

January 5, 2023
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, David Kresge, Jack Legg, Janet Brown, and alternate Martin Murphy

Others Present: Planning & Zoning Administrator Joann Lindstrom, Town of Owego Attorney Irene Graven

Excused: Dan Myers

Chairman Phelps called the meeting to order at 7:03pm. The minutes from the Regular Zoning Board Meeting held December 1, 2022 were considered. Mrs. Brown made a motion to accept the minutes as written, Mr. Murphy seconded the motion. Mr. Murphy, Mrs. Brown and Mr. Kresge voted in favor of the motion. Chairman Phelps and Mr. Legg abstained due to their absence at the previous meeting.

Appeal No. 2122

The Board revisited Appeal No. 2122, a request for a Special Use permit to add gas pumps to Harry's Express Mart at 1423 State Route 96, submitted by Harry Singh.

Appearance: Brian Doak of Doak Engineering Design, PC

Exhibits: Application for a Special Use Permit dated September 21, 2022 and revised site plans updated January 3, 2023

Mr. Doak introduced the project.

Chairman Phelps opened the public hearing. With no one present wishing to speak about this appeal, Chairman Phelps closed the public hearing. Chairman Phelps asked if anyone had contacted the town regarding this appeal, Ms. Lindstrom stated no.

Mr. Murphy asked Mr. Doak if the direction of the traffic changed in the most recent plans, Mr. Doak answered no.

Chairman Phelps and Mr. Murphy asked Mr. Doak if there was enough room to maneuver 2-way traffic between the store and the gas pumps, Mr. Doak said yes, town code requires at least 12'

for a passing lane so a 24' wide drive is wide enough. Mr. Doak stated that the ingress/egress from Route 96 will be 30', the same as the Speedway on 5th Avenue. Chairman Phelps noted that Speedway has separate entrances and exits, Mr. Doak said Harry's was approved by the DOT per their standards and there would be no risk to safety.

Chairman Phelps thought the pumps were quite close to the parking and was concerned about traffic flow, especially larger trucks and trailers, both inside the parking lot and on Route 96. Mrs. Brown was also concerned about the Route 96 traffic, including the bus garage traffic and traffic at certain times of day. Mr. Doak stated there is no room to move between pumps, but sufficient room to back up. He added that the DOT had reviewed and stated no safety risks, Doak himself was on the DOT design team for years.

Chairman Phelps asked if the Tioga State Bank access to Harry's would be closed off, Mr. Doak stated no and there is no agreement between the two companies. Ms. Lindstrom added that there has been no dispute from Tioga State Bank after receiving 2 separate notifications on the proposed project. Chairman Phelps, Mr. Murphy and Mrs. Graven agreed that any future problems with Tioga State Bank are not of concern to the board.

Chairman Phelps asked about lighting, Mr. Doak stated only around the facility for pumping and safety but lights will be down cast.

Mr. Legg asked about entrance lighting, Mr. Doak stated that he thoughts lights would be off when store and pumps close at 9pm.

Chairman Phelps read the following documents into minutes: NYS DOT approval of revised driveway site plan, Tioga Co Planning Board approval, Town of Owego Planning Board approval with the condition of the ADA parking spaces enlarged and arrows denoting traffic flow be added to the final site plan; SEQR Type II determination.

Chairman Phelps asked when Quonset hut would come down, Mr. Doak replied that it will not be in the near future and will be up to the owner.

Chairman Phelps asked about construction schedule, Mr. Doak replied June to August for a duration of around 12 weeks.

Mr. Legg made a motion to approve appeal with the condition that the lights at the pumps are turned off at the close of business. Mr. Kresge seconded. All in favor, motion passed.

