

**TOWN OF STONY POINT  
ZONING BOARD OF APPEALS  
Minutes of January 21, 2016**

**PRESENT:**

Mr. Anginoli  
Mr. Keegan  
Mr. Casscles  
Mr. Vasti  
Mr. Porath  
Mr. Lynch

**ALSO PRESENT:**

Dave MacCartney, Attorney  
William Sheehan, Building Inspector  
Tom Larkin, Building Inspector

Chairman Wright

**Chairman Wright:** Good evening. I see by the clock it is 7:00 PM. I will call this meeting of the Zoning Board of Appeals of the Town of Stony Point to order; please rise for the Pledge of Allegiance. So before we begin, we only have one (1) item on the agenda tonight, but before we begin I want to welcome John Lynch to the Zoning Board of Appeals on his recent appointment.

**Mr. Lynch:** Thank you.

**Chairman Wright:** I would also like to take the opportunity to thank John Fox, who was with us for many years of faithful service. I just wanted to say publicly thank you to John Fox for all the work he did for the Town on the Zoning Board.

With that I would like to take a motion to open the Public Hearing for the application for Brad Stern – Homestead Hardware.

**Request of Brad Stern for Homestead Hardware – Application 2015-0007**

A variance from the requirements of Chapter 215, Article VIII, Section 39 E, to permit rental truck, one maximum 20 foot rental van with less than required parking spaces; Required 14 spaces Provided 7 spaces at 73 South Liberty Drive, Stony Point, N.Y.

**Section 20.11    Block 2            Lots 21    Zone BU**

**\*\*\*MOTION:** Mr. Vasti made a motion to open the Public Hearing; seconded by Mr. Keegan. Hearing all in favor; motion carried.

Is there a representative for the applicant present?

**Unidentified Male:** Yes –

**Brad Stern – Homestead Hardware  
73 South Liberty Drive  
Stony Point, New York**

**Chairman Wright:** “Is the testimony you are about to give truthful?”

**Mr. Stern:** Yes, it is.

**Chairman Wright:** Can you give us some background as to what you are looking to do; achieve?

**Mr. Stern:** What we are looking to achieve is to park one (1) rental truck in front of our premises for display purposes when it is in and not out on rental. We've gone over the parking situation there and we made sure that our employees do not park on premise during the day along with the owners. We do not park on the premise either to free up the parking for the patrons that come to visit our location and the neighboring properties. We've spoke to our other adjoining neighbors on each side of us and they did not have a problem with us doing this, but we have to come before the Board so they can give us a favorable decision.

**Chairman Wright:** Any questions from anybody on the Board?

**Mr. Vasti:** Mr. Stern, are you going to have a designated parking space for the vehicle?

**Mr. Stern:** If we need to – a lot of times it's more difficult to do that because if somebody comes to return the vehicle and somebody else is parked in that spot it would make it cumbersome to try to get the patron to move their car to park there so we are just hoping to use any of our slots that are available at that point.

**Mr. Vasti:** Is there enough room to back the vehicle up and turning it safely?

**Mr. Stern:** Yes. The vehicle we were looking to do is a 20 foot box truck; I'm sorry a 10 foot box truck, which is less than 20 foot long. It is the same size as a regular cargo van in length.

**Mr. Vasti:** Thank you.

**Mr. Porath:** Are the spots – because we are all familiar with that plaza and I know when I come I don't always park in front of the store I am going into, are the spots that are in front of your store dedicated to you; do you have any?

**Mr. Stern:** Well what it is – each store there is individually owned. It is not a strip mall with a common ownership. So yes, the spots in front of our store are our property and owned by us and maintained by us.

**Mr. Porath:** Okay. So if you didn't have them you would be giving up one of your potential customer spots for this truck happens to be there?

**Mr. Stern:** That is correct.

**Mr. Vasti:** Mr. Stern, would you happen to know within Stony Point if there is any other location that has rental trucks similar to the one you are proposing?

**Mr. Stern:** As far as I know, there is none in Stony Point. That is one of the things that we had to go before the Planning Board to get permission to do this and that is where we hit the stumbling block with the parking at that point.

