

## ZONING BOARD OF APPEALS

March 6, 2012

Present: Michael Dudick, Chairman, Michael Bloss, Randy Gifford, Eric Prescott, Amy Standaert, Doug Strother, Jennifer Vucetic (7:05)

Also Present: Tom McCarthy, Esq., ZBA Counsel  
Steve Myers, Director, Building & Zoning

Absent: Chris Lemire

Mr. Dudick called the meeting at 7:07 p.m. He informed that Amy Standaert, as board alternate, would be sitting in for an absent member, Chris Lemire. Tom McCarthy, Esq will be sitting in for Joel Peller as ZBA Counsel.

### PLEDGE OF ALLEGIANCE

#### **OLD BUSINESS:**

None

#### **NEW BUSINESS:**

The secretary read the legal notice as it appeared in the *Daily Gazette* on March 1, 2012.

**An application from NW Sign Industries (for US Foods) for two wall signs totaling 81 sq ft; 1 @ 10 sf and 1 @ 71sf. Maximum allowed = 60 sf: 21 sf variance required from Chart I of Chapter 171.**

**Property is located at 755 Pierce Road, Clifton Park, NY 12065 (Permit #80852)**

The application was presented by Bill Jackson, representative of NW Sign Industries. He explained they are asking for a 21 sq ft variance for a roadside sign. He stated that the US Foods needs to install a larger sign because on Pierce Road, the building sits at a good distance from the

road itself. He stated he measured the distance for the trucks to see the building, and concluded that the optimal size would be 8 foot by 8'9". He added there is a ten foot sign on the building that can be seen once you are in the parking lot.

Mr. Dudick informed that this is an open hearing and invited anyone in the audience to speak.

Ms. Vucetic referred to the photographs provided and noted the logo was different on the proposed sign asking if the other sign logo would be changed as well.

Mr. Jackson agreed that their logo had changed and the other sign would have the new logo also.

Mr. Steven Donnelly, Division President of US Foods, asked to speak. He informed that the most important thing to his company is safety. He stated their safety council looked at it and confirmed this is the safest situation. He stated the new signs would be more safe for employees and customers.

Mr. Dudick asked if the business was formerly Kraft and how long they had been in business. Mr. Donnelley stated they used to be Kraft and the business had been in the building for at least fifteen years.

Mr. Strother asked how this will improve the traffic flow in the morning. He mentioned there is a line of trucks and wondered what the standard is.

Mr. Jackson said it has to do with a speed differential because if the sign is too small you create a problem. He introduced Mr. Jeff Coulter, VP of Operations for US Foods.

Mr. Coulter informed that they want the drivers to recognize the sign as early as possible so the design of the sign is to be large enough so they are not trying to make decisions as they approach their property. They can see the sign early enough so that they don't slow down until the right place to make the turn.

Mr. Strother asked how they made that decision.

Mr. Donnally said he has been doing variances and site decisions for nearly 10 years. He took measurements of the width of the building, went into the interior for wiring needed. He thought 10 x 10' 9" was optimum but he felt that due to the code he felt the best he could ask for, for what they need to accomplish is 8 x 8' 9".

Mr. Myers stated he has no issue with the application and it is a large building which needs significant identification with the trucks going in there. He said he expected a much bigger sign request.

Mr. Jackson said he looked at that, but wanted to satisfy the town because of the code. Mr. Myers said the smallest variance is always best, and if the sign they propose meets their needs safetywise, it is fine.

Mr. Dudick added that the boards look at safety and they would always ask for the minimum variance that satisfies. He commented that he knows it is difficult for a truck to miss the turn and then have to find a place to turn around.

Mr. Dudick informed it is a public hearing and asked for comments. There were none. Mr. Dudick made the motion to close the public hearing, seconded by Mr. Bloss.

Mr. Bloss made the motion to approve the application as presented, seconded by Mr. Gifford. Mr. Dudick stated this is not a large variance request.

Ayes: Standaert, Prescott, Strother, Dudick, Gifford, Vucetic, Bloss Noes: none

Application approved.