Reference:

Appeal No. 2122 dated September 21, 2022

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

To: Harry Singh
Harry's Express Gas Station
1423 NYS Route 96

Owego, NY 13827

At a meeting of the Zoning Board of Appeals held the 5th day of January 2023, 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 5th day of January 2023, on notice according to the law, at which Brian Doak of Doak Engineering Design, PC appeared on behalf of Harry's Express Gas Station and gave testimony to questions put forth to him by this Board; and

WHEREAS, Mr. Doak stated the hours of operation would be between 6am and 9pm; and

WHEREAS, Mr. Doak agreed to comply with the NYSDOT and Tioga County Planning Board recommendations; and

WHEREAS, Mr. Doak, on behalf of the applicant, agreed to turn off lighting at the gas pumps when the store is closed; and

WHEREAS, no public comments were received;

NOW, 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 gas station
2. Property is located at 1423 NYS Route 96
3. Property is situated in a General Business (GB) zoning district;

And be it further

RESOLVED, the application for the 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. 2124

The Board then considered Appeal No. 2124, a request for a Special Use Permit to add clean fill to Riverside Cemetery on Marshland Road, submitted by Kenneth Mantei.

Appearance: Kenneth Mantei, Caretaker of Riverside Cemetery

Exhibits: Application for a Special Use Permit dated July 15, 2022

Chairman Phelps read the following documents into minutes: Tioga County Soil and Water Conservation District no comment, Town Highway Department no comment, Town Planning Board recommendations to have a staff member present for fill delivery and to delineate the boundary of the floodway. Chairman Phelps stated that the project would have no adverse environmental impact and issued a negative declaration under SEQR.

Mr. Legg asked about the town planning board's recommendation to have staff from Planning/Zoning present when fill is delivered. Ms. Lindstrom responded to ensure floodway avoidance. Attorney Graven stated this was a recommendation and the ZBA is not required to add as a condition.

Mr. Legg moved to approve appeal, provided Mr. Mantei place a sign where he wants the fill to be dumped. Mr. Murphy seconded. Mr. Kresge abstained due to his membership on the cemetery board. Four in favor, passed.

Reference:

Appeal No. 2124 dated July 15, 2022

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

To: Kenneth Mantei
Riverside Cemetery Association
1 Waterman Avenue
Apalachin, NY 13732

At a meeting of the Zoning Board of Appeals held the 5th day of January 2023, 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 Town of Owego.

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

WHEREAS, a public hearing was held the 5th day of January 2023, on notice according to the law, at which Kenneth Mantei appeared and gave testimony to the questions put forth to him by this Board; and

WHEREAS, Mr. Mantei agreed to add a sign at the dump location;

WHEREAS, Mr. Mantei agreed to avoid disrupting the floodway;

WHEREAS, no comments from the public were received;

NOW, THEREFORE be it

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

1. Applicant has requested a Special Use Permit to add clean fill to low areas of Riverside Cemetery
2. Property is located on Marshland Road
3. Property is situate in a Residential A (RA) zoning district;

And be it further

RESOLVED, the application for the Area 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. 2106

The Board considered Appeal No. 2106, a request for a Special Use Permit to improve the driveway entrance to the Farmer Brown Solar Farm on State Route 434.

Appearance: Timothy Gourley of Tract Engineering PLLC via Zoom

Exhibits: Application for a Special Use Permit dated December 23, 2022

Mrs. Brown asked about fill, Mr. Gurley stated they will dig out existing dirt and add stone.

Chairman Phelps asked about adding a sluice pipe, Mr. Gourley replied there is already a driveway with an existing sluice pipe.

Chairman Phelps then asked about recycling the culvert, Mr. Gurley replied they will not disturb culvert that is already there.

Chairman Phelps read the Town Planning Board approval.

Chairman Phelps asked for public comments, no one was present regarding the appeal.

Ms. Lindstrom noted that this appeal would fall under the SEQR approved for the solar farm.

Mrs. Brown asked if the driveway is wide enough, Mr. Gourley replied yes, it is 16' but only needs to accommodate one way traffic.

Mr. Murphy moved to approve the appeal, Mr. Kresge seconded, all in favor of the motion.

Reference:

Appeal No. 2106 dated December 23, 2022

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

To: Farmer Brown Solar LLC
1105 W. Peachtree Street NE, Ste 1000
Atlanta, GA 30309

At a meeting of the Zoning Board of Appeals held the 5th day of January 2023, 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 Town of Owego.

