

# TOWN OF ERWIN

## Zoning Board of Appeals

### MINUTES 07/25/17 MEETING

**PRESENT:** Frank Thiel, Ruth Fisher McCarthy, Bridget Ackerman, Mariana Huber, Jay McKendrick, Ralph Truitt (Alternate), Wes Strzegowski (Alternate)

**GUESTS:** Lisa Massi, Tom Massi, Rita McCarthy, Barb Lucas

**CALL TO ORDER:**

At 7:00 PM, Chairman Thiel called the meeting to order in the meeting room of the Erwin Town Hall, 310 Town Center Road, Painted Post, NY, 14870.

**MINUTES:**

Minutes of the 06/27/17 meeting were approved by unanimous consent.

**2017-12**

**REQUEST FROM MASSI'S GREENHOUSE AND GARDENS FOR AN AREA VARIANCE AT 246 VICTORY HIGHWAY TO ALLOW A 17 FT FRONT YARD SETBACK WHERE 50 FT IS REQUIRED. VARIANCE OF \$130-89.D.A IS REQUESTED. WITH PUBLIC HEARING**

Notification of this action was sent to **44** adjacent property owners. Legal notice of this action printed in the Town's official newspaper, the Star Gazette, and in The Leader on July 16, 2017.

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The property is located in M-U Multi-Use District.

Applicant has erected a propane filling station within 17 ft. of his property line. A 50 ft. front yard setback is required. Applicant seeks 33 ft. relief.

The application will be the subject of a Planning Board action for Site Plan approval. The Planning Board will declare itself Lead Agency under the State Environmental Quality Review Act.

**RESOLUTION TO CONSENT TO THE PLANNING BOARD AS LEAD AGENCY**

**MOTION:** JAY McKENDRICK

**SECONDED:** RUTH FISHER MCCARTHY

**DISPOSITION:** 5-0

The application was presented by Tom and Lisa Massi. It was noted that they did not know it was necessary to seek a variance for the placement of the tank. They had not considered the setback requirements of the zoning code. They asked their supplier, Suburban Propane, when the tank was installed, if there are any regulations to be considered and were told that there is a minimum distance between the tank and any buildings based on fire code.

Zoning Board Chairman Thiel asked why the tank was placed where it is currently located.

Applicant Lisa Massi responded that the location was chosen to be within view of the main entrance so that an employee filling a propane tank would be able to monitor customers entering the store. She noted that there is minimal staff during the slow season and they were concerned about theft. Many locations were considered however, the location chosen meets fire code, would not require the loss of any parking spaces, is well hidden from neighbors by landscaping, is protected by the landscaping and several large boulders, does not interfere with the truck loading area or truck movement, is visible to customers, electric service is available and the main entrance is visible.

Chairman Thiel asked if the tank could be moved easily to another location.

Applicant Massi responded that the tank is on a skid and the fence surrounding it is temporary. It could be moved easily however, it might be necessary to extend electric service into an alternate location.

#### **CHAIRMAN THIEL OPENED THE PUBLIC HEARING AT 7:22 PM.**

Kitty Myers, 209 Victory Highway, Painted Post:

I live across the road from Massi's, and I have no problem with the tank being within 17' of the front property line instead of the required 50'. I vote for granting the variance.

Addrianne Reedy, 201 Victory Highway, Painted Post:

Not in favor of Massi's having the propane tank in front of their greenhouses. They didn't ask anyone previously before putting it in. Can't it be put out back or on the side?

Bill Thompson, 219 Victory Highway, Painted Post:

Mr. Thompson's main concern is safety. He had the following questions:

- Does Tom fill any of his fork trucks or skid steers with propane?
- If so, do those tanks have a higher pressure than filling a BBQ grill tank?
- Who is authorized to fill the fork trucks or skid steers? Are they properly trained?
- Do they fill the propane tanks by weight or pressure and how is that regulated?
- Is there a "No Smoking" sign near the propane filling station?
- Who is going to dispense the propane? Are any of the kids that work at Massi's going to do it? Are they properly trained?
- Who inspects the propane filling station tank?