**Chairman Wright:** And why now, in view of what you want to do...

**Mr. Stern:** We are trying to add to our repertoire of items that we have for sale and to support the local community.

**Chairman Wright:** And that would be businesses like you would do the same thing?

**Mr. Stern:** Hardware stores – yes and then seem to do very well in the rental truck line.

**Chairman Wright:** How many of them are in Stony Point?

**Mr. Stern:** As far as I know, there is none in Stony Point - there is no other hardware store in Stony Point.

**Chairman Wright:** So you are the only Stony Point hardware store?

**Mr. Stern:** That is correct.

**Chairman Wright:** How long has that building been used specifically for a hardware store?

**Mr. Stern:** At least since 1950's; if not before.

**Chairman Wright:** And during that whole time has anybody else done something similar and as a practice, maybe it was legal back then...

**Mr. Stern:** Rental trucks – not that I am aware of. They do have a couple of different items that were sold at the hardware store that we don't do right now...there was hunting licenses, there was ammunition at one time I heard, there was power equipment at one time which we haven't gotten into.

**Chairman Wright:** And this truck – is this a truck that you would own, you would lease?

**Mr. Stern:** It is owned by U-Haul. They give it to us and we lease it out for them.

**Mr. Keegan:** Do you intend to leave this truck parked out there during non-business hours?

**Mr. Stern:** Hopefully it will be out on a rental most of the times so you probably won't even see it.

**Mr. Keegan:** Well when it's not out on a rental?

**Mr. Stern:** Yes, it will be kept in the front because it is a good display item. It attracts attention.

**Mr. Keegan:** Counselor, I have a question. This is definitely an area variance; right?

**Mr. MacCartney:** I think that would be a question for the Building Inspector in terms of the nature of the variance that is actually requested. He says on the Code section –

**Mr. Sheehan:** They were before the Planning Board. If they get approval here, they still have to go back to the Planning Board. The reason it got to the Zoning Board is because in the section of the Code that allows for – it gives you the regulation for parking rental vehicles (inaudible) it states - obviously you got to figure out what parking would be required for the store itself and it says shall not take away from the required parking. So the word "shall" meaning in terms of the Planning Board that they do not have the authority to meet the parking requirement so that is why it is before the Zoning Board.

**Mr. MacCartney:** Can you explain the – it says required 14 spaces; provided 7. Can you just explain that?

**Mr. Sheehan:** Yes, there are no parking for the stores. It's not a parking use. What we gave them in terms of square footage of the building, calculating what would be required for parking because it is a new building which is 14. They actually have 7 spots. That is where the number 7 came up. If the variance is granted they would be down to 6 spots which you would have for the customers. But the key word was "shall" and that is why it was sent to the Zoning Board. Just for the Board and the applicant's knowledge that if they are successful here they still would have to go back to the Planning Board. But, that is why we are here. But, yes it is an area variance.

**Mr. MacCartney:** Yes, I agree. Under those circumstances then it is an area variance.

**Mr. Keegan:** So it is an area variance – so my question is...that is one of my questions; my second question is I believe it is illegal to expand a non-conforming use...

**Mr. MacCartney:** Well it is not a use...

**Mr. Keegan:** No, no – I'm not questioning the use. What I am saying is legal to expand a non-conforming use; is that applied to an area variance also.

**Mr. MacCartney:** If the use is prohibited, then there (inaudible – too many people speaking)

**Mr. Keegan:** I just want to cover all of our bases. Ok, thank you.

**Mr. Sheehan:** If it was a non-conforming use, then it would be a use variance.

**Mr. Keegan:** Yes, right.

**Mr. Sheehan:** But, for Homestead it is an area variance.

**Mr. Keegan:** Thank you.

**Mr. Lynch:** It is just one (1) truck.

**Mr. Stern:** One (1) truck – one (1) truck in the front of the premises; right.

**Mr. Lynch:** So do you expect...if this takes off to expand to multiple trucks?

**Mr. Stern:** No, we have a fenced in area in our rear yard which we can put a truck in also, but we are looking...

**Mr. Casscles:** Behind, right?

**Mr. Stern:** Right, but (inaudible)

**Mr. Lynch:** One (1) truck out front and the others would be out back?

**Mr. Stern:** Correct.

**Mr. Casscles:** I am glad you bought that up - on Section E it says, and this could be all wrong, but it says also we are not allowed to park in the rear yard abutting the residential zoning district.

