

THE REGULAR MEETING of the ZONING BOARD OF APPEALS of the Town of Cortlandt was conducted at the Town Hall, 1 Heady St., Cortlandt Manor, NY on *Wednesday, November 20th, 2019*. The meeting was called to order, and began with the Pledge of Allegiance.

David S. Douglas, Chairman presided and other members of the Board were in attendance as follows:

Wai Man Chin, Vice Chairman
Adrian C. Hunte
Eileen Henry
Thomas Walsh
Frank Franco
Cristin Jacoby

Also Present

Chris Kehoe, Deputy Director for Planning
Joshua Subin, Assistant Town attorney

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Mr. David Douglas stated before we begin, I just want to introduce our new member, Cristin Jacoby. Hopefully there's people watching on the internet and on cable TV because there's not very many people to see your debut today but welcome.

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ADOPTION OF MEETING MINUTES FOR OCTOBER 16, 2019

Mr. David Douglas stated next item is the adoption of the minutes for October.

So moved, seconded with all in favor saying "aye".

Mr. David Douglas stated the October minutes are adopted.

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NEW PUBLIC HEARINGS:

- A. **Case No. 2019 – 13 Application of Elizabeth Holloway of Station Glo of New England**, for the property of Ibrahaim Jamil, for an area variance for

additional signage at the existing Mobil Gas Station located at 2225 Crompond Road (Route 202).

Mr. John Clerk stated good evening, John Clerk with Station Glo New England.

Mr. David Douglas asked would you tell us what it is you're seeking?

Mr. John Clerk responded I don't know which one's first.

Mr. David Douglas stated 202.

Mr. Chris Kehoe stated 2225 Crompond Road.

Mr. John Clerk stated on this one we're looking to install one wave, one blade and two DI light bar for the canopy.

Mr. Thomas Walsh stated this is my case. I thought the wave was removed from this application.

Mr. Chris Kehoe stated I don't know if you've had discussions with Lizzie. Her original application was based on an assumption that this property was zoned HC (Highway Commercial) which would have given more square footage. We determined it was zoned CC (Community Commercial) so the maximum – she would have needed too much of a variance if they kept the wave signs. Is that right Tom?

Mr. Thomas Walsh responded yes.

Mr. Chris Kehoe stated so she eliminated the wave and she's only asking for the two blade signs.

Mr. John Clerk stated which is definitely doable. That's fine.

Mr. Thomas Walsh asked could you just explain what are wave signs, how they're attached, where they are located?

Mr. John Clerk responded the wave signs are attached to the canopy columns themselves, in this case the single canopy column that's in the middle. It's over the pump as to represent the Synergy fuel. It's a new image for Exxon Mobil.

Mr. Thomas Walsh asked currently on the pump, I know this is just a template picture or just a sample picture, will they be changing out – I know there's a Pegasus sign underneath the pump right now, is that going to be also changed to the Synergy?

Mr. John Clerk responded are you referring to the image that's on the pumps currently?

Mr. Thomas Walsh responded yes, currently the pump is showing the Pegasus [indiscernible].

Mr. John Clerk responded yes, it will have the Synergy on the door like that one is there.

Mr. Chris Kehoe stated and that's one of the issues that was determined in the transition between the Code Enforcement office and the Planning office is that I don't think Lizzie, probably because she wasn't told to, counted that as a sign on the bottom in her original calculations. It may just be getting switched out. Synergy may be – or the Pegasus may be being removed and the Synergy may be put in but I believe that still needs to be calculated.

Mr. Wai Man Chin stated into the calculations, that square footage has to be added in.

Mr. John Clerk stated I don't know the square footage off hand but I do know this Synergy is smaller than the large Pegasus that was on there.

Mr. Chris Kehoe stated that is an important part of the discussion when we figure out exactly all of the signage.

Mr. David Douglas asked is it smaller? I think we count the whole rectangular sign.

Mr. John Clerk responded that's why I was confused as well. I didn't know if you count the full door itself...

Mr. Wai Man Chin stated it's one full door.

Mr. John Clerk continued it's the same exact size then. I thought you just going by the lettering.

Mr. Wai Man Chin stated that has to be calculated in before we, I think we give any kind of variances, or whatever, so we know exactly what the square footage is.

Mr. Chris Kehoe stated we need to investigate that because I'm not exactly sure that you don't draw a polygon around the word Synergy and around the word at the bottom and around the symbol and add all those up together to get the number. We'd have to defer to the code officials to see exactly how they would measure that.

Mr. Wai Man Chin stated usually the sign that we've always done, if there's a name on there it's not just above full technology down and then under the wire of Synergy or whatever. It needs to be the whole panel.

Mr. Chris Kehoe stated we'll confirm that.

