

**ZBA MEETING MINUTES**  
**TOWN OF LLOYD ZONING BOARD**

**Thursday, March 10, 2016**

**CALL TO ORDER TIME:** 7:00pm

**PLEDGE OF ALLEGIANCE**

**ATTENDANCE** Present: Anthony Pavese, Paul Gargiulo, John Litts, Paul Symes, Alan Hartman, Peter Paulsen, Elaine Rivera, Anthony Giangrasso; Code Enforcement Officer, Rob Stout; Planning & Zonning Board Attorney  
Absent: Michael Guerriero; Town Board Liaison

**ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.**

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**New Public Hearings**

**Erichsens Auto Service, 8 Lumen Ln, SBL#88.1-6-10, in GB zone.**

The applicant would like an area variance, for setback relief, to allow a fence to be constructed 10 feet from the property line. Once the fence is used as a structure you need to meet the setback criteria.

	<b><u>Required</u></b>	<b><u>Actual</u></b>	<b><u>Variance Request</u></b>
<b><i>Rear Yard</i></b>	<b><i>25ft.</i></b>	<b><i>10ft.</i></b>	<b><i>15ft.</i></b>
<b><i>Right Side Yard</i></b>	<b><i>20ft.</i></b>	<b><i>10ft.</i></b>	<b><i>10ft.</i></b>
<b><i>Left Side Yard</i></b>	<b><i>20ft.</i></b>	<b><i>10ft.</i></b>	<b><i>10ft.</i></b>

*This variance runs concurrent with a Planning Board application requesting site plan approval to put up a fence to use for the increase in business at their shop located at 170 State Route 299.*

Patti Brooks with Brooks & Brooks Land Surveyor, the applicant's representative, was present for the meeting. John Litts Recused.

The public hearing was opened.

Patti B: The ZBA reviewed this application last month; we received a positive recommendation from the Town Planning Board to set the proposed fence 10 ft. from the property line on the sides instead of the required 20 ft. and 10 ft. from the rear line as opposed to the required 25 ft. The reason being that it is going to be an enclosure fence and it is not a structure to the extent of the typical setbacks that are required normally for something in the General Business zone. This is on Lumen Ln. and sits below Rt. 9W so it is not really visible from Route 9W. This was sent to the Ulster County Planning Board as part of the site plan review and they had requested certain changes which we had made to the map. The UCPB has also reviewed this separately for the area variance request. In Ulster County's original recommendation they had asked for a 50 ft. stream buffer, which would be prohibitive. In consultation with the Planning Board and in a site plan approval recently granted to the parcel to the north the Planning Board agreed that a 20 ft. set back from the stream was more appropriate and consistent with what they have done on past applications. We have revised it to a 20 ft. buffer which is currently shown on the map. This was a required modification and they suggested a distance

49 of 50 ft. so I was not clear if we would need a super majority in this case or since we did show a buffer, but not  
50 their recommended buffer (did not finish)

51 Rob Stout: We could do one of two things; ask the County Planning Board for clarification on if they are  
52 requiring the 50 ft. buffer, because I agree there is ambiguity there. Or, this Board could go ahead and vote if  
53 it believes it has a vote of the majority plus one which is needed to override the County recommendation in  
54 this instance.

55 Patti: The UCPB stated that their concern was in regard to leakage or problems with the vehicles that are  
56 brought onto or stored at the site; they would potentially contaminate the stream. We also addressed that on  
57 the site plan. Wherever there are vehicles that are in any way compromised all of the fluids and/or potentially  
58 noxious materials have to be removed from the vehicles.

59 Jerry Erichsen: We have a special truck just for draining fluids out of overturned trucks and such. We do not  
60 tow them with the fluids in them.

61 Patti: That is our mitigation in replying to the County for the 20 ft. versus the 50 ft. buffer.

62 Patti: I just want to clarify the Town requires 20 ft. side yard setback. In addition to the 20 ft. side yard  
63 setback from the property line, the stream is already 20 ft. from the property line so basically that area of the  
64 fence will be 40 ft. away from the property line and does not even need a variance in that area. Rob clarified  
65 to the Board that the variances being sought are to give relief from the setback requirement not the  
66 recommendation that the County has made to establish a buffer for the area around the creek.