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

WHEREAS, a public hearing was held the 5th day of January 2023, on notice according to the law, at which Timothy Gourley appeared and gave testimony to the questions put forth to him by this Board; and

WHEREAS, no comments from the public were received;

NOW, THEREFORE be it

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

1. Applicant requested a Special Use Permit to improve the driveway entrance of Farmer Brown Solar Farm
2. Property is located on State Route 434
3. Property is situated in a General Business (GB) zoning district;

And be it further

RESOLVED, the application for the 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. 2126

The board considered Appeal No. 2126, a request for a Special Use Permit to demolish the existing Dunkin' Donuts, raise the new building to a finished floor elevation to at least 2' above the base flood elevation, reconstruct the site, and construct a new Dunkin' Donuts store at 7858 State Route 434.

Appearance: Marc Maser of Maser Engineering via Zoom and Mahesh Kaneria, owner

Exhibits: Application for a Special Use Permit dated December 23, 2022

Jerry Platz, 1727 Main Street and Dennis Randall, 1699 Main Street, and Fred Brown, owner of 7830 State Route 434, appeared in person.

Mr. Maser introduced project.

Mrs. Brown recused herself at the beginning of the hearing because she and her husband, Fred Brown, own an adjacent parcel.

Chairman Phelps asked what the construction timeframe would be from demolition to completion. Mr. Maser replied it will be 5-6 months, dependent on subcontractors.

Mr. Murphy asked about people having to walk in between cars in the drive thru after they park. Mr. Kaneria confirmed that was the design but it was either that or the current design which causes the drive thru lane to block parked cars.

Discussion ensued regarding stormwater on the parcel. Mr. Maser stated that there is no stormwater infrastructure present on the site.

Mr. Legg asked about the diameter of the pipe, Mr. Maser replied 12”.

Fred Brown, owner of adjacent property at 7830 State Route 434, stated that prior to construction of the current Dunkin’ Donuts Roger Steen had filled in the 434 ditch where the water used to drain and should continue to drain.

Mr. Murphy asked Mr. Maser if the DOT would allow drainage to 434, Mr. Maser replied probably not.

Mr. Maser stated he could explore options including the creation of dry wells under the store but he is concerned because it is in the floodplain, and it wouldn’t take much of a storm to flood that system. He could also look at other options such as a retention basin and has no problem doing so, he could speak with the DOT. Mr. Maser also stated that the current site plan is better than the current actual layout.

Mr. Randall suggested a retention pond, such as what is at Apalachin Elementary. Mr. Maser replied, stating that the county planning board had suggested widening the entrance/exit from 22’ to 24’ which will reduce the size of the green space shown on the site plan. Maser further stated that the only way to get rid of water at the site would be to put water into the ground but the levels in this region vary drastically, even a detention basin have to have an outlet structure to send water elsewhere.

Mr. Maser stated he could create more green space but would need a variance of the parking requirements.

Mr. Murphy asked if the roof will be flat. Mr. Maser answered yes, and the roof will drain into sub surface drains tied into underground drainage.

Chairman Phelps read all letters/documents into the record: NYSDOT requires a Highway Work Permit prior to work commencing, Town Director of Utilities approves, Apalachin Fire Chief approves with no comment, and Tioga County Planning Board approval.

Mr. Legg asked about lighting and neighbors. Mr. Maser said aluminum shrouds will be pointing downward and they will leave as many trees as possible, only a few more lights have been added to the new site plan.

Some discussion ensued regarding Mr. Kaneria's option to purchase adjoining properties. Mr. Kaneria stated he has spoken to the two adjoining property owners and Dunkin' Corporate, who would not allow construction on either site due to the shallow size of the lots.

Mr. Murphy asked Mr. Kaneria if Dunkin' Corporate is aware of the stormwater problems at the site. Mr. Kaneria replied that he did not believe so.

Chairman Phelps made a motion to table the appeal until the February meeting to allow Mr. Maser to conduct further engineering studies on stormwater that would have less impact on neighbors. Mr. Maser was amenable and stated he could meet the 4 week deadline. Seconded by Mr. Murphy. Mrs. Brown abstained, all others in favor.

Chairman Phelps adjourned the meeting at 8:50PM.

Respectfully Submitted,

Brenda Burrell, Planning & Zoning Secretary
Zoning Board of Appeals
Town of Owego