Mr. Wai Man Chin stated we should have that done then.

Mr. David Douglas stated Chris, I think what Wai said is consistent with the way we've always done it.

Ms. Adrian Hunte asked the application mentions that you're going to have light bar top lip of existing canopy fascia?

Mr. John Clerk responded correct.

Ms. Adrian Hunte asked could you explain what that is?

Mr. John Clerk responded it's just additional lighting for the canopy to help brighten up the gas station. It's just down lighting that shines down.

Ms. Adrian Hunte asked and what type of lighting is that going to be?

Mr. John Clerk responded it's an LED light bar.

Ms. Adrian Hunte asked we have some code requirements concerning neon lighting and since LED is relatively recent, could you provide for us a photometric analysis to see the brightness of the LED lights?

Mr. John Clerk responded we have a few drawings that we have, nothing that states how far out the light goes but we have some photos that we could show you. It's pretty much straight down. It doesn't go more than, I think they said a foot and a half off the canopy.

Ms. Adrian Hunte stated we'd like to see those.

Mr. Thomas Walsh asked would that then illuminate the whole canopy, all the way around, all four sides?

Mr. John Clerk responded it's usually three sides of the canopy where everybody's pulling in and one side's facing the road. So usually the back side facing the store or the back side of the lot is illuminated.

Mr. Thomas Walsh asked because I know we have Mobil on the two sides and then the front now would be illuminated with that then be considered signage also?

Mr. Chris Kehoe responded I believe in confirming with the Code Enforcement staff and counsel that that light bar -- and it's not the entire size of the canopy correct? It will be a strip if I understand.

Mr. Joshua Subin stated I can speak to that if you'd like Chris. I think the differences between any illuminated signs and indirectly illuminated signs; a directly illuminated sign would be a sign that has an internal lighting. So that means it lights up from the inside and goes out whereas an indirectly illuminated sign would point like a spotlight or something in a direction. So if you

could clarify whether it points in a specific direction or a neon is absolutely prohibited. Does it point in a direction or is it from within the sign illuminating itself?

Mr. John Clerk responded no, it points directly down.

Mr. Wai Man Chin asked towards the street?

Mr. John Clerk responded towards the driveway yes.

Mr. Chris Kehoe stated that's the existing canopy at 202. Is it correct to assume that it doesn't take over the whole canopy? It would be a strip that goes along the bottom?

Mr. John Clerk responded it's a strip that goes along the top where the blue section is.

Mr. Chris Kehoe asked and how wide is that strip? Was it three inches?

Mr. John Clerk responded I believe it's four inches deep.

Mr. Chris Kehoe asked and it's illuminated all the way around, well three sides or whatever?

Mr. John Clerk responded yes.

Mr. Chris Kehoe asked but it's not the entire, in this example, it's not the entire blue thing that gets illuminated, it's just strip?

Mr. John Clerk responded it's going to shine on it so it will light up the whole blue section. You'll be able to see it.

Mr. Wai Man Chin asked so basically it's on the top portion of the blue and it's angled downwards towards the street? It's not going out towards the...

Mr. John Clerk responded it's not going out towards the road more down towards the driveway.

Mr. Thomas Walsh asked do you have a plan of what that looks like?

Mr. John Clerk responded there's a small drawing on...

Mr. Chris Kehoe stated but it doesn't give any indication on the amount of light it puts off.

Mr. Wai Man Chin stated Chris, basically we need the aperture of how it goes. We need the aperture how far is the first it goes from, from point the sign out towards there, things like that. You've got to make sure we get this before our next meeting.

Ms. Adrian Hunte stated we have another application which has a photo of what – that’s around the gas station. Does yours look like this? That’s the other location.

Mr. Wai Man Chin asked is that the light bar you’re talking about right there?

Mr. Chris Kehoe stated I need Josh’s advice too. Other than the Zoning Board being interested in the amount of light that would be generated by this new light bar, it is not a sign as far as our Code Enforcement office is concerned so it’s not part of the calculations. I believe as part of your review of all of this you can take that into account because you might be approving things that would change the light and the character of the area but it’s not a sign per se.

Mr. Joshua Subin responded it would go towards the five factors as to what they would be granting but it would not be something that you would calculate as a sign and it’s seemingly, per the definition, it’s not prohibited. You understand? That’s what I’m saying. It’s definitely a factor that you guys should consider in your normal analysis.

Mr. Wai Man Chin stated that’s why I’m asking for the aperture which is what’s the angle and so forth so we know exactly how far it’s going out. It’s not shining straight out.

Mr. John Clerk responded I understand that.

Mr. Wai Man Chin stated we’ll know by the aperture. It tells you the angle and so forth. These are things that we have to know.