67 Paul G. suggested a culvert pipe with a modification this it would need to go back to the County.

68 Rob: That is not what the County recommended; at this time the applicant is proposing to address that with the  
69 Town Planning Board in making that a 20 ft. barrier.

70 There were no public comments.

71 A **Motion** to close the public hearing was made by Paul Symes, seconded by Paul Gargiulo. All ayes.

72 Patti B: Just so this Board is clear, when this application was originally made the fence was proposed to go  
73 right on the property line like many other fences. In further review of the code we realized that there was a  
74 special provision that when a fence is used to enclose storage materials, and not to enclose property  
75 boundaries, the fence will need to be put on the setback line. The Planning Board recommended the 10 ft.  
76 setback which would give plenty of room for good maintenance around the fence. The applicant's goal is to  
77 maximize the use of the site; he chose to buy this piece of property thinking he would put the fence on the  
78 boundary line and secondarily because it is removed from view from everybody. All of the site equipment he  
79 has at the Rt. 299 site, which is very visible, will be relocated to this site, which is a flat piece of land, and  
80 shielded. He would like to shield as much as he can on this site.

81 The Board reviewed the balance of interest test for their DECISION and also discussed the applicant adding an  
82 additional small berme between the creek and fenced area.

83 Balance-of-Interests Test – Board of Appeals shall balance benefit to applicant with detriment to health, safety  
84 & welfare of the community.

85 Board of Appeals shall also consider:

86 (1) Whether benefit can be achieved by other means feasible to applicant;

87 The further the fence is pushed back or to meet the setback requirement, the less feasible it becomes for the  
88 applicant to hide or shield his site equipment.

89 (2) Undesirable change in neighborhood character or detriment to nearby properties;

90 No.

91 (3) Whether request is substantial;

92 No. Also taken into consideration is that they could put another fence right on the property line (using as a fence).

93 (4) Whether request will have adverse physical or environmental effects;

94 As per the Ulster County Planning Board comments to the site plan review the ZBA makes a recommendation  
95 that the Town Planning Board consider a berme placed somewhere between the stream and the stored  
96 vehicles.

97 (5) Whether alleged difficulty is self-created.

98 Yes.

99 A **Motion** to make a recommendation to the Planning Board the building of a berme in the area adjacent to the  
100 stream was made by Anthony Pavese, seconded by Paul Symes. All ayes.

101 A **Motion** was made to accept the Decision to Grant the area variances requested by Anthony Pavese,  
102 seconded by Paul Gargiulo. All ayes. (See attached)

103 Rob: Unanimous vote you have the majority plus one for the purpose of overriding the County.

104

105 John Litts returned to the meeting.

106 Peter Paulsen recused.

107 **3509 Corp. (Community Car Wash), 3509 Route 9W, SBL#88.13-2-9, in GB zone.**

108 The applicant would like to install a new freestanding LED sign on the existing foundation and pole of the  
109 current sign. They are requesting an area variance for the sign size and an area variance for the height. The  
110 permitted sign size is 50 sq. ft., the applicant would like 57.2 sq. ft., requesting a 7.2 sq. ft. variance.

111 The permitted sign height is 6ft., the applicants current sign pre exists at 18ft. high, and he would like to have  
112 his sign stand at 23ft., requesting a 17ft. variance.

