

**MINUTES**

**Town of Wappinger  
Zoning Board of Appeals  
March 12, 2019  
Time: 7:00PM**

**Town Hall  
20 Middlebush Road  
Wappinger Falls, NY**

Summarized Minutes

**Members:**

Mr. Prager	Chairman	Present
Mr. Casella	Co-Chair	Present
Mr. DellaCorte	Member	Present
Mr. Galotti	Member	Present

**Others Present:**

Mr. Horan	Town Attorney
Mrs. Roberti	Zoning Administrator
Mrs. Ogunti	Secretary

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**SUMMARY**

**Public Hearing:**

NERP Holding Tractor Supply Company

Adjourned to March 26, 2019

**Mr. Casella:** Motion to accept the Minutes from February 26, 2019.  
**Mr. Galotti:** Second the Motion.  
**Vote:** All present voted Aye.

**Public Hearing:**

**Appeal No. 19-7670 (Variance)**

**NERP Holding Tractor Supply Company & Retail Store:** Seeking an area variance Sections 240-96(F) and 240-97(B) of the District Regulations in an HB Zoning District.

**-Where it is required that undeveloped parking area be maintained as additional landscaped area, the applicant can provide banked parking area to be asphalt, thus requesting a variance of landscaping requirement to allow undeveloped parking area to be used as fenced outdoor display area.**

-Where **128 parking spaces** are required, the applicant can provide **77 parking spaces**, thus requesting a reduction of spaces under 240-96(F) to allow for a reduction of **51 spaces**.

The property is located on **Route 9** and is identified as **Tax Grid No. 6157-04-539374** in the Town of Wappinger.

**Present:** Alec Gladd – Cuddy & Feder

**Mr. Galotti:** Motion to open the Public Hearing.  
**Mr. Casella:** Second the Motion.  
**Vote:** All present voted Aye.

**Mr. Prager:** I understand that Tractor Supply has asked for an adjournment. Is there anybody in the audience who would like to speak for or against this variance may do so? However, we will adjourn this to the next meeting which is March 26<sup>th</sup>.

**Mr. Lowis:** My name is Peter Lowis, 14 Fowlerhouse Road. My property backs up the proposed project and my septic is in the backyard. I already have a drainage issue with water running down my property. I'm not against this project but I just want to see where the runoff is going to go.

**Mr. Prager:** I don't believe anybody is here from the Tractor Supply Company.

Mr. Gladd: My name is Alec Gladd an attorney at Cuddy & Feder. We are new to the application but I represent the applicant now.

Mr. Prager: Is there any way you can answer these questions or the engineer has to be here?

Mr. Gladd: I cannot answer any engineering questions.

Discussion continues regarding drainage and runoff on Mr. Lewis' property.

Mr. Horan: At the Planning Board meeting they explained that they are collecting all of the runoff and passing it underground to this facility. This area is not going to be disturbed and they are collecting all the drainage from this area. Since 2005 EPA is requiring that any type of stormwater that flows off properties after it's developed has to be graded than it was before. It is called a Stormwater Pollution Prevention Plan. There should be a copy of that submitted.

Mr. Lewis: Can you get me the name of the engineer?

Mr. Horan: Sure. Do you have an email address? If you could just give it to Barbara or Bea and we will send you a copy.

Mrs. Roberti: Do we have one of those?

Mr. Horan: I believe so but at the end of the project that has to be reviewed. In order to do any construction activities the Town Engineer has to satisfy that the post development is no greater than the previous. That's part of the requirement. One of the other requirement that the Town has is that the property owner has to do a stormwater maintenance agreement which requires them to maintain all of the stormwater facilities on the site. If they don't do it then the Town is allowed to come on the property and make whatever remediation

there are. That is basically required by the Clean Water Act. There are a lot of regulations that we have in place regarding the stormwater. That's one of the more regulated areas.

Mr. Lewis: Okay, that would be good.

Mr. Prager: This is the area that we are interested in. Normally it would be grass but they are asking for it to be blacktopped. That's really what we are looking at here at the ZBA. Also, there should have been parking spaces here and they are asking that they be removed. I know a lot of people are interested in the traffic and if they are reducing the parking I'm assuming they are not going to have as many people coming in.

Mr. Lewis: Did they get the engineer to do a hydraulic test for the runoff?