**Mr. Sheehan:** Correct.

**Mr. Casscles:** So if he is parking two (2) behind the store that abuts up to the houses on Rochelle Court...

**Mr. Sheehan:** Well no – in his situation the rear yard is 25 foot. So if you are going 50 foot off the property line you are really going 25 so you have 25 foot to spare. In his case, there is a driveway behind this building which he cannot park because that is the ingress and egress for the stores over there and for fire reasons. He does have a fenced in area which the Planning Board had the Fire Inspector go down and look at and it is very small and there was some talk, I, maybe Tom, can expand on this, but parking against the building, in back of the building, in case of emergency or fire can't get access to building. I don't know how you would park a truck behind the building, but I think that is more of a Planning Board issue. We were talking about

parking in the rear and parking in the commuter parking lot, but then again I think that is a Planning Board issue that is why I stated that he has to go back to the Planning Board if he is successful here. So really what is before the Board is the one (1) parking spot in the front? And the reason it is 20 foot that box truck, or maximum vehicle, is because there is also a 15 yard front yard which he is not allowed to park in and since his building is 20 foot off the property line and the curve is about 5 foot plus the 15 for how many (inaudible) that's why he would be in violation of the parking in the front yard. That is why 20 foot is maximum.

**Mr. Casscles:** I just wanted to make sure that that wasn't in it because it is in; so if we grant the variance he would have to come back and get another one to park in the back.

**Mr. Sheehan:** No. You are 100% correct. You cannot park in any yard and that's not what he is here for. If he wanted to park a bigger vehicle, he would of needed two (2) variances; one for the number of parking spots that he doesn't have and also parking in the front yard.

**Mr. Casscles:** So he won't have to come back to get another variance to park those ones in the back?

**Mr. Sheehan:** If the Fire Inspector and the Planning Board are comfortable with him parking in a fenced in area, he is not going to park in the rear yard, which he can't anyway since it is a right-of-way...he is stuck to either park in the back if he has Planning Board approval in the fenced in area if he gets the variance for the one (1) vehicle in the front; the commuter lot that's a different animal.

**Mr. Casscles:** Okay, I just wanted to make it clear in my head.

**Mr. Vasti:** I have a question regarding the duration of the parking – I am going to play “devils advocate” ...let's say that Mr. Stern owns such a truck, that he uses for his business for deliveries, and he parked it in the front there during business hours and then at night moved it to the back; would he still need to come before this Board and seek a variance?

**Mr. Sheehan:** No, he would not because the way the Code is written is only for rental vehicles. If he owned a 20 foot box trailer make deliveries out of his store and did not park either in the rear yard or the front yard of his store he would not need either Planning Board or Zoning Board of approval.

**Mr. Vasti:** As a follow-up to that – if he had a rental truck in then in the evening he moved it to the back; would he still need a variance?

**Mr. Sheehan:** Yes.

**Mr. Vasti:** Thank you.

**Mr. Porath:** I have two (2) questions – Mr. Stern, the rental truck itself when it is parked in the spot does it inhibit any normal flow through and different then let's say a pick-up truck.

**Mr. Stern:** Same length.

**Mr. Porath:** And it doesn't jut out, doesn't interrupt...okay that is one question; then my second question to you Bill being, and this is more in the nature of the character of that whole strip of stores, giving that it calls for 14 and they only have 7, I know you may not know this definitively, but maybe just in general, do any of those stores have sufficient parking by Code?

**Mr. Sheehan:** No.

**Mr. Porath:** So it is kind of consistent that...maybe there is an exception on like one or two of them.

**Mr. Sheehan:** Maybe on the end, but beyond that no.

**Mr. Porath:** The bottom line is they all have a shortage of spaces; so it's not out of character that he has less spaces than the Code; pretty much everybody does.

**Mr. Sheehan:** No, actually I think in his case he probably has more than the rest of them would have.

**Mr. MacCartney:** So the situation is basically is it is a pre-existing (inaudible) because it is a pre-existing set of spots; which 14 are required by the Code and he will have 6.

**Mr. Sheehan:** Correct. He has what is required. It was supposed to be 14 and obviously he has 7 and the Town would basically be taking 1 spot away. So we are making him (inaudible) so we felt he had to come here not the Planning Board and the Planning Board would reduce the parking by 25%, but the word "shall" makes a big difference...plus it is over...7 to 14.

**Mr. Stern:** Can I just make a quick statement. We are lucky enough to have the municipal lot across the street, but like I said we don't park on premise as my employees, I have two (2) employees plus myself and my partner, that is four (4) vehicles on-site on a daily basis so it really relieves our parking considerably. And the area of the parking ratio that they use is a little flawed because we do have work area and we do have bathrooms that comes with the square footage requirements also that is not taken into account on the area ratio they use.