113 Charlie Scott, the applicant, was present for the meeting.

114 A **Motion** to open the public hearing was made by John Litts, seconded by Anthony Pavese. All ayes.

115 Charlie: I purchased this property about 1 ½ years ago and have spent the last 15 months improving the site.  
116 Now it is time for people to know who we are. The sign that is there now was approved back in 1995 and had  
117 served its purpose and now needs to be brought into the 21<sup>st</sup> century. This proposal has been before the  
118 Planning Board and they had a positive recommendation for the ZBA. The County has issued a negative  
119 recommendation which is based entirely on (inaudible) appearance of zoning requirement of signage for this  
120 community. It failed to take into consideration, mention or even discuss all of the practical difficulties which  
121 prevent us from complying with the zoning requirements. The most important of those practical difficulties is  
122 the fact that when 9W was improved many years ago and there was a taking right in front of this facility. We  
123 need three lanes of ingress and egress parallel to 9W because we have traffic entering from the north, south  
124 and have traffic exiting from the south service bays and the automated service bays. Anything short of three  
125 lanes of traffic will create a traffic hazard. The other fact of consideration is that we have large trucks that  
126 come into this property, they could be 13'6" high and any sign that is lower than 14 ft. runs a risk of being  
127 taken out by a truck trailer. The sign that was put in, in 1995, is 14 feet from grade to the underside of the sign  
128 and it goes up 4 feet from there. It is 12 feet wide and stands, I think, three feet into the right of way, which I  
129 do not think was approved in 1995 and goes another 11 feet into the parking area. The sign we have proposed  
130 is more attractive and of a different configuration. We do want to include an LED message board in this sign.  
131 The message boards (Watch Fire) sold in this area are 19mm pixels, the Town when considering its LED sign  
132 ordinance had proposed that LED signs be no greater than 16mm pixels, which is a much sharper image.  
133 There is a new company entering the market in the North East called Light King and they are producing signs  
134 with 16mm pixels which are very competitive with the lesser quality Watch Fire signs at 19mm. We propose  
135 to use a Light King sign because we think it will be more appealing and less granular. This will be a nice clean  
136 crisp clear image. The trade off is that in order to do a Light King sign the message board needs to be 5 ft. tall  
137 instead of the 4 ft. tall. This is one of the reasons for the extra height request. We can't as a practical matter,  
138 have a sign that complies with the ordinance.

139 Paul G: What about a sign on the building?

140 Charlie: It is obscure on the building. People are driving 55-60 mph we want it to be visible straight on from a  
141 sufficient distance so they can make a decision if they will be pulling in for a car wash or not. Car washes are  
142 an impulse purchases. This sign will be visible from the north and the south to avoid all of those risk factors.  
143 We have removed 100's of feet of signage from this building, all of the canopies, a 14 ft. back lit sign in front  
144 of the building and streamer type flags. it had looked like a carnival. We want to replace all of that with a  
145 professionally built professional looking and informative sign. We do this message board, in some measure, as  
146 a community message board, if the Town wanted to advertise village day or tickets for the fourth of July  
147 Walkway over the Hudson, we would accommodate them. We will provide an opportunity for the community  
148 and community type organizations to get a message out in a way that they never had the opportunity to do so  
149 before.

150 John: Would the sign change during the day?

151 Charlie: All in accordance with zoning.

152 John: How do you see it?

153 Charlie: Every 60 seconds, 30 seconds, 40 seconds. At night it powers down 90% so you do not have the  
154 same luminescence at night that you would during the day. We can also keep it static at night, There may not  
155 be a need to change it every 60 seconds or so. In terms of the size of this sign, it is not inconsistent with other  
156 signs on the corridor; Speedway or Mobile for examples.

157 John: Is there any way that we can achieve the same thing, the same message to the community, but not have a  
158 flag pole sign; do it as a monument sign closer to the egress of the property without it being restrictive to the  
159 traffic coming in and out of the bays. We are trying to get away from this type of sign and go toward more  
160 monument type signs.

161 Charlie: We have looked at this from every single angle. There is no where to put a monument sign there  
162 without taking out a lane of traffic there. I need the three lanes especially if the lot next to the carwash gets  
163 built out. The right of way is right up to my curb; I have no place to move.

164 Anthony G. gave some history of this site: Back in the day the former owner Danny Welch was going to have  
165 another building on the site there. They did show a monument sign there at one time but the practicality was  
166 that they could not see it. They went before the Zoning Board and got a variance to move the sign to where it  
167 is now. A lot of this has been hashed out by predecessors. Back in 1985, I think, the ZBA granted a variance  
168 of one foot off of the property line and that is the sign that is currently there.

169 Alan: Is that over the property line? According to this drawing it looks like it is over the property line.

170 Anthony: On that map yes. With the way that the sign is right now is not in compliance because it is hanging  
171 into the DOT right of way. Mr. Scott's proposal is to move the sign back 4 feet so that it will be in  
172 compliance.

