

STATE OF NEW YORK : COUNTY OF ROCKLAND

TOWN OF STONY POINT : PLANNING BOARD

- - - - - X

IN THE MATTER

OF

53 NORTH LIBERTY DRIVE

- - - - - X

Town of Stony Point
RHO Building
5 Clubhouse Lane
Stony Point, New York
May 26, 2022
7:06 p.m.

BEFORE:

MARK JOHNSON, CHAIRMAN
KERRI ALESSI, BOARD MEMBER
ROLAND BIEHLE, BOARD MEMBER
ERIC JASLOW, BOARD MEMBER

ROCKLAND & ORANGE REPORTING
2 Congers Road, Suite 2
New City, New York 10956
(845) 634-4200

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CHAIRMAN JOHNSON: Is there anyone here currently for 53 North Liberty? Okay. We'll give them ten minutes.

THE CLERK: Ten minutes.

MR. HAGER: Do you want to review my letter while you wait?

CHAIRMAN JOHNSON: Yes.

THE CLERK: Do we want this? Do we want this in the record? Do you want this in the record?

MR. HONAN: I think you probably should. It's going to be a part of the application.

THE CLERK: Okay.

MR. HAGER: I got an extra one.

(Discussion held off the record.)

THE CLERK: Okay. Go ahead.

CHAIRMAN JOHNSON: You want me to read this in?

MR. HONAN: You don't have to read it in. Just, if we could just explain what it is. I think, just to preface it for the other Planning Board Members, at the TAC meeting, there was a question as to whether a

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ZBA bulk variance was going to be required with respect to certain setbacks in the rear yards on this property. But the issue arises that it's not a new construction. It's basically a renovation of an existing commercial use.

So after the TAC meeting, Building Inspector John Hager went back and reviewed the code and reviewed the present plans that the applicant had submitted. And I think the only issue at this point now is the rear of the property, which is the western boundary of the lot, there's going to be an expanded use, as I understand it. They're going to be putting in additional parking back there, as well as a trash can, I believe.

MR. HAGER: Enclosure for scrap tires and garbage.

MR. HONAN: So the issue, then, was according to the interpretation of the Building Inspector, that there is a, they're in need of a 30-foot setback in that area. And the question is can they adjust their plans to avoid going to the ZBA to get that

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bulk variance. Would that be correct to say, John? Do I have that right?

MR. HAGER: Yeah, I think that's a fair summary.

BOARD MEMBER JASLOW: So are they getting rid of that shed that's there now? Because that's --

MR. HAGER: Sounds like it, at the last TAC meeting.

BOARD MEMBER JASLOW: -- they were saying they were going to try to renovate it and keep it.

CHAIRMAN JOHNSON: I think they said they were going to knock down the loading dock, but keep the structure itself.

MR. HAGER: Yeah. That's what they indicated most recently. Originally, they were going to take all that out of there.

BOARD MEMBER BIEHLE: Do the whole thing, the whole unit? Or just --

MR. HAGER: Well, there's a truck body there, I think, full of tires. That obviously is going.

BOARD MEMBER JASLOW: Right.

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MR. HAGER: There's a loading dock.

BOARD MEMBER JASLOW: Right.

MR. HAGER: That makes it so you can get that truck backed up to that shed.

BOARD MEMBER JASLOW: And then the shed --

MR. HAGER: And that interferes with the roadway. So I think that has to go. So the building itself, now they seem to be indicating they want to keep that building.

BOARD MEMBER JASLOW: So they're going to make another building in the back for more storage.

MR. HAGER: It's not a building. It's a fenced enclosure for dumpsters and garbage. And we made the suggestion that they make that large enough to accommodate, you know, a number of scrap tires that's a reasonable number. We don't want piles of scrap tires going in.

CHAIRMAN JOHNSON: There is a good many tires to create --

MR. HAGER: We also don't want a lot of tires outside of the enclosure that now are

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2 waiting to be picked up.

3 BOARD MEMBER JASLOW: Because there was
4 a limit of tires they were supposed to keep
5 in that building. When you opened the door,
6 it was a lot more than the limit in there.

7 MR. HAGER: It's possible. I'm not
8 aware of those limits. Outside storage is
9 restricted on tires. There shouldn't be
10 tires stored outdoors.

11 CHAIRMAN JOHNSON: Right. Okay. Well.

12 THE CLERK: So you have to talk about
13 the buffer.

14 MR. HONAN: Well, I think the issue,
15 yeah, is whether the applicant can alter
16 their plans to incorporate a 30-foot buffer
17 on the western boundary. And if they can't,
18 it looks like the Building Inspector is
19 sending them to the, to the Zoning Board of
20 Appeals for a bulk variance.

21 MR. HAGER: I referenced the one
22 paragraph from the code of 215-94.
23 Buildings, structures or lots with
24 noncomplying bulk, Paragraph B.
25 Nonresidential buildings or structures.

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Normal maintenance and repair of, structural alteration in or reconstruction or enlargement of a building or structure with noncomplying bulk is permitted if the same does not increase the degree of, or create any new, noncomplying bulk in such building or structure. Minor repairs and/or minor additions shall be made without Planning Board approval if they meet all zoning requirements.

So it's not perfectly specific. But it seems to be the intent of the code is that, you know, an existing nonconforming use -- although this wasn't nonconforming. It was a conforming use. But not a conforming as to bulk. It's all I had to continue.

And my interpretation, I felt that if a less intense use comes in and replaces a use that today would require that conditional use permit and required a 50-foot buffer, well, if the use requiring a 50-foot buffer is exempt due to predate, why wouldn't a less intense use be exempt as well. Except that they're not coming in and occupying exactly

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2 the same part of the site.