**Mr. Vasti:** Who owns the property north of Central Deli; that big open lot that a lot of people park in?

**Mr. Sheehan:** Helmer Cronin.

**Mr. Vasti:** Okay, is that parking...parking there permitted or just as a courtesy because nothing is built there; people just park there at will.

**Mr. Sheehan:** They have a hand shake agreement that he can use it, but obviously once that property is developed, because he owns the property also behind it – the construction yard, so eventually someday that whole area will be developed and then....that's why the deli doesn't have a lease or a license on it because Helmer felt that if he ever wants to develop it he didn't want to have... (inaudible). So they will lose their parking one day.

**Chairman Wright:** Any questions from the Board?

(no response)

**Chairman Wright:** Mr. Stern, if you would just stick around as we will be opening it up for the rest of the Public Hearing. Anybody from the public have any questions and would like to...can you just stand up and identify yourself.

**Frank Collyer – S.P.A.C.E.**  
**10 Knapp Road**  
**Stony Point, New York**

**Chairman Wright:** "Mr. Collyer, the testimony you are about to give is truthful?"

**Mr. Collyer:** I like to see any business in Stony Point; since there is so few of them, competed in any way, but I think we...I know we have a definite problem. Everybody here has parked in that parking lot and say gee, this is a terrible parking lot. First of all, whoever signed in got away with it, got grandfathered in – got a gift, because that parking lot is so small that to turn around and pull out of there without anybody getting in your way is a hard thing to do. There is not enough parking spaces for people being in it anyway. He has seven (7) spaces now down into six (6), if this is passed; which is less for him. Now, what happens a lot of times, in my

estimation and in my view, is a lot of times people park across 9W in the commuter parking lot. I know they park there for Hogan's also, but that's still not right. I mean crossing 9W, is not like crossing the Thruway, but it is hazardous. It's not a good thing to have to force people to do. So I think that having that is a bad idea. It is a dangerous thing and if we make this one exception God knows who comes in next month or next year with another exception to that rule that is already not working. So what you do today really influences how this affects tomorrow a lot. The discussion here tonight talked a little bit about Helmer Cronin's land, just north of there a little bit; maybe that is a plan, I don't know. There has to be a plan B that will work. I don't want to see him denied, I don't want to see him take up a parking spot in a place that is short parking spaces already cause I think it is only forcing the public into a difficult position and maybe they will go to another Town and go shopping instead I would rather see them stay here. Thank you.

**Chairman Wright:** Frank, I have a question for you. I would like to get your insight into one question if I could. Because it seems the difference, as I think Mr. Vasti is bringing out, it's really the ownership. If he owned the truck, it really wouldn't be before us, if I understood that right; it's really because it is a rental truck now so it needs a variance. Do I have that right Mr. MacCartney?

**Mr. MacCartney:** Yes, that is my understanding.

**Chairman Wright:** So if it wasn't a rental; it wouldn't even be before us.

**Mr. Collyer:** The thing is as a part of his business he is going to take up a parking space that could go to a paying customer. So the paying customer is denied that space. I know it is for him to make money; it is his property, but is it a good idea and if you do this today what are you going to do tomorrow. These kind of laws, nobody forgets about it once they are passed. They are in for a long time so if you are going to plan, you go to the Planning Board, plan ahead a little bit. Don't set yourself up for yet another exception to a rule. So I don't like to see him get denied; I just want you to see if you can find another way to accommodate his truck and not park in front of the place – taking a paying persons spot. Thank you.

**Chairman Wright:** Anybody else like to speak? Can you just state your name and address.

**George Potanovic – S.P.A.C.E.  
570 Old Gatehill Road  
Stony Point, New York**

**Chairman Wright:** "Mr. Potanovic, the testimony you are about to give is truthful?"

**Mr. Potanovic:** Yes. I am not against Mr. Stern's business, Homestead Hardware. I have shopped there for many years and I continue to shop there. I am concerned about this proposal because I do shop in that parking lot and I find it to be kind of a dangerous parking lot to tell you the truth. It has an unusual number of inlets and outlets to 9W; probably more than would be in a parking lot and you have people coming in and out from there as you are trying to pull out of the space and a very tight area for backing out so I find it to be a difficult parking lot to get in and out of as it is and as a result as Mr. Collyer said so many people park across the street so actually we are using Town property now for businesses to use as their free parking space, which is what would be required for them to have adequate parking so as a Town we should be subsidizing this lack of space or in this case of Homestead Hardware only 50% of what's required if your building was a new building there, 14 spaces is a lot different than seven (7) spaces and now six (6) would be less than half. I find it to be inadequate in parking, and I think it also impacted the stores. He said that these stores are doing fine, but I know there is a lot of problems sometimes to find a parking space. Infact, the commuter parking lot across the street today is pretty full.