Mr. John Clerk stated absolutely.

Mr. Wai Man Chin stated so we can make our decision on everything.

Ms. Adrian Hunte asked concerning the – we have a photo of the Food Mart and it has quite a bit of wood and looks like soil and antifreeze or something. Do you have a permit for the outdoor storage?

Mr. John Clerk responded I don’t know if they do personally. That was just brought to our attention and I have sent emails out to tell them that this is probably going to have to be moved. Just I didn’t know.

Mr. Chris Kehoe stated I went out, took the pictures today and went into both of the gas stations. The one on Route 6, the manager there seemed to expect my visit but I’m not an enforcement officer. I was just taking pictures. The person on Route 202 did not seem to expect my visit. But, with respect to that issue, which hopefully will be resolved prior to next month’s meeting, there is a section of the code that permits outside storage based on a mathematical formula that either needs to be approved by the director or it would go to the Planning Board. Some of this could remain. It doesn’t all have to disappear but they have to get it approved which has not yet been

approved, however in defense of – almost every gas station has something out but I can understand the Zoning Board’s position not to grant variances if there are problems.

Mr. Wai Man Chin stated I just remember that a while back we had given permission or to a certain amount. I don’t remember what it was but there was a thing that came upon us, as a Zoning Board, but that was many years ago. I believe that may be the same site.

Mr. Chris Kehoe stated if that store has less than 2,500 square feet then a max – let’s say it has exactly 2,500 square feet, 250 square feet can be used for outdoor storage, 10%, subject to the approval of the Director of Technical Services and the fire inspector. If the store is say, 5,000 square feet, they have to go to the Planning Board to get it approved. A small store can be handled administratively. A bigger store goes to the Planning Board – so there has to be math done.

Mr. Wai Man Chin stated I just don’t remember off hand but I remember something like that.

Mr. Chris Kehoe stated but they have been alerted.

Mr. Thomas Walsh asked I have follow up question just all the additional signage, is that in the calculation? You have Bud Light. You have Juul. You have Corona it looks like then you have the coffee...

Mr. Chris Kehoe stated I’m kidding but I was hoping you weren’t going to mention that. There are strict regulations over the amount of window signage that is permitted, cannot cover up more than 50% of the window. That would need to be calculated and most of those are temporary signs that I don’t think would be difficult to remove but there would be an analysis that would need to be done. It’s in the code.

Mr. Wai Man Chin stated Josh...

Mr. Joshua Subin responded 40% of the total window area.

Mr. John Clerk stated that’s pretty common, most of the time we have to go in there and rip them down anyway. We’re used to that.

Mr. Joshua Subin responded but I think you can handle that.

Mr. Chris Kehoe asked do you want to summarize?

Mr. Thomas Walsh stated I think at this point we need to – you need to go back and give us a full calculation of all of the signs on this property...

Mr. John Clerk stated including the pumps, correct.

Mr. Thomas Walsh stated including the pumps. It looks like even above the pumps there's that signage also, it looks like. I don't know if that's calculated in.

Mr. Chris Kehoe stated if their signage for the price of the gas...

Mr. Thomas Walsh stated not the price of gas but there's – if you look at the...

Mr. John Clerk stated right above the pump on the white area, it says Mobil.

Mr. Thomas Walsh stated yes, is that calculated in to what they're asking for? Again, it's the Synergy sign would take you further. All that should be calculated in if you're going to be planning on adding that.

Ms. Adrian Hunte asked what about some of these other signs? What's Acme?

Mr. Chris Kehoe responded those are not legal. Acme – I didn't take the picture but all along the road every five feet they have one that looks like a little real estate sign. It's to encourage you – I guess you get bonus points if you shop...

Mr. Thomas Walsh stated use your card and then you get five cents off a gallon. That should all be calculated into...

Mr. John Clerk stated that is actually part of the Synergy image. Once we install the apertures, the blades above the pumps, we're supposed to remove all that stuff.

Mr. Chris Kehoe stated we're talking about this thing here, I think that's sort of like a cardboard thing...

Mr. John Clerk stated that would come down as well.

Mr. Chris Kehoe stated I would recommend that those shouldn't be calculated because they're not legal. They should be removed, this one and the three or four that are along the 202 frontage.

Mr. Thomas Walsh stated I would recommend adjourning until next month. Come back with full calculations, what can be removed, what's illegal and come back to the board with your correct calculation for your requested variance.

Mr. John Clerk responded okay.

Mr. Thomas Walsh stated I make a motion for case #2019-13 to adjourn until the December 18th meeting.

Seconded with all in favor saying "aye".

Mr. David Douglas stated case #2019-13 is adjourned until the December meeting.

