

May 2, 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, Jack Legg, David Kresge, Janet Brown & Dan Myers

Others Present: Dean Morgan, Irene Graven

Chairman Phelps called the meeting to order at 7:00pm. The minutes from the regular Zoning Board of Appeals Meeting held April 4, 2024 were considered. Mr. Legg made a motion to approve the minutes as written, seconded by Mrs. Brown. 4 yes, 1 abstention (Mr. Myers).

Appeal No. 2146

Mr. Morgan gave an overview of the request for a camp. Mr. Morgan stated that this is a type II SEQR review, no further review required. Mr. Morgan read the definition of camp from the Town of Owego Zoning Code Chapter 125. Mr. Morgan stated the appeal is for one camper on the property. Mr. Morgan the Tioga County Planning Board took no action on the appeal. Mr. Morgan stated he received a couple positive comments from neighbors.

Chairman Phelps asked the applicant, Shelbilyn Nickels-Schaffer to give an overview of appeal. Mr. Chris Waite spoke on behalf of Shelbilyn Nickels-Schaffer, property owner. Mr. Waite explained that there is a plan to build a house on the property, engineering plans and septic plans were in place, as the previous house had been demolished but that there was a change in the financial situation.

Chairman Phelps read the following:

Letter from Tioga County Economic Planning waiving recommendation

Recommendation of Approval letter from the Town of Owego Planning Board.

Chairman Phelps asked if the camp would be from summer to fall. Mr. Waite stated until the house it built.

Mrs. Brown asked if the applicant would be living in the camper all year round. Ms. Nickels-Schaffer replied yes.

Chairman Phelps reiterated that the applicant will be living in the camper until the start of construction of a house.

Chairman opened the meeting for questions from the board.

Mr. Myers asked if septic and well will be hooked up to the camper. Mr. Waite replied septic and water are already hooked up to the camper.

Mr. Legg made a motion to accept Appeal 2146. Seconded by Mr. Myers. All in favor. Carried.

Reference:

Appeal 2146 dated March 8, 2024

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

To: Shelbilyn Nickels-Schaffer
3727 Sulphur Springs Road
Owego, NY 13827

At a meeting of the Zoning Board of Appeals held the 2nd day of May 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 2nd day of May 2024, on notice according to the law, at which Shelbilyn Nickels-Schaffer appeared and gave testimony to questions put forth to her by this Board; and

WHEREAS, Ms. Nickels-Schaffer desires to camp until a house is built at 3727 Sulphur Springs Road, Owego, NY; and

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

1. Applicant requested an Special Use Permit to camp until a house is built;
2. Property is located at 3727 Sulphur Springs Road, Owego, NY;
3. Property is situated in an Agricultural (AG) zoning district;

And be it further

RESOLVED, the application for an amended 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.

Appeal No. 2147

Mr. Morgan explained appeal 2147 was for a variance for parking and loading spaces.

Mr. Morgan invited Zachary Kamm of Dynamic Engineering on behalf of Tractor Supply, to introduce the project.

Mr. Kamm explained the project is for a Tractor Supply store. Mr. Kamm stated the building will be a little less than 22,000 square feet. Mr. Kamm stated there will be fenced outdoor storage area, parking in the front, and full access loop around the building. Mr. Kamm stated there will be full fire access around the building with two fire hydrants in the front. Mr. Kamm explained due to the lot having a steep slope, there will be a small retaining wall in the back. Mr. Kamm stated there is a gas easement owned by Kinder Morgan and development will not interfere with that said easement. Mr. Kamm stated there will be a stormwater infiltration system on site.

Mr. Kamm discussed a revision to parking, stating earlier concept was for 214 required parking spaces but revision is for 183. Mr. Kamm also discussed the loading spaces, three being required but Tractor Supply only would need one. Mr. Kamm explained deliveries are typically once or twice a week, stating that the one loading space would be sufficient. Mr. Kamm stated the proposal is for 79 parking spaces. Mr. Kamm stated that weekday peak hours have 25-35 customers, weekends 45-50.