I do have a few questions – the Town Code requires that the spaces themselves be 9 feet in width. They said the Planning Board can reduce that to 8-1/2; so I guess I'm going to ask Bill if the current parking amount that's there is seven (7) is that based on the 9 foot that would be required or is that based on 8-1/2?

**Chairman Wright:** So that is a County based question...

**Mr. Potanovic:** I understand. In other words I was just wondering if you were on the low end of what was required as it is and here we have less spaces as it is – so if you don't want me to ask the question that is fine.

I have a couple more – There is a van parked there now across the street, a boxed van-a rental van; I don't know if that's the one that Mr. Stern is planning to use, but there is a big U-Haul kind of boxed van there parked in our Town commuter parking lot and that van is about 18 feet; it certainly not 10 feet. He has mentioned a 10 foot. So I don't know if it is different than the one he is planning on putting there; but that is a pretty sizable truck and we are talking about now allowing up to 20 foot van that is excessive. It blocks so much of the space; even the usable space – it's a big box truck putting it right in the middle of a very crowded parking lot. I think it even makes it more dangerous than it is currently. You mentioned the ingress and egress to 9W with only half of what the required parking is today – why don't we even make it an exception for this when he is actually existing under a variance that allows for a pre-existing use that would allow him to have half of what's even required to have; it seem excessive as it is. I guess if the other stores; excuse me – with half, what the Building Inspector with half, he actually has a greater percentage of immediately acquiring from the other stores. These stores are getting even less than half – so you have a very under number-reduced number of parking spaces for the number of stores and the amount of activity that happens there – if they were like a lawyer offices where people came in once an hour or something that is different, but you got two (2) delis, you got a lot of businesses there that have quick turn-over of people coming in and out, so it makes it very dangerous. I don't know what the accident rate is there, but I would expect that it would bad – my car got dented there one time because people not only park in the parking spaces in front of the stores they park parallel to 9W and I made the mistake of doing that one time and somebody pulling out just backed into my car. It's not enough room. He put a dent in my car; I didn't even find out who did it. I think if you look at what the accident rate is there I think you'd find that that's not adequate amount of space for the amount of traffic that's going on in that store. I can understand him wanting to make a business out of the rentals because people don't want buy materials and then go take them away in a truck – it shouldn't be parked in front of the store; maybe there is another place it could be put. It doesn't seem like an adequate spot to put it in front of the store.

And I guess the Town would have to think about what its policy of them using the municipal lot across the street to subsidize businesses. As was bought up before, the diner doesn't have enough space either by far. I went to eat lunch yesterday and the parking lot was completely full and our commuter parking lot was almost full if you noticed today-almost all the spaces were taken. So it is being used by employees, it is being used by customers as it is. I think it is dangerous to cross 9W. It is a busy road. Most cars move along – they are either going to be basically perpetuating that idea that customers have to park across the street, they have to cross 9W to get into the stores. Not only his store, but the delis and everybody else over there just reducing and exasperating a problem that exists so I would see against this variance and perhaps something else could be worked out. But, I don't think the variance should be granted. Thank you.

**Chairman Wright:** Does anyone have any questions for Mr. Potanovic?

(no response)

Anybody else in the public have any questions or input?

**Mr. Sheehan:** I just wanted to make a statement – we have not received back the County reply yet because the 30 days is not up so I don't know if you want to leave the Public Hearing open or – we can't make a decision because the 30 days is not up, but I don't know what Counsel wants to do.

**Mr. MacCartney:** I think the Public Hearing should remain open until the 30 days has expired.

**\*\*\*MOTION:** Mr. Porath made a motion to continue the Public Hearing; seconded by Mr. Vasti. Hearing all in favor; the motion was carried.

**\*\*\*MOTION:** Mr. Vasti made a motion for a moment of silence to honor Joanne Conklin, who passed away this week; seconded by Chairman Wright. Hearing all in favor; the motion was carried.

(a moment of silence)

**\*\*\*MOTION:** Mr. Anginoli made a motion to adjourn the meeting of January 21, 2016; seconded by Mr. Lynch. Hearing all in favor; the motion was carried.

Respectfully submitted,

Kathleen Kivlehan