

TOWN OF CORINTH
ZONING BOARD

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WILLIAM CLARKE
Chair

William Clarke
Mike Stanton
Nicholas Denno
Jennifer Michelle
Jason Crowl

Jackie White, Esq. Zoning Board Attorney
Lynn Summers -*Secretary*

November 7, 2024
Meeting Minutes

Chairman William Clarke called the meeting to order at 6:00 PM.

1). Meeting Called to Order at 6:02PM by Chairman Clarke

ZBA members: Present: William Clarke, Jennifer Michelle, Mike Stanton, Jason Crowl

Public Present: Patrick Clothier, Linda Bartolotti, Sheryl Morrow, Cory Ladd, Larry Bartolotti

2) Review/Approve Previous 10/3/24 Minutes

Motion to approve the 10/3/24 minutes as presented made by William, seconded by Jennifer.

All in favor- aye

3) New Use Variance Application

Hot Diggity Dog – Public Hearing

5015 Rt 9N

Zoned R-2

Zoning Administrators Determination- Received – dated 9/19/24

SCPB Referral/Determination: 10/22/24

Applicant seeks a use variance to permit the existing unfinished metal structure to be used for a self-storage facility and construct an additional 45ft x100ft single story Self-storage facility.

Applicant: Presentation to the Zoning Board

Applicant provided a new packet of information to the ZBA at tonight's meeting.

Public Hearing Notices- Certified Mail Receipts- applicant provided to the clerk at the meeting tonight on 11/7/24

Chairman Clarke: The Zoning Board members will need time to review the new information provided to the ZBA tonight by the applicant. The board will review the information for the next ZBA meeting scheduled for 12-5-24.

The ZBA had requested information from the applicant on a Holding Tank for the property.

Linda Bartolotti: provided information to the ZBA on the Holding tank for a year round residence. It states that holding tanks are not an acceptable form of wastewater treatment for year-round residences

in NYS. The applicant referred to an email from Jessica Gerber at the Saratoga County Dept. of Health. Applicant provided the email to the ZBA.

The applicant stated that a septic system is not possible because of the elevation and the wetlands.

Chair asked the applicant how many storage units will there be in the buildings.

Applicant: 61 to 65 units

Public Hearing opened at 6:12 pm

Public Comments: Sheryl Morrow – stated that she didn't know that the applicant had proposed to build another building on the property in addition to the existing building.

End of Public Comments

Linda Bartolotti: we will be considerate to the neighbors, we will build a privacy fence, etc.

Type of building- Metal siding on the building

Public Hearing: left open to the December 5, 2024 ZBA meeting

Public Hearing – Still Open

Use Variance Application: TM# 88.-1-29

Ladd- 263 Wilton Mt Rd

Updated application

Represented by Attorney David DeVall

Zoning Determination- Received

SCPB Determination – Received

No more public comments

ZBA Chair closed the Public Hearing.

SEQRA Part 2 completed at the 10/3/24 ZBA meeting.

SEQRA Part 3 - Zoning Board completed tonight 11/7/24.

Town Attorney explained that the SEQRA is an unlisted action. Part 2 completed at the 10/3/24 ZBA meeting. Three of the questions were answered Moderate to large impact may occur, therefore the board needs to complete Part 3 tonight.

Part 3 Determination of Significance:

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impact. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Jennifer Michelle- ZBA Member read the Part 3 in to the record.

PART 3 ENVIRONMENTAL ASSESSMENT FORM ATTACHMENT – LADD USE VARIANCE

In reviewing the EAF Part 2, the ZBA identified that a “moderate to large impact may occur” on question 1-3:

#1) Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

#2) Will the proposed action result in a change in the use or intensity of use of land?

#3) Will the proposed action impair the character or quality of the existing community?

The Board has taken a hard look as to these potential impacts and provides the following evaluation of magnitude, duration and likelihood of impacts occurring within the context (geographic scope, setting, and scale) of the project and project area.

The proposed action materially conflicts with the Town zoning laws. A use variance is being requested because an auto repair shop is not a permissible use in the Rural Residential District. The proposed use of the property as a commercial auto repair shop would be a much more intense use than the uses allowed in the district and the current residential use of the property. The proposed use of the property is inconsistent with the Rural Residential District it is located in and it is inconsistent with the neighborhood. In light of the above, it could create negative impacts as to odors and noise that are inconsistent with the surrounding community and creates a potential for the discharge of harmful materials inherent to auto repair work.

