

March 7, 2024
7:00PM
Owego Town Hall
2354 State Route 434
Apalachin, NY 13732

MEETING OF THE TOWN OF OWEGO ZONING BOARD OF APPEALS

Present: Chairman Gary Phelps, Janet Brown, David Kresge, Paula Wilcox (alternate)

Excused: Dan Myers, Jack Legg

Others Present: Joann Lindstrom, Irene Graven

Chairman Phelps called the meeting to order at 7:00 pm. He notified those present that the board would be moving Mr. Mancini's request to the top of the agenda so he would not have to sit through the ALDI hearing.

Appeal No. 2144

The Board visited Appeal No. 2144, a request by Mark Mancini for Home Occupation Special Use Permit to conduct a gunsmithing business at his home at 5079 Gaskill Road, Owego.

Appearances: Mark Mancini

Exhibits: Application for a Special Use Permit dated February 13, 2024

Chairman Phelps asked Mr. Mancini if anything had changed from the time of Mr. Mancini's application for a Special Use Permit for a Home Occupation. Mr. Mancini replied no. Chairman Phelps asked how the progress is coming with Mr. Mancini's Federal Firearms Permit. Mr. Mancini stated that he has the paperwork prepared but needs fingerprints and photos which he will do with the Tioga County Sheriff's department. Chairman Phelps verified that Mr. Mancini will be conducting work in his cellar. Mr. Mancini affirmed. Chairman Phelps asked about hours of operation and how the business will be conducted. Mr. Mancini stated customer drop off and pick up will be located in his detached garage due to difficult access into his basement from the outside.

Chairman Phelps then opened the public hearing. No one wished to speak and the public hearing was closed.

Mrs. Brown asked what types of guns Mr. Mancini will repair and about his range of expertise. Mr. Mancini replied that he has completed a home study course through the American Gunsmithing Institute and possesses certificates in handguns, shotguns, rim fires and center fire rifles.

Mrs. Brown asked if guns would be secured in his basement. Mr. Mancini replied that if the ATF requires him to obtain a gunsafe he will. Mrs. Wilcox shared Mrs. Brown's concern, and Chairman Phelps restated the question. Mr. Mancini stated that he will have a safe in his home, though he would prefer to keep it on the ground level due to climate control.

Mrs. Brown asked if customers will shoot the guns at the site after they are repaired, as he lives in a residential area. Mr. Mancini replied that in some instances he would fire the gun himself to make sure it is functioning properly, but his recommendation would be for them to take it to the Tioga County Sportsman's Association, adding that he shoots his own guns on his property but he has a berm that he shoots into. While neighbors have called the Sheriff's Department on him before, he meets the 500 foot requirement.

Mrs. Wilcox asked if Mr. Mancini will be verifying ownership of guns as he takes them in for repair. Mr. Mancini said that from what he has read in the acquisition and disposition book, he is not required to do so.

Mrs. Brown made a motion to approve Appeal 2144. Mrs. Wilcox seconded. All in favor.

Reference:

Appeal No. 2144 dated February 13, 2024

ACTION OF THE ZONING BOARD OF APPEALS of the Town of Owego, Owego Town Hall, 2354 State Route 434, Apalachin, New York:

To: Mark Mancini, 5079 Gaskill Road Owego NY 13827

At a meeting of the Zoning Board of Appeals held the 7th day of March 2024, the above referenced appeal was considered and the Board by resolution GRANTED your request for a Special Use Permit pursuant to Chapter 125 of the Code of the Town of Owego.

The resolution adopted by the Board of Appeals follow, viz:

WHEREAS, a public hearing was held on the 7th day of March 2024, on notice according to the law, at which Mark Mancini appeared and gave testimony to questions put forth to him by this Board; and

WHEREAS, Mr. Mancini desires to conduct a gunsmithing business at his home at 5079 Gaskill Road, Owego, NY as a home occupation; and

WHEREAS, Mr. Mancini stated that his federal firearms license application is pending, which must precede the initiation of his home-based gunsmithing business; therefore be it

RESOLVED, that the Board makes the following findings based on the entire record:

1. Applicant requested a Special Use Permit to operate a gunsmithing business at his home;
2. Property is located at 5079 Gaskill Road Owego NY;

3. Property is situated in an Agricultural (AG) zoning district;

And be it further

RESOLVED, the application for a Special Use Permit is hereby GRANTED.

Any and all other provisions of this Chapter not waived or modified by this decision are to be observed.

Approval of Minutes

Chairman Phelps requested a motion to accept the January 4, 2024 meeting minutes. Mrs. Brown made a motion, Mr. Kresge seconded. All in favor.

