

**TOWN OF STONY POINT  
ZONING BOARD OF APPEALS  
Minutes of March 5, 2015**

**PRESENT:**

Mr. Anginoli (absent)  
Mr. Keegan  
Mr. Casscles  
Mr. Vasti  
Mr. Fox  
Mr. Porath

**ALSO PRESENT:**

Donald Feerick, Attorney  
William Sheehan, 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.

We have a couple of items on the agenda. One is the decision for the request of Stony Point Center.

**Request of Stony Point Center - Appl #20150002**

A variance from the requirements of Chapter 215, Article IV, Section 11 – Column – E-3: Keeping of more than 10 fowl, requested 40 fowl: maintain fowl closer than 75 feet from property line; Requesting 50 feet and 25 feet to permit fowl on premises located at 17 Crickettown Road and 30 feet on 181-185 West Main Street, Stony Point, New York.

**Section 15.03-5-23 and Section 15.03-5-24      Zone RR**

**\*\*\*MOTION:** Mr. Vasti offered the following resolution; seconded by Mr. Porath.

In the Matter of Application #15-02 of Stony Point Center for a variance from the requirements of Chapter 215, Article IV, Section 11 – Column – E-3: Keeping of more than 10 fowl, requested 40 fowl: maintain fowl closer than 75 feet from property line; Requesting 50 feet and 25 feet to permit fowl on premises located at 17 Crickettown Road and 30 feet on 181-185 West Main Street, Stony Point, New York designated on the Tax Map as Section 15.03-5-23 and Section 15.03-5-24.

The premises which are the subject of this application are located in an RR Zoning District.

The applicant was represented by Will Summers and Kitty Ufford Chase and the following documents were placed into the record and duly considered:

Application; Building Inspector's denial letter dated 12/31/14; Narrative summary dated 11/21/14; Survey dated 8/31/12 with handwritten notations depicting areas on properties relating to the relief sought; letter from County of Rockland Department of Planning dated January 30, 2015; letter from County of Rockland Department of Highways dated January 14, 2015; list of "Best Practices: Chicken Flock Management at Stony Point Center" submitted by Applicant during the February 19, 2015 Public Hearing.

Additionally, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on January 31, 2015.

WHEREAS, the proposed action is a Type II action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on February 5 and 19, 2015, and the testimony of the following persons was duly considered: Will Summers, Kitty Ufford Chase, Bill Cooper, John Forkin, Mary Barden Maffei, and Daria Baeze.

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact:

The applicant is the owner of property located at 17 Crickettown Rd. And 181–185 West Main Street. The applicant runs a retreat and conference center which sits on four separate but contiguous parcels of land. The various parcels contained a number of buildings as well as gardens. The applicant offers its employees and guests organic, self grown vegetables, fruits, and eggs produced based on a sustainable farming model. The applicant has four different gardens on its properties, along with a coop of chickens. In keeping with its model of sustainable farming, it wishes to utilize three of the gardens annually, with 40 chickens maintained on the 4th garden to work and fertilize the soil on that unused garden while the other three gardens are used to grow fruits and vegetables. The applicant proposes to rotate the chickens annually to each of the four gardens. Thus, the chickens would be used to produce eggs for consumption (not sale or other commercial purposes), and to work and fertilize the soil in the gardens in keeping with its sustainable farming model.

The Town Code requires that a maximum of 10 chickens may be maintained on any given parcel, and further provides that such chickens shall be maintained in a fenced or enclosed area at least 75 feet from the property line. The applicant here would be permitted by code to maintain 10 chickens on each of its four parcels, separately, but the proposal is to house all 40 chickens together at the same time on the same lot, on a rotating basis, which is prohibited under the code. Accordingly, the applicant seeks a variance in that regard.

