

A regular meeting of the Town of LaGrange Zoning Board of Appeals was held on Monday, August 3, 2009 at the LaGrange Town Hall, 120 Stringham Road at 7:30 p.m. Chairman Tracy Johnson called the meeting to order. Board members Paul Bisceglia, Joe Zeidan, Nancy Swanson, and Aaron McPeck were present. Alternate Marc Komorsky was absent.

Mr. Johnson made a motion to accept the minutes of June 1, 2009 as submitted. Mr. McPeck seconded and the motion carried unanimously. MINUTES ACCEPTED.

NEW BUSINESS

08-09-01 AREA VARIANCE: WAREX TERMINALS CORP. (APPLE VALLEY GULF STATION), 688 FREEDOM PLAINS ROAD, POUGHKEEPSIE, NEW YORK Grid No. 6360-01-439877

Seeking relief from Chapter 240-43 Signs which does not specifically permit canopy signs in order to legalize a 27 sq.ft. canopy sign. Uses which are not specifically permitted are prohibited by omission.

Mr. Zeidan carried out the swearing in of Robert Schanck of Warex Terminals Corporation, and Pete Setaro, P.E., of Morris Associates.

Mr. Johnson asked the applicants to describe the sign. Mr. Setaro began by going through a history of the site. It has been a gas station for more than 25 years. Mr. Schanck said the building was built as a Sunoco station with a repair shop which was subsequently converted into a convenience store. It was then converted to a Texaco station for a short period of time. Around 1990 or 1991 it became a BP station. Mr. Schanck said that during all of that time there was internally illuminated canopy signage facing east and facing west. Ultimately it became a Citgo station. The business was then closed for at least a year and then re-opened as Xtra Fuels and then an Exxon. Both the Citgo and Exxon stations had internally illuminated canopy signs. Mr. Setaro said the site was closed for a few years after Citgo closed down and in 1994 an application was made to re-brand to Xtra brand. At that time there was a canopy sign. Before it was a Gulf station there was a canopy sign when it was Exxon and recently when it changed to Gulf they re-branded it also. However when the sign people installed the new sign for the freestanding sign, they also added the canopy signs. Mr. Setaro said the signs do extend above the canopy and they are a little on the large side. Mr. Setaro presented copies of a different style canopy sign, one which does not protrude above the canopy. Should the zoning board rule in favor of the application they would like it based upon this new proposal. Mr. Schanck added that the re-branding from Exxon to Gulf was because Exxon is no longer offered in this area. The national brand recommendation is the sign shown on the site now which is larger but they do have an alternative to the larger, sunrise sign and that is the one just shown.

Mr. Setaro also passed out some photos of several other gas stations in the Route 55 area that do have a canopy sign. He also presented several photographs of the site as one would see while heading east on Route 55. The free standing sign is 46 feet back from

the edge of the white line. The right of way is extremely wide at that point and when the work on Route 55 was done they had moved 55 one lane width in so the current sign is 46 feet from the edge (the roadway) of Route 55. Mr. Setaro explained the photos by showing one of the canopy sign at the Hess Station and one of the Citgo Station at the intersection of Route 55 and Noxon Road. The last two photographs depict how the free standing sign at the Gulf Station is set back quite a distance and is also partially obscured by the telephone poles. Mr. Setaro felt that a canopy sign is a little more important because it is more difficult to see the free standing sign.

Mr. Schanck explained that canopy signs are integral for the advertising or identification of gas stations. He said that over the years the brands have changed and the product needs to be advertised.

Mr. McPeck asked if the applicants have any problem with putting up the secondary proposed canopy sign. Mr. Schanck said they would have no problem with that at all.

Mr. Johnson asked if the current sign is lighted in any way. Mr. Schanck said it is internally illuminated. Mr. Johnson asked if the sign they are proposing would be internally lit. Mr. Schanck said yes, it would. It would be less illumination because it would be smaller.

Mr. McPeck asked if the station would be open all night. He was told it would not be open all night and the lights would go out when the station closes.

Mr. Johnson asked for confirmation that there was no business being conducted from the site for a period of a year or more. Mr. Schanck said that was correct.

Mr. Ziedan led the swearing in of the property owner, Major Sandhu.

Ms. Swanson asked what time the station closes. Mr. Sandhu said 10:30 p.m.