Appeal Nos 2139-2142

The Board then visited Appeal Nos. 2139-2141, a request by ALDI for a Special Use Permit, two parking variances, and a floodplain development permit to construct a 19,631 SF grocery store at 1100 State Route 17C Owego.

Appearances: Kurt Charland & Chase Kraemer, Collier's Engineering

Exhibits: Application for a Special Use Permit dated February 11, 2024 & February 15, 2024

Chairman Phelps asked Collier's Engineering to introduce the project.

Mr. Kraemer provided an overview of the project stating that ALDI is proposing to construct 19,631 SF store, demolishing a portion of the existing hotel and conference center. The existing hotel will be remodeled with a new demise wall adjacent to ALDI's and the hotel will retain 70-75 rooms. The plan includes 110 parking spaces for the hotel, more than enough to meet Town Code. He stated that ALDI is requesting a variance and parking due to the lack of available space. The plan shows 88 spaces but code requires 164 spaces. ALDI typically requires 100-110 spaces, all of which are not typically required.

Mr. Kraemer then addressed ALDI's request for a variance of parking stall size, stating that they are requesting 9 ½ by 18 instead of the required 10 by 20 because it would better align with the existing spaces at the hotel. Mr. Kraemer also referenced a shared parking agreement between the hotel and ALDI which will serve as overflow. The parcel will be subdivided into three lots.

Mr. Kraemer explained that they will be demolishing all existing utilities and installing new utilities, but the same drainage patterns will remain. The finished floor of the store will be one foot above Base Flood Elevation (BFE). While town code requires construction two feet above BFE, the submitted design, including dry floodproofing and the emergency plan meets floodplain requirements.

Mr. Kraemer continued, explaining that the main entrance for trucks will be in and out of 17C. They have completed a truck turn analysis and 18 wheelers will be able to maneuver the site to the truck dock on the eastern side of the store. They will install adequate lighting and additional landscaping.

Chairman Phelps opened the public hearing.

Bunny Begeal, 766 Ivory Foster Rd, Owego, expressed concerns about the parking stall size as many people own dual width trucks and having a small size will cause more cars to be damaged by open doors. She also expressed concern about traffic on Hickory Park Road as she has waited for three lights to make a left turn onto Route 17C in the past.

Charles Plater of 194 East Temple Street, Village of Owego, stated that he is a village trustee and Deputy Mayor. He has noticed other ALDI stores do not provide scooters for handicapped people and he wanted to know if this store would provide them. Mr. Charland stated that he could bring up to the company.

Rusty Fuller, 95 Liberty Street, Village of Owego asked about the timeline. Mr. Charland responded that if all of the approvals go through, ALDI would start construction in April with a five to seven month construction timeline, with the store possibly opening in October or November.

Wendy Deis, 383 Front Street, Village of Owego, thanked the company for its forward vision and thanked the town for considering approval.

Janet Jaciovelli not a resident but attending on behalf of Grand Union, asked if the board would consider variances from grocery stores other than ALDI. Attorney Graven stated yes, if a variance request were submitted each request would stand on its own merit.

Chairman Phelps then read several documents into the record: 1) ALDI has submitted a request for a Special Use Permit and the Zoning Board of Appeals has reviewed Part I of the EAF and has caused Part II to be prepared and has found no negative environmental impact and stated that the board will issue a negative declaration under SEQR; 2) letter from the NYS DOT recommending a sidewalk and requesting a drainage study. Mr. Charland stated that because ALDI would not need a NYS highway work permit, the state could not require a sidewalk and they would only include one if the town required; 3) letter from Southern Tier Hotel LLC authorizing ALDI to apply for the Special Use Permit; 4) a letter from Mr. Rieg of the Owego Town Planning Board to the Zoning Board of Appeals, recommending approval of the request, suggesting two conditions: that wheel stops are added to the east side of the building where the parking lot is flush with the structure and that ALDI grant access to a camera that would monitor flood levels and would be mounted on the rear of the store. Mr. Charland interjected, stating that the Planning Board would be satisfied with bollards or wheel stops and due to the maintenance difficulty posed by wheel stops, ALDI will be installing bollards. Chairman Phelps continued to read the following into the record: 5) letter from Regina Thompson of 223 Front Street, Village of Owego stating her support for the project; 6) letter from Neva Olmstead of Front Street, Village of Owego stating her support for the project. Chairman Phelps then asked Mr. Charland

about the shared parking agreement. Mr. Charland stated that property boundaries in the merged parking lots will not be delineated for the public so people will park where they want, and an access agreement will be finalized as construction moves closer. Chairman Phelps asked Mr. Charland to address the hours of deliveries to the store, which Mr. Charland stated will be off peak hours in the late afternoon and or early morning before the store opens.