Additionally, each of the four gardens where the applicant proposes to maintain the chickens are located closer than 75 feet to the property line. As indicated on the survey submitted by the applicant, one garden comes within 25 feet of Crickettown Road. Two of the gardens are in the vicinity of property located on Regina Court, indicated on the said survey as SBL 15.03-5-55 and 15.03-5-54 (n/f owned by Bey and Forkin, respectively). The survey indicates that one of the two said gardens near Regina Court is located 50 feet from the property line of SBL 15.03-5-55. The fourth garden is located within 30 feet of one of the interior property lines between two of the applicant's own parcels. Accordingly, the applicant seeks a variance permitting the foregoing gardens to be located closer than 75 feet to the property line.

A number of adjoining landowners and neighbors appeared in opposition to the application and raised a number of legitimate concerns regarding the manner in which the chickens would be held, including noise, disease and infection control, the attraction of rodents and other vermin, the attraction of predators, etc. The concerns were raised particularly insofar as the number of chickens were concerned and the locations of them so close to certain property lines. The applicant provided the Board with a detailed recitation of how it intends to maintain the chickens and provided a list of Best Practices in the keeping of flocks of chicken. The applicant agreed to implement these Best Practices listed on the submitted sheet and to ensure they were adopted as required policy and procedure at the Stony Point Center and to ensure that all staff members were properly trained in each of those procedures and policies.

The board finds that the Best Practices would mitigate some, but not all of the potentially adverse negative impacts of a full grant of all variances requested. The applicant agreed that it would be feasible, although not optimal for its purposes and wishes, in regard to the two gardens located closest to Regina Court to fence off a portion of those gardens so that

the chickens would not be permitted to come within 75 feet of the property line in that location. Likewise, it appears to the Board that the benefit sought by the applicant could be achieved in some degree through the use and maintenance of fewer chickens than the 40 requested, and reducing the number to 20 would substantially mitigate any potentially adverse effects.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, provided that degree of variances sought is reduced and that certain conditions as set forth herein will be met, and has made the following findings and conclusions in that regard:

(1) "whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance":

The proposed variances, if granted to the extent requested, could well produce an undesirable change in the character of the neighborhood or a detriment to nearby properties, in regard to noise, disease and infection control, the attraction of rodents and other vermin, the attraction of predators, etc. The Board finds, however, that these potentially undesirable or detrimental effects can be mitigated if the degree of the variances sought is reduced in certain respects and if certain conditions are met, as set forth in more detail below. More particularly, the Board finds there to be no such adverse change or detriment if only 20 chickens were maintained on any one parcel at any one time instead of 40, and if no chickens were permitted within 75 feet of the property line closest to Regina Court, and if a number of other conditions are met as set forth below.

(2) "whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance":

There is evidence before this Board that the benefit sought could be achieved in some respect through other feasible means. The two gardens located closest to Regina Court can be fenced off so the chickens would not be permitted to come within 75 feet of the property line in that location. Likewise, it appears the benefit sought could be achieved at least some degree through the use of 20 chickens rather than 40.

(3) "whether the requested area variance is substantial":

The variance sought is substantial.

(4) "whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district":

The proposed variances, if granted to the extent requested, could produce an adverse effect undesirable on the physical or environmental conditions in the neighborhood, but those adverse effects can be mitigated by using fewer chickens, following the conditions set forth herein, and if the chickens are not permitted within 75 feet of the property line closest to Regina Court.

(5) "whether the alleged difficulty was self-created":

The alleged difficulty was self-created.

NOW, THEREFORE, BE IT RESOLVED, that the application for variances as set forth above are hereby approved in part and denied in part, as set forth below and on the conditions indicated:

1. The number of chickens kept on any one parcel at any one time shall not exceed 20;
2. No chickens shall be maintained or permitted closer than 75 feet to the property line closest to Regina Court;
3. No roosters shall be permitted on the property;
4. The chickens kept on the property shall be for the production and consumption of eggs on premises only. No sale or other commercial use or distribution of the eggs or chickens shall be permitted;
5. No slaughter of chickens shall be permitted;
6. The trailer in which the chickens are kept at night shall be kept at the farthest point away in the garden from the nearest property line;
7. The applicant and all future owners or occupants shall follow and adhere to each and every item listed in the document attached hereto as Exhibit "A" entitled "Best Practices: Chicken Flock Management at Stony Point Center" and the said Best Practices shall be adopted as policy and practice in perpetuity for the premises for all future owners and occupants to follow, and all staff members shall be trained and required to follow same, with the only exception being that the identities of the individuals identified as a Veterinarian, Cornell Diagnostic Lab and Cornell Cooperative extension contacts may be substituted with others of similar or greater qualifications;

and the matter is remanded to the Building Department for further consideration in compliance with all other applicable laws, rules and regulations.