173 Alan: I have a problem if we go back to the monument sign one of the original questions they should have  
174 asked was could they see it. They could not. Now even moving the monument up four feet, what it did was  
175 put a sign right in front of two stop signs and a Merritt Ave. sign. Plus when they push the snow out you can  
176 not see that sign. So if this is so bad not being able to see this one what is it like for Sawyer Savings Bank?  
177 There is a definite problem with this intersection and the visibility. The maps do not show elevation. This is  
178 very steep as you come around the corner and does not have the visibility. A good recommendation would be  
179 to cut the speed limit down to 45mph. This sign is the same thing it is going to interfere with the (inaudible)

180 John: The sign he is proposing interferes with the sign?

181 Alan: It interferes with (inaudible) sign and at a higher elevation.

182 John: It is 14 ft. above surface.

183 Alan: The base of the sign.

184 Paul: That base has always been there.

185 Alan: I know and it is a problem.

186 Susan Bacchi of 82 Grand Street: I was here for the Bank (Sawyer Savings) public hearing for their sign. At  
187 the time I brought up the illumination that comes through our bedroom windows. Patti Brooks of Brooks &  
188 Brooks had reached out to me after the meetings, on behalf of the Bank, and it is an issue the illumination that  
189 comes from that side of 9W. I know you are doing something good for the community and call yourself  
190 Community Car Wash but we have been part of this community for 27 years. It has been pointed out that this  
191 is in keeping with the signage that is on 9W right now, however when we moved in there were no illuminated  
192 signs at the mobile station, the bank or the car wash. Twenty years ago we added a second story to our home  
193 and put in all of these beautiful windows which now we do not use because at night we hang blankets to block  
194 out the light that comes from that side of 9W. I do have some pictures of the car wash; they have two signs on  
195 the side. I almost had a heart attack when I heard this would be blinking.

196 Mr. Scott: It will not be blinking.

197 Ms. Bacchi: Our bedrooms are on the 3<sup>rd</sup> floor of our house and the bedroom windows look right out to the  
198 bank sign which is quite bright in the middle of the night. I feel like my property value goes down every year  
199 because of what is going on. You say you will look at this from every angle but you have not seen this from  
200 our bedrooms at night.

201 The Board looked at photos taken by Ms. Bacchi.

202 Alan: Is there any way that the sign can be moved North on the property? It would give the people a heads up  
203 sooner for the car wash. I think there is a visibility problem as cars start to descend down 9W.

204 Mr. Scott: It is a consideration. This is where the pedestal is, I would have to dig up my parking lot and put in  
205 new wiring.

206 Paul G: How about up near the flag pole.

207 Mr. Scott: If you are traveling north you will go right by the car wash.

208 Rob: A concern of the standards which is laid out in the code is that there was nothing submitted with the  
209 application to show how you will meet those standards. The requirements discuss luminescence during the  
210 day and at night and the candle power from the property line.

211 The public hearing will remain open.

212 The applicant will submit sign specifications to the Building Department.

213 The Board will review SEQRA determination at the next meeting and review the Planning Board  
214 recommendation.

215 Anthony G. requested that the neighbor, Ms. Bacchi, submit photos of the mobile station sign at night time.

216 Alan: A recommendation should be to consider moving the sign to the north also.

217 A **Motion** was made by Paul G to table this application until next month's meeting, seconded by Anthony  
218 Pavese. All ayes.

219  
220 **Administrative Business**

221  
222 **Minutes to Approve:**

223  
224 A **Motion** to approve the minutes from the February 25, 2016 Special ZBA meeting was made by Anthony  
225 Pavese, seconded by John Litts All ayes.

226 A **Motion** to approve the minutes from the January 14, 2016 ZBA meeting was made by Anthony Pavese,  
227 seconded by Paul Symes. All ayes with Alan Hartman abstained.

228 A **Motion** to approve the minutes from the December 10, 2015 ZBA meeting was made by Paul Symes,  
229 seconded by Paul Gargiulo. Alan Hartman-Aye, Paul Gargiulo-Aye, Paul Symes-Aye, John Litts and Anthony  
230 Pavese abstaining.

231 A **Motion** to adjourn was made by Anthony Pavese, seconded by John Litts. All ayes 8:20pm.