

TOWN OF LOCKPORT
ZONING BOARD OF APPEALS
November 24, 2015

PRESENT: Kevin McCabe
Donald Jablonski
Tim Lederhaus, Chairman
Kevin Roth

ALSO PRESENT: Brian Belson, Senior Building Inspector
Jane Trombley, Secretary
Michael Norris, Town Attorney

ABSENT: Elaine Sobieraski
Will Collins, Alternate

The November 24, 2015 Zoning Board of Appeals meeting was called to order at 6:00 pm by Chairman Lederhaus, who then led the Pledge of Allegiance.

MOTION made by Member Jablonski, seconded by Member Roth to approve the October 27, 2015 minutes. 4 Ayes, 0 Nays, Carried.

CASE #1 6233 South Transit Road – 138.00-1-18.1 – NOCO Express Properties LLC –
Requesting variances for:

- a. A front yard setback of 105.54 feet for the proposed car wash building where a 75-110 foot setback is required
- b. A front yard setback of 64.03 feet for the proposed fueling station where a 75-100 foot setback is required and
- c. Of the screening requirements contained in Section 200-73 (A) (3) whenever a side or rear abuts a Residential District.

Shawn Hopkins of Hopkins, Sorgi and Romanowski presenting.

Chairman Lederhaus opened the Public Hearing.

Mr. Hopkins stated they will be utilizing the existing property as well as the property to the south and north and they are requesting three Variances. Mr. Hopkins stated they will also need a Special use permit and site plan approval from the Planning Board. Mr. Hopkins stated the area is zoned mostly commercial.

Mr. Hopkins stated that when the ZBA considers its application, he feels they meet the balancing test criteria. He doesn't feel this would be an undesirable change to the character of the neighborhood, or be a detriment to nearby properties, the benefit cannot be achieved by any other feasible method, the area

variance is not substantial and will not have an adverse effect on the neighborhood.

Mr. Hopkins acknowledged that this could be considered self-created as they were aware of the requirements when they purchased the property.

Mr. Hopkins stated they have removed the tractor trailer fueling station from the original plans. They have a lot of contractors and such who stop by for lunch, so they have parking spots designated for those people who are eating in.

Member McCabe asked if the car wash is manned and Mr. Hopkins said no, you just drive through.

Chairman Lederhaus asked if the berm will have hedges or be flat. Mr. Hopkins stated flat as the trailer park has been asked if they would like a walkway to the store, but haven't received a response yet.

Chairman Lederhaus asked how big the curb cuts are. Mr. Hopkins stated they are decided by the DOT and are 40'. Chairman Lederhaus asked about the tank location and was shown on the map.

Member McCabe asked how many tankers they expect a day. Mr. Hopkins stated one every 3 to 4 days as they hold approximately 11,500 gallons. Even though this is their number one location, he doesn't believe there will be more than 3 in a week.

Hearing no further comments, Chairman Lederhaus closed the Public Hearing.

Attorney Norris stated this is a short form SEQRA for the screening on the side, which is an unlisted action, and under Part II and Part III shows no or minimal impact.

MOTION made by Member Jablonski, seconded by Member Roth to approve the following SEQRA Resolution.

SEQRA RESOLUTION

NOCO Express Properties, LLC,
NOCO Properties, LLC/
NOCO Energy Corp.

Location of Property: 6227, 6233 and 6241 S. Transit Road, Lockport, Niagara County, New York

Tax Map Nos.: 138.00-1-18.1, 138.00-1-21 and 138.00-1-22

WHEREAS, NOCO, has submitted completed applications for variances of the Town of Lockport Zoning Board of Appeals (hereinafter "Zoning Board of Appeals") and for a Special Use Permit and Site Plan Approval of the Town of Lockport Planning Board (hereinafter "Planning Board") for the redevelopment and expansion of an existing business located at the above addresses, and

WHEREAS, The Planning Board and Zoning Board of Appeals both agree that a coordinated review of the project is not necessary and that both Boards will conduct SEQRA proceedings on the items before it,

WHEREAS, The Zoning Board of Appeals is considering three variances requested by the Applicant; and

WHEREAS, the two front setbacks requested variances are both area variances not subject to SEQRA, but the requested screening requirement variance could be construed as an Unlisted Action, and

WHEREAS, the Zoning Board of Appeals, in accordance with the State Environmental Quality Review Act (SEQRA) has determined that the proposed screening requirement variance will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations, based on information provided by the applicant, and completion of Parts 1, 2, and 3 of the EAF.

NOW THEREFORE, BE IT RESOLVED:

That the Zoning Board of Appeals hereby determines that a proposed screening requirement variance of the NOCO project is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and the Zoning Board of Appeals Chairman is authorized to sign the EAF.

4 Ayes, 0 Nays, Carried.

MOTION made by Member Jablonski, seconded by Member McCabe to approve the following decision.

DECISION

In the Matter of the Application
Of
NOCO Express Properties, LLC,
NOCO Properties, LLC/
NOCO Energy Corp.

APPLICATION to consider Variances of the Town Code as follows:

A front yard setback of 105.54 feet for the proposed car wash building where a 75-100 foot setback is required

A front yard setback of 64.03 feet for the proposed fueling station where a 75-100 foot setback is required and

Of the screening requirements contained in Section 200-73 (A) (3) whenever a side or rear abuts a Residential District.

Location of Property: 6227, 6233 and 6241 South Transit Road, Lockport, Niagara County, New York

Tax Map Nos.: 138.00-1-18.1, 138.00-1-21 and 138.00-1-22

Date: November 24, 2015

The Zoning Board of Appeals having held a Public hearing this date in the matter of an Application for Variances, as set forth in the Application, and

After review and discussion, and based upon the Board adopting as its findings the Justification for the Requested Area Variances as the applicant submitted in Exhibit "C" in its application, and as further set forth in the minutes, this Board hereby:

GRANTS the requested Variances, as set forth in the Application, subject to the following conditions:

Special Use and Site Plan Approval of the Town of Lockport Planning Board and Town Engineer approval. 4 Ayes, 0 Nays, Carried.

The next Zoning Board of Appeals meeting is December 22, 2015.

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MOTION made by Member Roth, seconded by Member McCabe to adjourn. 4 Ayes, 0 Nays, Carried.

BY ORDER OF THE TOWN OF LOCKPORT
ZONING BOARD OF APPEALS