Mr. Horan: Yes, it's all based on that. What the SWPPP requires is they do a study of the existing conditions. The engineer that came in for this project made a very good presentation and they did a calculation. They will do a second calculation when all of this is paved and they will compare both.

Mr. Lewis: So they did this when the variance was granted?

Mr. Horan: The variance has not been granted so they have not done a hydraulic study. That's one of the things we could ask for. As far as what the variance is being requested is under our code stores like this has the same parking requirements as a Macy's or Hannaford.

Mr. Casella: What's the normal size parking spaces you have for your stores?

- Mr. Horan: If they did not get the variance how many spots will they need?
- Mr. Gladd: I believe 128 parking spaces.
- Mr. Lewis: I'm not against the variance. All I'm concerned about is the runoff.
- Mr. Galotti: As Jim mentioned the whole development is going to go through an improved drainage into this basin.
- Mr. Horan: The reason why they are asking for the variance regarding impervious is that the way the Town code is written the Planning Board has the authority to bank parking. In situations like this we would have the ability to not require all of the spaces saying there are sufficient spaces on the site to add additional parking. However, what our code states that if you do that you will need to landscape it. So what they are asking for is rather than landscaping it is an outdoor storage. The thought behind that is in the event this becomes some other business this storage area will no longer be used for storage and it will be used for parking. In other words they are trying to reduce the amount of pavement on the lot.
- Mr. Lewis: Thank you. I'm satisfied.
- Mr. Prager: Yes, sir.
- Mr. Gladd: I just want to introduce myself.
- Mr. Prager: That would be a good idea.
- Mr. Gladd: My name is Alec Gladd with Cuddy & Feder. We represent the applicant on this project. We are new to this matter and getting caught up. Neil Alexander from my office is working on this project. I wasn't expecting to talk and did not prepare any formal remarks. I just want to thank the board for

considering our adjournment in this application and we look forward to getting on the next agenda.

Mr. Prager: It is going to be adjourned to the next meeting which is March 26<sup>th</sup>.

Mr. Horan: Procedurally, this is going to proceed as a coordinated review. This is an unlisted action under SEQRA and we would have the ability to either proceed on our own or allow the Planning Board to be Lead Agency. We've had a discussion with the applicant regarding that and it probably makes more sense to have the Planning Board serve as Lead Agency. The Planning Board has not yet circulated for Lead Agency status but I think it would be appropriate for the board at this time to adopt a resolution to consent to the Planning Board serving as Lead Agency. So that when they circulate they know the position of the ZBA.

Mr. Prager: Could I have a motion to defer SEQRA to the Planning Board.

**Mr. Galotti: Motion to defer SEQRA to the Planning Board as Lead Agency.**

Mr. DellaCorte: Second the Motion.  
Vote: All present voted Aye.

Mr. DellaCorte: Jim, just for curiosity why would the Planning Board be Lead Agency versus the ZBA?

Mr. Horan: The Planning Board typically do the SEQRA review. Under SEQRA any agency that has discretion to grant or deny any application with some limited exceptions. Under New York law if it effects the environment in any way they have to do a determination under SEQRA. We have to do a SEQRA review. For purposes of the Zoning Board variances that deal with single family houses or two family houses are exempt from SEQRA. They are called Type II action and they

do not require SEQRA review. The only time we do a SEQRA review at the ZBA is with respect to a site plan application that is pending for a use variance. For the most part on site plan application which this is if it is an unlisted action, the Planning Board will have to do another review. If you do a coordinated review, one board has to reviews, listens to the comments from the other board and reaches a determination. Then this board would be bound by that decision. This board has the ability to participate in making any comments in the SEQRA review if it deems it to be appropriate. It saves work and you don't want to duplicate the work.

Mr. DellaCorte:

Thank you Jim.

Mr. Prager:

I will now entertain a motion to adjourn this appeal to March 26<sup>th</sup>.

**Mr. Galotti:**

**Motion to adjourn this Public Hearing to March 26, 2019.**

Mr. Casella:

Second the Motion.

Vote:

All present voted Aye.

**Mr. Galotti:**

**Motion to adjourn.**

Mr. Casella:

Second the Motion.

Vote:

All present voted Aye.

Respectfully Submitted,

Adjourned: 7:21 pm

Bea Ogunti  
Secretary  
Zoning Board of Appeals