Wm. Todd Hall, Fire Chief, Coopers Plains – Long Acres Volunteer Fire Department:  
(Comments attached)

#### **CHAIRMAN THIEL CLOSED THE PUBLIC HEARING AT 7:24 PM.**

#### **THE ZBA CONSIDERS AREA VARIANCE APPLICATION 2017-12 AND ANY PUBLIC COMMENT AND MAKES FINDINGS ON EACH OF THE AREA VARIANCE CRITERIA:**

**The requested variance will not produce an undesirable change in the character of the neighborhood.**

3 Board members say the requested variance will not produce an undesirable change.  
*Tank is well camouflaged.*

2 Board members say the requested variance will produce an undesirable change.  
*It is a new use in the neighborhood.*

**The requested variance will not create a detriment to nearby properties.**

4 Board members say the requested variance will not create a detriment.  
*Complies with fire code.*

1 Board member says the requested variance will create a detriment.  
*It is a potential danger.*

**There is no other feasible method available for the Applicant to pursue to achieve the benefit the Applicant seeks other than the requested variance.**

1 Board member says there is no other feasible method available.  
*Placement of the tank is a good solution.*

4 Board members say there are other feasible methods available.  
*The tank could be placed elsewhere at minimal cost.*

**The requested area variance is not substantial.**

0 Board members say the requested variance is not substantial.

5 Board members say the requested variance is substantial.

**The variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.**

5 Board members say the requested variance will not have an adverse effect or impact.  
*Complies with fire code.*

0 Board members say the requested variance will have an adverse effect or impact.  
*May be visible in the winter.*

**The alleged difficulty was not self-created (this consideration shall be relevant but shall not necessarily preclude the grant of the area variance.**

0 Board members say the alleged difficulty was not self-created.

5 Board members say the alleged difficulty was self-created.

**RESOLUTION TO APPROVE REQUEST 2017-12 FROM MASSI'S GREENHOUSE AND GARDENS FOR AN AREA VARIANCE AT 246 VICTORY HIGHWAY TO ALLOW A 17 FT FRONT YARD SETBACK WHERE 50 FT IS REQUIRED.**

**MOTION: JAY McKENDRICK**

**SECONDED: RUTH FISHER McCARTHY**

**DISPOSITION: 4-1(HUBER)**

**THE MEETING ADJOURNED AT 7:35 PM BY UNANIMOUS CONSENT.**

## ATTACHMENTS



### **COOPERS PLAINS - LONG ACRES VOLUNTEER FIRE DEPARTMENT**

*P.O. Box 21*

*Coopers Plains, New York 14827*

*Phone (607) 962-8213*

*Fax (607) 962-8299*

July 12, 2017

Tom Massi  
Massi's Gardens and Landscaping  
246 Victory Highway  
Painted Post, NY 14870

Re: Propane Tank Placement

To: Tom Massi:

On July 11, 2017, the Coopers Plains-Long Acres Fire Department was requested to do a review of the propane tank that has been placed at the front of your business between the parking lot and Victory Highway. This opportunity also allowed the Fire Department to become familiar with the new tank and its placement at your facility.

I reviewed the drawings and placement of the tank. It is my opinion that the tank is in a safe location and adequate safety barriers are in place to protect the tank in the event of an accident. The tank is also in a position that allows access by the Fire Department in the event of an emergency. Please accept this letter as the Fire Department's approval.

Thank you for the request and opportunity to review this. We appreciate the cooperation you and your business have provided us over many, many years and look forward to a continued great working relationship.

Should you need any additional information that is required about this project or any others, please feel free to contact me at 607-368-1301 or my email: [hallwt@coming.com](mailto:hallwt@coming.com).

Regards,

Wm. Todd Hall, Fire Chief.