Mr. Morgan stated this is an unlisted action under SEQR/environmental assessment. Mr. Morgan briefly explained the environmental assessment form part 1 and there were no adverse environmental impacts. Mr. Morgan stated he prepared environmental assessment form part II and little to no impact therefore environmental assessment for part 3 is not necessary. Mr. Morgan recommends the proposed action will not have significant adverse environmental impact.

The board read SEQR part 2 and advised Chairman Phelps to sign the SEQR Part 3 form on their behalf for the proposed action.

Mr. Myers made a motion to approve and accept environmental assessment form/SEQR. Mr. Kresge seconded. All in favor. Carried.

Chairman Phelps read the following:

Letter from Tioga County Economic Planning with below listed recommendations:

1. That the applicant obtains all required state, county and local permits, licenses and registrations.
2. That applicant complies with NYS DOT Region 9 Site Plan Review Committee's comments and requirements.
3. That the extension and connection to the Veolia private community water system is agreed upon between Veolia and the Town of Owego and that said extension is feasible and successful.
4. That the Tioga County Public Health Department approves the engineered septic system design.

A brief discussion was had about the water process and the process is still under review. Mr. Morgan stated construction will not start until the water process is in place.

Mr. Morgan read questions regarding the Variance request from letter dated April 2, 2024 from Dynamic Engineering. Mr. Kamm replied with the answers to these questions also stated in said letter.

A brief discussion was had regarding possible future use of the land and parking requirements.

Mrs. Brown asked if the project could not start construction until the water system was in place. Mr. Kamm replied that construction was not take place until early next spring. Mr. Kamm stated there has been geotechnical testing for feasibility for the water process.

Mrs. Brown inquired on the septic system. Mr. Kamm stated the septic is on the side, primary field in front and second behind. Mr. Kamm stated that the plan will have to be review by the Health Department.

Chairman Phelps read the following:

Recommendation of Approval letter from the Town of Owego Planning Board.

Mr. Morgan interjected and stated the approval letter is for Appeal No. 2148.

Mr. Legg asked if the ADA handicap parking spaces were being reduced and were they code compliant. Mr. Kamm replied that there will be 4 ADA van accessible parking spaces with 8 foot aisles in between. Mr. Morgan interjected and stated the parking spaces will be 10x20 feet.

A brief discussion was had in regards to the variance request of 104 parking spaces and 2 loading spaces.

Mr. Myers made a motion to accept Appeal 2147. Seconded by Mr. Legg. All in favor. Carried

Reference:

Appeal No. 2147 dated April 4, 2024

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

To: Dynamic Engineering for Tractor Supply Co.
50 Park Place
Suite 901
Newark, NJ 07102

At a meeting of the Zoning Board of Appeals held the 2nd day of May 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 2nd day of May 2024, on notice according to the law, at which Zachary Kamm of Dynamic Engineering appeared and gave testimony to questions put forth to him by this Board; and

WHEREAS, Tractor Supply desires to construct a retail store at 858 NY State Route 434 Apalachin, NY; and

WHEREAS, compliance with the Owego Town Code's parking and loading space requirements cannot be met due to steepness of the lots and demand; 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 and loading space requirement;
2. Property is located at 858 NY State Route 434 Apalachin, NY;
3. Property is situated in an Highway Interchange (HIC) zoning district;
4. Why is the area variance wanted or needed?

The area variance is needed as the proposed project does not meet the Town of Owego's parking and loading requirements. The project proposes 79 parking spaces, where 214 parking spaces are required per the Town of Owego ordinance. Additionally, 1 loading space is proposed, where 3 loading spaces are required.

5. How did the problem arise that now makes an area variance necessary or desired?

Due to the steep topography and the 50' wide gas easement, the proposed project is unable to provide additional parking and loading spaces. The project proposes 79 parking spaces, where 214 parking spaces are required per the Town of Owego ordinance. Additionally, 1 loading space is proposed, where 3 loading spaces are required. 79 parking spaces and 1 loading space meet Tractor Supply Co. corporate requirements and will satisfy their parking and loading needs on site.

6. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?

