Is the alleged difficulty self-created?

MS. BRAMICH: Yes.

MR. DAUBERT: Yes.

ATTORNEY FINK: So the consensus of the board would be favorable?
Yes. Let's move on to buildings.

Building #3:

Do I have a consensus that the interpretation be on building #3 that no variance is needed? [Yes.]

Indoor Riding Arena:

Do I have a consensus that the interpretation be on the indoor riding arena that no variance is needed? [Yes.]

Building #1:

Do I have a consensus that the interpretation be on building #1 that no variance is needed? [Yes.]

OK, is there anything else?

MR. GETZ: No, that was it. Thank you.

ATTORNEY FINK: This will go to the Planning Board. Assuming they give negative determination, we'll be told and receive copy. At the next meeting after the negative determination, this board will formalize what it just did. You can attend or not. It's up to you. Thank you all for being here.

PUBLIC HEARING OF Dawn & Mike Hazard – for property located at 88 Prices Switch Road, Warwick, New York and designated on the Town tax map as Section 40 Block 1 Lot 28.2 and located in an RU District for a variance of following Sections of the Code as they apply to an existing lot and buildings and for a commercial agricultural operation: Section 164.46.J(16) (animal housing) setback required 150 ft / existing 1 side 95.5 ft – other side 101.3 ft and front 121.7 ft; Section 140.4 (pool to house basement) setback required 15 ft / existing 13 ft; Section 164.40M.14(b) (lot area) required 20 acres / existing 17.9 acres; Use Group (b) lot width 250 ft required / 246 ft existing; 75 foot front setback required / 17.5 ft existing; 1 side setback 75 ft required / 66 feet existing.

CHAIRMAN JANSEN: Please identify yourself and briefly tell the board what it is you want to do.

MR. FRIEDLER: Brian Friedler, Lehman & Getz Engineering.

MR. HAZARD: Mike Hazard, property owner.

ATTORNEY FINK: Before we move on, have we heard anything back from the County? If so, do we know when it went out?

MARY HEBEL: There is no notation in the file of when it went out, but it is definitely not back and it definitely hasn't been 30 days.

ATTORNEY FINK: We can hear the application but can't reach a decision until we hear from the County and they have 30 days to respond.

MR. FRIEDLER: We're here for an existing lodge and an existing house. There are several non-conforming conditions which exist that we would like to get variances for. Then we're proposing an animal holding area near the existing barn which also requires a handful of variances.

MR. HAZARD: This all started when I applied for a permit to build an apartment in the barn to house a caretaker to take care of the animals. I have the barn that has the stalls in it and I was looking to rent that. The plans were all drawn for everything with the septic and so forth. Everything is in place for the Building Department but they sent us here first.

MR. SHUBACK: You're not changing anything. All the buildings are there and everything is there, all pre-existing.

MR. HAZARD: Correct. The barns were built in the 1850's. The

animals are going to be housed in the same place they always were. I could have animals because I own the property. But if I want to rent it out and remove myself from that, that's when it comes into a commercial agricultural operation. I just want to remove myself and have someone take care it.

ATTORNEY FINK: What happened with the pool?

MR. HAZARD: When all was said and done with the install, it ended up being 2 feet too close to the house.

CHAIRMAN JANSEN: Let me open it up to the Public. Is there anyone that would like to address this application? No. OK, we're going to leave the Public Hearing open and at our next meeting if anyone has questions, they'll have any opportunity to be heard. Plus, we will have hopefully heard back from the County by next meeting as well. That date is: Monday, April 22, 2019 at 7:30pm.

PUBLIC HEARING OF David & Paula Ovando – for property located at 19 Old Cross Road, Warwick, New York and designated on the Town tax map as Section 40 Block 1 Lot 15.1 and located in an RU District for a variance of the Bulk Area Requirements of the Code permitting coverage of a front (10 ft X 6 ft entrance) and 12 ft X 26 ft addition over garage with a front setback of 66.9 ft where 75 ft are required.

CHAIRMAN JANSEN: Please identify yourself and briefly tell the board what you're trying to do.