Chairman Phelps continued to read documents into the record: 7) a letter from the Tioga County Planning Board recommending approval. Chairman Phelps then asked Mr. Charland to address the floodproofing. Mr. Charland stated that the building will be raised to one foot above BFE but raising it two feet above BFE would have cause grading problems with adjacent parking lots, existing doorways and truck docks. Floodgates on the store openings will be manually installed.

Chairman Phelps continued to read documents into the record 8) email from Angela Malone, Wilseyville resident, stating support for the project; 9) comment letter from Michael Roberts, Owego Town Highway Supervisor suggesting the applicant conduct a traffic study. Ms. Lindstrom then interjected, stating that after she sought Mr. Roberts' comment she learned that Hickory Park Road is a state road, which the town maintains and therefore Mr. Roberts did not have jurisdiction over the two roads abutting the proposed project; 10) comment letter from Bill Carrigg, Owego Town Emergency Manager, stating that the emergency plan as drafted was insufficient and a will need to be updated with contact information for on-site management who could be contacted after hours and stated his concern about granting access to the camera for monitoring river levels. Attorney Graven stated that the camera requirement will be addressed at a later time.

Chairman Phelps continued to read documents into the record 11) comment letter from Tyson Stiles, Owego Town Utilities Director recommending approval and requiring the applicant to connect to the town's water and sewer systems; 12) comment letter from Kevin Ford, Campville Fire Department, recommending the project with no comment; 13) letter from the NYS DOT recommending a sidewalk on the site for a pedestrian connection. Mr. Charland re-stated that he had spoken to the DOT and the sidewalk cannot be required as the applicant will not be seeking a NYS highway work permit; 14) an email from the NYS DOT to Ms. Lindstrom stating receipt of the Stormwater Pollution Prevention Plan (SWPPP), which satisfies their requirement of a drainage study.

Chairman Phelps then asked for a motion to accept the Environmental Assessment Form and issue a negative declaration under SEQR. Mr. Kresge made a motion to approve, seconded by Mrs. Brown. All in favor.

Chairman Phelps asked for a motion to approve Appeal 2139, a variance of the number of parking spaces. Mrs. Brown expressed her concerns about the parking stall size and how it will negatively impact people who have children to get in and out of cars and may cause damage from car doors. She added that she is concerned that the store will bring additional congestion to the area and her concerns regarding these issues were not addressed. Mrs. Brown asked about demolition and flood elevation which Mr. Charland addressed. Chairman Phelps asked about snow removal and the impact a large snowstorm will have on the parking, to which Mr. Charland replied that some spaces may be taken up with piles of snow but that would be temporary.

Mrs. Wilcox made a motion to approve Appeal Number 2139, a request for a variance of the total number of parking spaces. Mr. Kresge seconded. Mr. Kresge, Mrs. Wilcox, and Chairman Phelps voted to approve, Mrs. Brown opposed. Passed.

Mrs. Wilcox made a motion to approve Appeal Number 2140, a request for a variance of the parking stall size. Mr. Kresge seconded. Mr. Kresge, Mrs. Wilcox, and Chairman Phelps voted to approve, Mrs. Brown opposed. Passed.

Mr. Kresge made a motion to approve Appeal Number 2141, a request for a floodplain development permit. Mrs. Wilcox seconded. All in favor.

Mrs. Wilcox made a motion to approve Appeal Number 2142, a request for a Special Use Permit to construct an ALDI store. Mrs. Brown seconded. All in favor.

Reference:
Appeal No. 2139 dated January 11, 2024

ACTION OF THE ZONING BOARD OF APPEALS of the Town of Owego, Owego Town Hall, 2354 State Route 434, Apalachin, New York:

To: ALDI, Inc.
300 State Route 281
Tully, NY 13159

At a meeting of the Zoning Board of Appeals held the 7th day of March 2024, the above referenced appeal was considered and the Board by resolution GRANTED your request for a variance pursuant to Chapter 125 of the Code of the Town of Owego.