Mr. Johnson said the board had received two comments, one from Dutchess County Department of Planning and Development. They suggested denial of the variance and Mr. Johnson summarized their comments as follows: He said they suggest that the code does not mention and therefore does not allow canopy or pump signs, as mentioned in the reason for denial. Additionally, the code specifically prohibits roof signs on or above the roof of a building so they are questioning the sign in that sense, also. They suggest that a gas station canopy is a roof supported by columns so it is not a building so the sections on wall signs would not apply. They also have a question as to whether this is an area variance or a use variance. They say that, combined with corporate color bands, the large logos almost act as giant billboard-scale signs, well beyond what is allowed for a wall sign in this district and they suggest that the allowed free standing sign and wall sign on the building and reasonably sized signs on the pumps are sufficient to provide brand identification and prices. For the reasons stated, they recommend that the board not grant the variance requested.

Mr. Johnson said there is also a letter from a Carol R. Wallace who is planning on buying the property across the road, 689 Freedom Plains Road. She would be opposed

to having the board grant a variance for the sign that currently exists. She notes that the Hess station nearby incorporates "Hess" into the height of the canopy and she wonders why the Gulf station cannot do the same. She also has a problem with the signage at the gas station for entering and exiting and wonders whether there could be one sign for going in and one for going out. She also has an issue with large trucks delivering diesel fuel making a left turn out of the easterly exit and end up cutting a path onto her property.

Mr. Johnson said he had visited a number of gas stations in the town. Along Route 55 and Taconic Parkway there is a gas station which has nothing on its canopy. There is a Citgo station with nothing on its canopy. A little further in, across from the Arlington High School there is a Getty station with nothing on the canopy. By Freedom Road there is a Mobil station with nothing on its canopy. In Apple Valley, at the corner of Route 55 and Titusville Road the Hess Station has its name in green within the canopy and no other decoration or coloring on the canopy. The Sunoco/Dunkin Donuts on Titusville Road/Noxon Road has nothing on the canopy. There is a Mobil Station across the road from the Sunoco station that has nothing on the canopy. At Route 55/Manchester Road the Citgo station there, as noted in the photo provided by the applicant, has a sign on an arched canopy structurally incorporated along with the building next to it which is a historic building, and it is located well within the canopy roof and does not take up the full space of the roofing there. Out on Route 82/Route 55 there is a Citgo station with nothing on the canopy. The applicant has a Gulf station which has a name incorporated in a rounded symbol of clouds and the clouds extend along the roof and blends into a multi-colored banding which is internally lit (as so informed by the applicant). The coloring is blue and orange, which is quite effective advertising.

Mr. Johnson continued, in terms of the code, as far as signs on gas station canopies are concerned, there is nothing in the section 240-43 that discusses gas station canopies specifically. However, section 240-39, Design Standards for C-1 and C-2 Districts, H.(2) Site Standards [6] states that there should be careful consideration of the location of gas station pump canopies on the site. Gas station canopies should be located on the rear of the building. Canopies should have downward-facing lights and no internally illuminated signage or lettering. There should also be consideration of the design and treatment of the facades and roofs associated with these structures. There is also a schematic picture of what is thought about a gas station canopy. Under 240-39 H.(3) (c) Architectural standards applicable to gas stations, Mr. Johnson said this is an encouragement of what the town is looking for in terms of its ideas on designs. [2] states "The canopy must incorporate design elements that are found on the main building, including color, roof pitch, and materials. The canopy must not act as an attention-getting device. Canopy support poles must incorporate decorative corbels consistent with the overall theme of the site or pole covers." It goes on to talk about dominant masonry material and the main structure should be consistent with the other parts of the building.

Mr. Johnson said he draws two things from this. One, other parts of the code do discuss and define gas station canopies even though they are not specifically discussed in

Chapter 240-43 Signs. There is reason to believe then, that this is a use which was considered by the town board and although not being specifically addressed in the signage section of the code, would come under the area of being prohibited by not being specifically allowed.

Mr. Johnson said that by looking at the sign and from the pictures the board has seen, it is clearly an attention getting element which the town has suggested it is not encouraging and the internal lighting is clearly not allowed per 240-39 section of the code.

Mr. Zeidan asked if the Hess and Citgo stations are in compliance. Mr. Johnson said he is not sure.

Mr. McPeck said he did not believe they would have a problem with changing the sign. Mr. Schanck said he could go to the secondary image where it does not go above the facing or the height of the structure itself. He could also put a non-illuminated face on if that is in direct violation.

Mr. McPeck said he wondered whether the applicants were afraid they would not be allowed a canopy at all.

Ms. Swanson said it is not a matter of having a canopy, as that is allowed. It's the sign on the fascia of the canopy that is not allowed. Mr. Johnson said in the area seven canopies do not have signage and there are two that do. Mr. Schanck said of the seven referred to, some of those, like the Mobil station on Route 55 have a colored band which is a proprietary trade mark similar to the blue and orange trade mark of Gulf.

Mr. Johnson said the code talks about the coloring being not overly garish and consistent with the rest of the color schemes on the site.