The secretary read the legal notice as it appeared in the *Daily Gazette* on March 1, 2012.

**An application from Stewart's Shops Corp for variance for addition to building.**

**Applicant requests variance from Section 208-43, hamlet mixed use. Section 208-43 3 B (1)(a)[2] allows 2,000 sf of retail space per acre. Current lot area (33,339 sf) allows 1,530.72 sf of retail area. Proposed retail area = 2898 sf. Variance required=1367.28sf. Section 208-98 requires 130' front setback from road centerline. 101 feet available, 29 foot variance required.**

**Property is located at 923 Riverview Road, Rexford, NY 12148 (Permit#80854)**

Mr. Tom Lewis, representing Stewarts presented the application. He stated they had received a use variance ten years ago. At that time the area of the building was 2400 square feet but it is really 2208. He said since then the area has grown and they need more space as they are saturated. They wish to move the freezer from inside to outside so they could expand 10 feet, which is 21%. They don't know any other way to do it. He said this would hopefully make the shop run better. He added he does not feel this would cause an undesirable neighborhood change. He mentioned the town made zoning changes, which rezoned the area, commercial and that set up a new limit as to the size of the building.

Mr. Bloss said that it is a lot of work for not that much additional space.

Mr. Lewis said every little bit counts. He said they are a frugal company and focus on good customer service. He said moving the freezer, which would mean the storage, is larger and they would have less deliveries.

Ms.Vucetic asked if they are losing any parking and Mr. Lewis said no.

Mr. Strother asked for clarification of the past use variance.

Mr. Myers said in 2000 there were two variances, one to allow them to install gas pumps in an R1 zone and the other area variances for setbacks (gas pump setback, lot width, area variance for the size of the parcel at that time). Zoning had changed to mixed use, which only allows 2000 sq feet of retail per acre. Prorating the retail space he calculated the variance need (1147 sq ft)

because they don't have the acreage to get to 2000, also a couple of minor setback variances.) He said they need to clean it up because of the new zoning.

Mr. McCarthy asked which zoning law was more restrictive.

Mr. Myers said the use variance was 40,000 sq ft required, the new one is per acre, which is bigger. Mr. McCarthy summarized that the new zoning is more restrictive, and Mr. Myers agreed adding the use variance was already granted.

Mr. Myers said he likes to clean up things that are outstanding when they get to a new variance request on the same piece of property.

Mr. Strother stated that he thinks we need the numbers, but because of the information Mr. Myers provided, it makes the variance less substantial.

Mr. Dudick stated that traditionally the board looks at the current law, but this is a good argument.

Mr. Lewis stated the use variance runs with the land forever and makes the numbers less substantial than they look on paper. He said he hopes the board will use a balancing test and that the benefits to the applicant and neighborhood would outweigh.

Mr. Dudick said that is a good point and makes the variance less substantial.

Mr. Bloss asked how do they measure the retail space and Mr. Myers said it covers the whole store.

Mr. Dudick made the motion to close the public hearing. Mr. Vucetic seconded. All approved. Public hearing is closed.

Mr. Strother commented that this is not a big issue but they need to keep an eye out for creep. He asked if Stewarts had to notify the neighbors. Mr. Dudick said they did not have to. Mr. Lewis said they did give a copy to neighbors anyway.

Mr. Dudick made the motion to approve the application as presented, seconded by Mr. Strother.

Ayes: Bloss, Vucetic, Gifford, Dudick, Strother, Prescott, Standaert Noes: none

Application approved.

Mr. Dudick made the motion to approve the minutes of the February 21, 2012 meeting, seconded by Mr. Gifford. Members who were present at that meeting unanimously approved minutes.

The next meeting is March 20, 2012.

Mr. Dudick made a motion to adjourn the meeting at 7:45 pm. Seconded by Mr. Strother. Approval unanimous.

Respectfully Submitted,

Susan White  
Secretary

cc: Town Clerk, Town Board, Town Attorney, Zoning Board Members, Joel Peller, Counsel,  
Steve Myers, Department of Building and Development, Planning Board, ECC, Assessor,  
Highway