The duration of each of these potential impacts is long term. If a use variance is granted it would run with the land, allowing the use of the property as a commercial auto repair shop indefinitely. However, the magnitude and likelihood of the above identified environmental impacts is small when considered in the context of the scope, scale and setting of the parcel of land at issue and the surrounding area. The property at issue is 1.34 acres and has a single-family residence and a 30'X60' garage, which the Board understands has already been lawfully constructed. The garage is the proposed location of the automotive repair shop. The magnitude of the potential impacts is small based upon the small size of the proposed operation in the context of the large parcel and surrounding rural area.

The Board has also discussed the potential environmental impacts of the more intense use as an automotive garage, particular the impacts that could result from such a use like the discharge of fuel or oil into the environment. However the Board finds these potential impacts unlikely to occur as an auto repair garage would have to comply with New York State Laws and Regulations to ensure a safe operation and prevent unlawful discharges to the environment.

Upon careful consideration of all of these factors, none of the potential environmental impacts identified are deemed to be significant.

Motion made by Jennifer, seconded by Jason to accept and incorporate in to Pt 3 of SEQRA. All in favor-aye

SEQRA- has been completed

Resolution read in to the record by Jennifer Michelle.

RESOLUTION OF THE TOWN OF CORINTH ZONING BOARD OF APPEALS
DENYING USE VARIANCE APPLICATION #2024-0001

WHEREAS, Cory Ladd (Applicant) made application for a Use Variance to construct and operate an "auto repair shop" on property located at 263 Wilton Mountain Road and identified as Tax Map Parcel 88.-1-29 (the "Property") located in the Town's Rural Residential Land Use District ("RR District"); and

WHEREAS, the ZBA has conducted a Public Hearing on the Application at its meetings of September 5, 2024 and October 3, 2024 and November 7, 2024.

NOW, THEREFORE, BE IT RESOLVED, that the ZBA has reviewed each of the four Use Variance criteria and make the following findings:

1) The Applicant failed to demonstrate that he cannot realize a reasonable return on his investment, by dollar and cents proof, absent a variance. The Applicant has only provided an unsupported analysis concluding that renting the single-family residence would provide a return of only 3%. In this analysis, \$75,000 of the total \$105,000 that the Applicant stated he invested in the Property was for the garage he chose to build to operate an auto repair shop, which is not allowed in the RR District. The

Applicant's analysis for rental of the Property also failed to provide dollar and cents proof as to the anticipated rent and alleged annual costs.

The Applicant also failed to explain why he could not realize a reasonable return through sale of the property in the current market.

He also failed to demonstrate that he cannot realize a reasonable return on any of the uses permitted in the RR District by right or by Special Use Permit and/or Site Plan review approval.

2) The hardship is not unique. The Applicant failed to identify the alleged hardship as anything other than the inability to use the parcel as an auto repair shop. The applicant's argument that his purchase through a foreclosure proceeding somehow created a unique hardship is unconvincing. The applicant purchased a single-family home in a residential zoning district and is using the property as a single-family residence. His desire to also operate his automotive repair business on the same Property does not demonstrate a unique hardship.

3) Granting of the Use Variance would alter the essential character of the neighborhood. An auto repair shop use would add a commercial business to an otherwise rural residential neighborhood. Applicant has indicated there are other auto repair garages in the RR Land Use District. If there are, they are not in the neighborhood of the Property at issue. This neighborhood is rural residential in character and introducing a commercial automotive garage would detrimentally alter the neighborhood's rural residential character.

4) The hardship is entirely self-created. The Applicant indicated himself that the hardship is self-created in his application. The Property at issue was zoned RR when the Applicant purchased it. At the time of applicant's purchase, the property could not be lawfully be used under the Town Land Use Code for an auto repair shop. Applicant noted that he was not aware of the RR zoning when he purchased and did not use a realtor. However, this does mean his hardship is not self-created. Applicant could have easily inquired and learned of the zoning and permitted uses at the Property prior to his purchase and he failed to do so.

Applicant has also claimed that he will suffer a hardship if he is unable to operate an auto repair shop on the Property due the \$75,000 he has already spent on constructing the automotive garage to be used for the repair shop. This alleged hardship is also entirely self-created because the applicant purchased a property located in a Land Use District in which auto repair shops are not permitted and he then chose to construct a garage for use as an auto repair shop.

BE IT FURTHER RESOLVED, that the ZBA hereby denies the Use Variance application of Cory Ladd as he has failed to demonstrate an unnecessary hardship, as 1) he has not demonstrated a lack of reasonable return, 2) the hardship is not unique to the Property, 3) use of the Property for an auto repair shop would alter the essential character of the neighborhood, and 4) the hardship is self-created.

Motion to approve the Resolution as read in to the record by Jennifer, seconded by Jason. All in favor- aye

Motion made by William, seconded by Jason to adjourn at 6:45PM. All in favor- aye

Submitted by Secretary Lynn Summers