Mr. Zeidan said he understands they are willing to bring the sign down below the roof line and not have it illuminated. Would they be willing to remove the clouds? Mr. Schanck said if possible they would.

Mr. McPeck asked if they were looking at the tertiary image. Mr. Schanck said they would be able to remove the clouds. They would be willing to wind up with a non-illuminated Gulf sign which just identifies the Gulf logo, not above or below the canopy facing, and with a blue stripe on the canopy.

Mr. Johnson asked if there was anyone in the audience who wished to speak for or against the application. There being no comments, Mr. Johnson made a motion to close the public hearing. Mr. Zeidan seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. McPeck said the board will have to deny the variance because it is not a sign like the rest of the gas stations in the area have and the applicant could come back for another permit for a tertiary sign, as described. Mr. Setaro asked if there was some way to make

an amendment tonight without having to fill out a new application. Mr. Johnson said it would need to be discussed with the Town Board.

Mr. McPeck said nobody likes the sign they way it is. Mr. Johnson said his opinion is the way he reads the code, signs on canopies are not allowed. It is not clearly spelled out in the Town code. Ms. Swanson said it is and she referred to section 240-43 C. which states that no sign shall be erected or displayed without a current valid permit having first been issued by the zoning administrator, and if it is not permitted he cannot issue a permit for it. Mr. Zeidan said they do not know if the other two were. Ms. Swanson said they do not know what the circumstances were. Perhaps the Hess sign is not in compliance. Mr. Zeidan said perhaps that is something that should be looked at before they proceed with this. Mr. Johnson said that would be a separate issue. Mr. Zeidan said there are other gas station canopies with signs. If permits were not obtained then that should be looked at. Mr. Johnson said they are a judicial board, not an executive branch, they do not enforce the code, they just say whether it is legal or not. The Hess station has been there for quite a while and he doesn't know if it is grandfathered or not.

Mr. Setaro said he and Mr. Schanck had a meeting with the building inspector about a month before to discuss the signage for the site and he encouraged the applicant to make the variance application.. The building inspector did say that canopy signs were not addressed as part of the new sign code update.

Ms. Swanson said Mr. Setaro stated in his letter of July 14th that Mr. McLaughlin told him that the pump signs and the propane sandwich sign are prohibited. Ms. Swanson had noticed that the propane sign is still there, which made her wonder how much the applicants would be willing to comply with the code. Ms. Swanson said she realized the pump signs are on the pumps so they could not be changed immediately.

Mr. Johnson said he would like to go through the record of findings. He said in terms of the character of the neighborhood and detriment to nearby properties the area is a commercial area surrounded by residential areas. The sign itself is quite noticeable and is different from most other signs on gas station canopies in the area.

With reference to alternative methods, the applicant wants to advertise his business as much as possible, which is understandable, however the town has decided that there are other ways of putting signs on a property to show a business so the alternative for the applicant would be to remove the one particular sign and have advertising done by the remaining signs on the property.

The variance is substantial in that the actual size of the sign is quite large compared with what the code allows for building signs. It is also substantial in the sense that the code can be read as forbidding this type of sign.

Under Effect or Impact on Physical or Environmental Conditions in the Neighborhood, it is a very noticeable sign which contravenes the idea of the town of maintaining a rural, less built up atmosphere.

The sign is a self created difficulty as it was erected during the past several of months.

In terms of other considerations, there are a number of other gas stations along the corridor which currently do not have this type of signage on their canopies and there would be no reason to not grant them the same variances that they were considering granting tonight. The board would in effect be overturning the apparent intent of the town board reflected in the zoning code.

For these reasons, Mr. Johnson made a motion to deny the variance to have the Gulf sign with the specific Gulf name and the Gulf logo standing up above the gas station canopy.

Ms. Swanson wished to add to “Alternative Methods for Achieving Benefit Sought by Applicant”. She said, that as the county had stated, the canopy itself, even if just plain white, indicates to cars approaching that there is a gas station there and then they can see the “Gulf” on the monument sign. Ms. Swanson felt there was no huge harm to the applicant by having the canopy sign removed.

Another consideration is that with an internally illuminated sign, the background is not to be ivory, white or yellow. Even if this were a legal sign the colors were wrong for an internally illuminated sign.

Mr. Johnson having made a motion to deny the application, Ms. Swanson seconded and the motion carried unanimously. **AREA VARIANCE DENIED**

There being no other business before the board, Mr. Johnson made a motion to adjourn the meeting at 8:15 p.m. Mr. McPeck seconded and the motion carried unanimously.

Respectfully submitted

Susan Quigley
Zoning Board of Appeals Secretary