Granting of the area variance will not cause a detriment to the nearby properties. The subject site is currently wooded and undeveloped. The project proposes a retail store which is consistent with the character of the neighboring properties. Additionally, the project proposes landscaping which will enhance the subject site. It is respectfully submitted that the requested variances will not create an undesirable change in the character of the neighborhood nor be detrimental to nearby properties.

7. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

The proposed variance will not have an adverse effect or impact on the physical and environmental conditions in the area. The project proposes less parking than required which will result in less disturbance on site. As part of the site development, the applicant proposes the installation of a robust stormwater management facility that will provide water quality and reduce runoff from current site conditions. It is respectfully submitted that the requested area variances will not have an adverse impact or effect on the physical or environmental conditions of the neighborhood.

8. Is the requested area variance substantial?

The requested area variance is not substantial. Although, we are not meeting the required number of parking spaces, there is more than adequate parking proposed for the proposed retail use. The proposed loading space is also sufficient for the proposed retail use and meets Tractor Supply Co corporate standards.

9. Is there some method feasible for you to pursue other than an area variance?

There are no feasible alternatives that would permit the Applicant to meet the required number of parking spaces without the requested area variances. As previously stated, the area variance is required due to the steep topography present on site in addition to a 50' wide gas easement that runs north to south throughout the western portion of the property. It is respectfully submitted that there are no feasible alternatives for the Applicant to pursue, other than the requested variances.

10. Is the alleged difficulty self-created?

The applicant's difficulty arises from the steep topography currently existing on the site. As previously stated, the project proposes sufficient parking and loading for the proposed use and it would not be feasible to provide additional parking due to the existing site constraints. It is respectfully submitted that the alleged difficulty is not self-created.

And be it further

RESOLVED, the application for a Variance is hereby GRANTED.

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

Appeal No. 2148

Chairman Phelps inquired if there were any other questions regarding the Special Use Permit for Tractor Supply.

A brief discussion was had regarding the condition that the two parcels have to be merged.

Chairman Phelps asked if permeable blacktop would be used. Mr. Kamm replied no, standard asphalt would be used. A brief discussion was had regarding the sloping of the land and the stormwater catch basins.

Chairman Phelps inquired about outside downward lighting. Mr. Kamm replied there will be some outside light poles.

A brief discussion was had regarding signage.

Mr. Legg inquired about NYS DOT recommendation of a sidewalk. Mr. Kamm stated they will discuss this recommendation with NYS DOT.

Chairman Phelps read the following:

Recommendation letter from NYS DOT

Mr. Legg asked if the seasonal display area outside would be fenced in. Mr. Kamm replied no but security measures will be in place.

Mr. Myers made a motion to approve Appeal 2148. Seconded by Mrs. Brown. All in favor. Carried.

Reference:

Appeal No. 2148 dated April 4, 2024

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

To: Dynamic Engineering for Tractor Supply Co.
50 Park Place
Suite 901
Newark, NJ 07102

At a meeting of the Zoning Board of Appeals held the 2nd day of May 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 2nd day of May 2024, on notice according to the law, at which Zachary Kamm of Dynamic Engineering appeared and gave testimony to questions put forth to him by this Board; and

WHEREAS, Tractor Supply desires to construct a retail store at 858 NY State Route 434 Apalachin, NY; and

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

1. Applicant requested a Special Use Permit to construct a retail store;
2. Property is located at 858 NY State Route 434 Apalachin, NY ;
3. Property is situated in an Highway Interchange (HIC) 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.

At the end of the meeting Mr. Morgan discussed an administrative modification to Appeal No. 2082, Sun East Valley Solar, LLC. Mr. Morgan stated that Sun East Valley Solar LLC will not be acquiring Tax Map No. 140.00-1-29.111 from the original approval. Mr. Morgan stated a letter was sent to Sun East Valley Solar, LLC attorney stating this is not considered a subdivision under Town of Owego Code Chapter 103.

Mr. Myers made a motion to accept the administrative modification to Appeal No. 2082. Seconded by Mr. Legg. All in favor. Carried

With there being no further business, the meeting was adjourned at 7:36pm.

Respectfully submitted,

Tina Tammaro, Secretary