MR. OVANDO: I'm David Ovando. I have an existing porch that I would like to cover and I would like to build an addition over my garage.

CHAIRMAN JANSEN: OK, let me open it up to the Public. Is there anyone that would like to address this application? No. I'll close the Public Hearing.

ATTORNEY FINK: Will the proposed variance cause an undesirable change to the character of the neighborhood or be a detriment to nearby properties?

MR. DAUBERT: No.

CHAIRMAN JANSEN: No.

ATTORNEY FINK: Can the benefit sought by the applicant be achieved by any other feasible method?

MR. DAUBERT: No.

MR. SHUBACK: Only by not doing it.

ATTORNEY: Is it a substantial variance?

MR. SHUBACK: No.

MS. BRAMICH: No.

ATTORNEY FINK: This is a Type 2 Action so there is no environmental concern.

ATTORNEY FINK: Is the alleged difficulty self-created?

MS. BRAMICH: Yes.

MR. DAUBERT:

Yes.

ATTORNEY FINK:
granted as advertised?

Does anyone care to move that the variance be

MS. BRAMICH:

So moved.

MR. SHUBACK:

Seconded.

CHAIRMAN JANSEN:

All in favor? [4 ayes]
Motion carried.

PUBLIC HEARING OF Kraftify Holdings, LLC. – for property located at 251 State School Road, Warwick, New York and designated on the Town tax map as Section 46 Block 1 Lot 37 and located in an OI District for a variance of the Bulk Area Requirements of the Code permitting an addition of a rear storage building (30 ft X 66 ft) 33.7 (+/-) feet from the rear line where 50 ft are required.

CHAIRMAN JANSEN: Please briefly tell the board what it is you're trying to do.

UNIDENTIFIED SPEAKER: We are requesting a variance for the rear setback requirement where 50 feet is required and we're at 33 feet. We need to put an addition on the building to expand production space. A couple mitigating factors are it's a relatively small addition (at 2,000 square feet) in comparison to the size of the building, which is 15,000 square feet and you can't see where we're proposing the addition. It is a pretty tucked away spot on the property. The reason we have to put it there is because it's right next to our actual production area.

ATTORNEY FINK: Have we heard anything back from the County? Also, do we know when it was sent?

MARY HEBEL: There is a notation in the file that it was sent to the County on March 12, 2019, and we have not heard back from them yet.

CHAIRMAN JANSEN: Let me open it up to the Public. Is there anyone that would like to address this application?

ATTORNEY KRAHULIK: My name is Bob Krahulik, I am President of the Warwick Valley Local Development Corporation. We own a lot of the land surrounding the applicant's property. I'm very much in support of the use of the property but I'm wondering if there is an architectural rendering of what this will look like.

UNIDENTIFIED SPEAKER: There is. It was submitted to the Town with the plans when we applied for a building permit. I can describe it. We're building this as a destination spot to be very picturesque and serene, so we're not going to put up something ugly. That is the exact opposite of what we want. What's there right now is the only part of the building that has addition on it, not the original building. So the building we bought was built in 1930 and in the back left corner there's this faux brick addition that was put on at some point that really doesn't fit the nature of the building. That's what we're actually taking off and expanding a bit.

ATTORNEY KRAHULIK: I'm satisfied. We really have no objection. Like I said, we're very much in favor of the application and what they are proposing to do. We are in full support. Thank you.

CHAIRMAN JANSEN: Is there anyone else who would like to address this application? No. OK, we're going to leave the Public Hearing open as we wait to hear back from the County. Then at next month's meeting we can act on it. It will be very fast. That date is: Monday, April 22, 2019 at 7:30pm.

OTHER CONSIDERATIONS:

CHAIRMAN JANSEN:
February 25, 2019 meeting.

Motion to approve the ZBA Minutes from the

MR. SHUBACK:

So moved.

MR. DAUBERT:

Seconded.

CHAIRMAN JANSEN:

All in favor? [4 ayes]
Motion carried.

Meeting adjourned.

[ZBA Recording Secretary – Mary Hebel]