Mr. Wai Man Chin stated you got all the stuff that we want to get.

B. Case No. 2019-14 Application of Elizabeth Holloway of Station Glo of New England, for the property of GTY NY Leasing, Inc. for an area variance for additional signage at the existing Mobil Gas Station located at 2072 E. Main St. (Route 6).

Mr. Wai Man Chin asked is that Route 6 and Locust?

Ms. Adrian Hunte responded yes.

Ms. Eileen Henry asked John do you have anything you want to tell us about this? This is my case but I wanted to hear what you had to say.

Mr. John Clerk stated this one, again, for the Synergy upgrade image for the Mobil gas station. At this location they are looking to also install a four product LED pricer with a two DI light bar, and two waves, and two blades.

Mr. Wai Man Chin stated this one includes the blades?

Mr. John Clerk responded I believe this one...

Mr. Chris Kehoe stated yes it does.

Ms. Eileen Henry stated yes it does, blade pump and the white aperture. Mr. Kehoe and I just spoke before the meeting started and we weren't sure when we met on Monday if the existing was over the permitted – the existing signage was over the 80 square foot permitted. Turns out, because it's on that corner, that I gets 80 square feet facing 6 and then another 40 facing Locust. So one of our issues was that it was already over the allotted square footage and then you were asking for more square footage on top of that. We start out with 111.51 square feet and you're allowed 120. So that's a good thing. So now you're asking for a 12.63 variance I think, if the numbers are correct. Basically we have the same questions with this. Going back to what Ms. Hunte talked about in terms of the photometric analysis. I know you talked about how the canopy lighting will just face down but we need a little more – you can give us more information about that correct?

Mr. John Clerk responded correct.

Ms. Eileen Henry stated we have the same issue, I notice, with the window signage and the outside storage so the window signage and then the signage including, on the face of the pumps

and above the pumps, we need to have all of those calculations as well. Does anyone else have any questions or comments?

Mr. Wai Man Chin responded basically it's the same as the last case, most of the same information again.

Mr. Chris Kehoe stated one thing that I'm not sure if everyone was clear on, because I wasn't clear on it, but the wave signs; the entire red thing is not considered the sign. The calculations are based on – there's an area here that has words on it, Synergy has words on it up there, there's another piece down here that – so that's how the wave signs were calculated.

Ms. Eileen Henry asked so they took each of those measurements?

Mr. Chris Kehoe responded if you look at one of the drawings in the packet that was submitted by the applicant, they calculated all of those things and that's how they came up with the number. And I think that's acceptable to our code staff. That's another thing we'll confirm with them.

Mr. Wai Man Chin stated by the time you compact all of that and everything else, if you add that little curve, it's not really that much more. Usually, when we do any kind of sign from post or something like that, we only count the sign, not the post itself.

Mr. Chris Kehoe stated on this example here, you can see they measured out here for Synergy, they measured the logo, they measured all of that and that's how they came up with whatever the number was. But we'll confirm that that's acceptable to the Code Enforcement office.

Ms. Eileen Henry asked anybody else?

Mr. Frank Franco stated I'm just curious, the blade and the wave, both of those don't line up with themselves right?

Mr. John Clerk responded they do not.

Ms. Eileen Henry asked anyone else, questions, comments? In case #2019-14, I make a motion to adjourn this case to the December 18th meeting pending the answers to all of the questions mentioned above.

Seconded with all in favor saying "aye".

Mr. David Douglas stated case #2019-14 is adjourned until December.

Mr. John Clerk stated thank you. Have a good evening.

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ADJOURNED PUBLIC HEARINGS:

- A. **Case No. 2016-24 Application of Hudson Ridge Wellness Center, Inc.** for an Area Variance from the requirement that a hospital in a residential district must have frontage on a State Road for property located at 2016 Quaker Ridge Road.

(Adjourned to December 18, 2019 meeting)

Mr. David Douglas stated that application has been adjourned to the December meeting as well.

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OLD BUSINESS:

- A. **Case No. 2019-10 Application of Hudson Ridge Wellness Center, Inc.** for an interpretation related to the Code Enforcement Officer's determination(s) on the proposed wellness center for property located at 2016 Quaker Ridge Road.

Mr. David Douglas stated that has been adjourned. No it has not been adjourned. We have reserved decision on that and we will be issuing our decision on that at the January meeting. We've been in contact with the applicant and he has agreed to extend the 62 day period so that we can issue our decision in January.

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ADJOURNMENT

Ms. Adrian Hunte stated I make a motion to adjourn the meeting.

Seconded with all in favor saying "aye".

Mr. David Douglas stated the meeting is adjourned.

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NEXT WEDNESDAY, DECEMBER 18, 2019