The resolution adopted by the Board of Appeals follow, viz:

WHEREAS, a public hearing was held on the 7th day of March 2024, on notice according to the law, at which Kurt Charland and Chase Kraemer of Collier's Engineering appeared and gave testimony to questions put forth to them by this Board; and

WHEREAS, ALDI desires to construct a grocery store at 1100 State Route 17C Owego, NY; and

WHEREAS, compliance with the Owego Town Code's parking requirements cannot be met within the confines of the newly created ALDI parcel but will be met through shared parking agreements; therefore be it

RESOLVED, that the Board makes the following findings based on the entire record:

1. Applicant requested a variance of the town's parking requirement;
2. Property is located at 1100 State Route 17C Owego NY;
3. Property is situated in an Highway Interchange (HIC) zoning district;

And be it further

RESOLVED, the application for a variance is hereby GRANTED.

Reference:

Appeal No. 2140 dated January 15, 2024

ACTION OF THE ZONING BOARD OF APPEALS of the Town of Owego, Owego Town Hall, 2354 State Route 434, Apalachin, New York:

To: ALDI, Inc.
300 State Route 281
Tully, NY 13159

At a meeting of the Zoning Board of Appeals held the 7th day of March 2024, the above referenced appeal was considered and the Board by resolution GRANTED your request for a variance pursuant to Chapter 125 of the Code of the Town of Owego.

The resolution adopted by the Board of Appeals follow, viz:

WHEREAS, a public hearing was held on the 7th day of March 2024, on notice according to the law, at which Kurt Charland and Chase Kraemer of Collier's Engineering appeared and gave testimony to questions put forth to them by this Board; and

WHEREAS, ALDI desires to construct a grocery store at 1100 State Route 17C Owego, NY; and

WHEREAS, compliance with the Owego Town Code's parking stall size requirements cannot be met without a complete re-design of all adjacent parking lots; therefore be it

RESOLVED, that the Board makes the following findings based on the entire record:

1. Applicant requested a variance of the town's parking stall size requirement;
2. Property is located at 1100 State Route 17C Owego NY;
3. Property is situated in an Highway Interchange (HIC) zoning district;

And be it further

RESOLVED, the application for a variance is hereby GRANTED.

Appeal No. 2141 dated January 15, 2024

ACTION OF THE ZONING BOARD OF APPEALS of the Town of Owego, Owego Town Hall, 2354 State Route 434, Apalachin, New York:

To: ALDI, Inc.
300 State Route 281
Tully, NY 13159

At a meeting of the Zoning Board of Appeals held the 7th day of March 2024, the above referenced appeal was considered and the Board by resolution GRANTED your request for a Floodplain Development Permit pursuant to Chapter 125 of the Code of the Town of Owego.

The resolution adopted by the Board of Appeals follow, viz:

WHEREAS, a public hearing was held on the 7th day of March 2024, on notice according to the law, at which Kurt Charland and Chase Kraemer of Collier's Engineering appeared and gave testimony to questions put forth to them by this Board; and

WHEREAS, ALDI desires to construct a grocery store at 1100 State Route 17C Owego, NY; and

WHEREAS, ALDI has submitted a design that meets the town's floodplain development requirements; and therefore be it

RESOLVED, that the Board makes the following findings based on the entire record:

1. Applicant requested a floodplain development;
2. Property is located at 1100 State Route 17C Owego NY;
3. Property is situated in an Highway Interchange (HIC) zoning district;

And be it further

RESOLVED, the application for a Special Permit is hereby GRANTED.

Appeal No. 2142 dated January 15, 2024

ACTION OF THE ZONING BOARD OF APPEALS of the Town of Owego, Owego Town Hall, 2354 State Route 434, Apalachin, New York:

To: ALDI, Inc.
300 State Route 281
Tully, NY 13159

At a meeting of the Zoning Board of Appeals held the 7th day of March 2024, the above referenced appeal was considered and the Board by resolution GRANTED your request for a Special Use Permit pursuant to Chapter 125 of the Code of the Town of Owego.

The resolution adopted by the Board of Appeals follow, viz:

WHEREAS, a public hearing was held on the 7th day of March 2024, on notice according to the law, at which Kurt Charland and Chase Kraemer of Collier's Engineering appeared and gave testimony to questions put forth to them by this Board; and

WHEREAS, ALDI desires to construct a grocery store at 1100 State Route 17C Owego, NY; and therefore be it

RESOLVED, that the Board makes the following findings based on the entire record:

1. Applicant has requested a Special Use Permit;
2. Property is located at 1100 State Route 17C Owego NY;
3. Property is situated in an Highway Interchange (HIC) zoning district;

And be it further

RESOLVED, the application for a Special Permit is hereby GRANTED.

With there being no further business, the meeting was adjourned at 7:58pm.

Respectfully Submitted,

Tina Tammaro, Secretary
Zoning Board of Appeals