**Upon roll call, the vote was as follows: Mr. Anginoli, absent; Mr. Keegan, abstain; Mr. Casscles; absent; Mr. Vasti, yes; Mr. Fox, yes; Mr. Porath, yes; and Chairman Wright, yes.**

**Chairman Wright:** The second item on the agenda is the request of Lite Brite Signs, Inc. for Tractor Supply, for a Public Hearing.

**Request of Lite Brite Signs, Inc. for Tractor Supply - Application #20150003**

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article IX, Section 52-B-2: Exceeds square footage: Required 40 square feet Provided 108 square feet. Chapter 215, Article IX, Section 52-B-3: Exceeds vertical dimensions Required 2.5 feet Provided 6.0 feet to install business identification sign on building at premises located at 150-176 South Liberty Drive, Stony Point, New York.

**Section 20.04 Block 11 Lot 1 Zone BU**

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

**Chairman Wright:** Is there a representative for the applicant present? Could you state your name please.

**Maria Rotunda**

**Chairman Wright:** "Is the testimony you are about to give is truthful?"

**Ms. Rotunda:** Yes.

**Chairman Wright:** You want to just give us some background on what the application is requesting.

**Ms. Rotunda:** Yes. They are requesting to have a 6' x 18' sign. Your height restriction is 2½ and we are asking for 6 feet and then the square footage were over. We are asking for 108 and the Code allows for 40. I don't believe that is enough for three store fronts. They are occupying three store fronts of that plaza and there are other issues that I wrote down on my application.

**Chairman Wright:** Are you opening this store; are you the owner of this store, the proprietor, or...?

**Ms. Rotunda:** We are just assigned to the store. Cooperate hires us.

**Chairman Wright:** Okay. Any questions from the committee?

**Ms. Rotunda:** You have the illumination question? It is on a timer and it is going to be shut off at 1:00 PM. I mean 1:00 AM; I am sorry. That's how they want to schedule it.

**Mr. Vasti:** Mr. Sheehan, do we have a Code in our Town Code Book that limits it to 11:30 PM?

**Mr. Sheehan:** No.

**Mr. Vasti:** It can stay on until 1:00 PM/1:00 AM.

**Mr. Sheehan:** Yes, that is correct. It's actually 2:30. There is no regulation as far as size; obviously they are putting an addition on it if you grant the variance. What we have done in the past...this doesn't need Planning Board, but what we have done in the past with the site plan is we've actually put an outdoor sign that the sign will be shut down an hour after the close of business; so this way it gives them time to get out of the building and so forth.

**Mr. Vasti:** Thank you. The other question I have is the sign going to be a steady illumination or flashing or is it going to be any electronics or L.E.D.s.

**Ms. Rotunda:** Just steady illumination.

**Mr. Vasti:** Just plain vanilla. Florescent bulbs behind a plastic...

**Ms. Rotunda:** A plexi face.

**Mr. Vasti:** A plexi face and mounted on the fascia on the building.

**Ms. Rotunda:** It shows which store front...I guess they are re-designing...

**Mr. Vasti:** I saw the...

**Mr. Rotunda:** Yes, but it is a steady illumination. I just wanted to check if it's low voltage, L.E.D. or florescent. I don't remember. But they are both a steady illumination.

**Mr. Casscles:** Bill - 2'6" x 7'6" – that would be the sign for one store front?

**Mr. Sheehan:** Would that be allowed?

**Mr. Casscles:** Yes.

**Mr. Sheehan:** 2½' by whatever to equal 20 square feet. But technically with three store fronts, you have three 2½' high/wide, 18-20' whatever it is up...well it will actually be about 15'; for 40 square feet. If you want to say for example a foot high you can actually go 40' long. So 40 square foot is a little tax in height...

**Mr. Casscles:** For one store front.

**Mr. Sheehan:** For each store, but they have obviously incorporated three units into one.

**Ms. Rotunda:** It's a big store and they sell big things.

**Mr. Keegan:** Can I ask you if...what are the hours of operation of this store?

**Ms. Rotunda:** That I don't know.

**Mr. Casscles:** Most of the Tractor Supply stores open at 8:00 AM.

**Ms. Rotunda:** And they probably close at 9:00/9:30 PM.

**Mr. Vasti:** Even later on the weekend I think.

**Mr. Casscles:** I know the one in Chester opens at 8:00 AM.

**Ms. Rotunda:** I think just normal retail hours.

**Mr. Keegan:** The reason I ask this is because I live nearby in a residential area and the Shop Rite sign, the Shop Rite behind you, they stay open till 12:00 and they do shut off the sign now.

**Mr. Sheehan:** They are supposed to be.

**Mr. Keegan:** Because I've had so many complaints from my neighbors that they are not adhering to that.

**Mr. Sheehan:** I don't know if they are or not.

**Ms. Rotunda:** I didn't see that development.

**Mr. Sheehan:** It's supposed to be on a timer.

**Mr. Keegan:** It's supposed to be on a timer?

**Mr. Sheehan:** Yes.

**Mr. Keegan:** And it's supposed to be shut off at 12:00 or 1:00?

**Mr. Sheehan:** An hour after closing business.

**Mr. Keegan:** An hour after closing. Okay, thank you.

**Ms. Rotunda:** So Shop Rite has a different agreement for...

**Mr. Keegan:** Well Shop Rite's hours are till 12:00. They close at midnight so an hour after is 1:00, so...

**Ms. Rotunda:** Oh, I see. I can find out.

**Mr. Sheehan:** (inaudible) they are further east; so they affect more homes than Aldi.

**Mr. Keegan:** This wouldn't really wouldn't be a problem.

**Mr. Vasti:** There's really not much residential property facing that at all. It faces 9W and it's also below the road; I mean it's below grade where the road is and a significant pitch there. This particular sign is in the same style as other Tractor Supply stores; it's pretty much a standard sign that...

**Ms. Rotunda**: Yes, we've done other stores...

**Mr. Vasti**: And how is this...

**Ms. Rotunda**: it's put in the warehouse cause it is one sign company that has to ship them all over the country. So they just pre-make them, they have them in the warehouse and then as needed they just pull them.

**Mr. Vasti**: How wide is the sign? How far does it stick off the building?

**Ms. Rotunda**: A box sign usually...that's a good question? I wish the sign guy was here that fabricates them, but...

**Mr. Sheehan**: Generally they are about 8 to 10".

**Ms. Rotunda**: I was going to say almost 12.

**Mr. Sheehan**: 8 or 12.

**Ms. Rotunda**: I could see if the renters have it on there...cause it houses like the lamps and ballast and...

**Mr. Vasti**: That is fine.

**Chairman Wright**: Any other questions from the Board.

(no response)

**Chairman Wright**: And I note that there is nobody here from the public...in rebuttal or support so...

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

**\*\*\*MOTION**: Mr. Vasti made a motion to go into Executive Session for pending litigation; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

**\*\*\*MOTION**: Mr. Keegan made a motion to reconvene to regular Zoning Board of Appeals meeting; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

**\*\*\*MOTION**: Mr. Fox made a motion to adjourn the meeting of March 5, 2015; seconded by Mr. Casscles. Hearing all in favor; the motion was carried.

Respectfully submitted,

Minutes taken by Cathy Finnerty  
and transcribed by Kathy Kivlehan