3 CHAIRMAN JOHNSON: Right.

4 MR. HAGER: They are improving some of
5 the rear part of the site for an improvement
6 to this, to their operation for parking. But
7 that could impact whether or not they can
8 provide the full 30-foot buffer.

9 CHAIRMAN JOHNSON: Is this really a less
10 intense use of the site?

11 MR. HAGER: Well, according to the code
12 it is, because it considers the garage
13 business to be a conditional use. It's a
14 higher criteria of approval. In reality,
15 there's probably going to be more customers
16 and activity with the retail than there would
17 be with the tire business.

18 CHAIRMAN JOHNSON: Right.

19 MR. HAGER: So that's up to
20 interpretation as well. But the neighboring
21 property, although it's in a residential
22 zone, it has more of a commercial appearance.
23 If has practically a parking lot built in
24 front of it. I don't know if it has --

25 CHAIRMAN JOHNSON: That's the north

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2 property?

3 MR. HAGER: Yeah. I don't know if it
4 has service or commercial property in the
5 past, and now reverted back. According to
6 the assessor's record, it's residential now.
7 Residentially zoned and residentially used.
8 But it is on that 9W corridor.

9 So I did go a little further in my last
10 comment there, suggesting that the Board may
11 want to consider a fence along that area
12 rather than a buffer. But I just caution
13 that, you know, the fence has to be code
14 compliant. Fences in front yards are not
15 supposed to be over four feet high. And you
16 don't want to go too close to the roadway due
17 to the sight, sight lines for the vehicles
18 coming in and out of the site. But it could
19 offer some screening to the neighbor. Maybe
20 not as much as a buffer would, but it would
21 be something.

22 CHAIRMAN JOHNSON: We're still talking
23 the north boundary line, right?

24 MR. HAGER: Correct. The south boundary
25 line is, you know, you guys have done your

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site visits. And I guess you can see that the public right now probably crosses the subject property to enter the neighbor's property and vice versa.

CHAIRMAN JOHNSON: Yeah.

MR. HAGER: Depending on which way they're approaching. I don't think either of the current owners of the businesses, you know, care to change that. But there may be not -- maybe there are limitations that have to be put in place to prevent that from happening.

The right-of-way is quite wide there. So it could be changed so that it's, that crisscrossing goes on state property instead of private property. But in actual use, that's how it is. It's just people, people don't make 90-degree turns off of that road there. They kind of swoop in and out. But that's the way the access currently is, and the state's going to also have to weigh in on that.

CHAIRMAN JOHNSON: Until there's a curb and some plantings.

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2 MR. HAGER: Right.

3 CHAIRMAN JOHNSON: And then that's, you
4 know, definitely --

5 MR. HAGER: Which it seems like the
6 applicant is interested in doing. But
7 whether the state will approve exactly his
8 concept, we don't know yet, right. Right
9 now, it's almost unlimited access to the
10 entire frontage of both of those lots. It
11 seems like when the state starts to review
12 these, they tend to try to minimize those
13 entrances.

14 CHAIRMAN JOHNSON: Yeah.

15 MR. HAGER: So that remains to be seen.

16 THE CLERK: Anything else, Max?

17 MR. STACH: No. I had written a memo.
18 We're going to provide an update on the newly
19 submitted plans. With John's regard to the
20 fence, we had actually recommended that the
21 buffer along that lot line be increased as
22 much as it can up to maintaining a 24-foot
23 wide travel way alongside the building. But
24 it kind of widens out as it approaches 9W.
25 That provides opportunity. Instead of

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2 providing, like, the two feet or whatever it
3 is, you can maybe bulk it up as it approaches
4 the road. Short of the site distances, of
5 course.

6 CHAIRMAN JOHNSON: Right.

7 MR. STACH: Where you would have to
8 maintain site distances. It still needs to
9 go to ARB regardless of ZBA. I think there's
10 a question of whether, you know, you can
11 refer to the ZBA because you don't know if
12 he's going to change the plan. But I suppose
13 if you really wanted to go, you could ask the
14 Building Inspector to send him. But you
15 could certainly if, if the gentleman doesn't
16 show up, you could always still, if you
17 wanted to, send him to ARB.

18 CHAIRMAN JOHNSON: Well, they've got to
19 go anyway.

20 MR. STACH: Got to go anyway. The
21 application's been beaten into submission at
22 this point, so.

23 CHAIRMAN JOHNSON: All right.

24 MR. HAGER: Well, I think he just needs
25 to demonstrate whether the 30 feet can be

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2 provided at the back westerly division line
3 between the --

4 THE CLERK: Do you want to look at this
5 map and see if he did it?

6 MR. HAGER: When he brought it in an
7 hour before the meeting, not particularly.

8 CHAIRMAN JOHNSON: Yeah, that's --

9 THE CLERK: That's what I said to him.

10 MR. STACH: Yeah, that's why I didn't
11 finish my review, either. It's for, on
12 principle.

13 THE CLERK: Yeah, I agree.

14 MR. HAGER: So, I mean we can have our
15 engineer look at it when he's available. And
16 if they need a referral and they don't want
17 to wait for the next meeting, they can come
18 to me for a referral.

19 MR. STACH: Is this application
20 currently the subject of a violation or
21 anything?

22 MR. HAGER: No.

23 MR. STACH: No, okay. Because sometimes
24 slowing it down actually hurts, right.

25 CHAIRMAN JOHNSON: Yeah.

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2 MR. STACH: The people around it want to
3 make it better. But I don't know if in this
4 case that's --

5 MR. HAGER: No. As far as I know, I
6 don't think that any of this was generated by
7 complaints or violations. And there have
8 been a few over the years in the file, but
9 nothing major. Mostly scrap tires.

10 MR. STACH: I think if he had shown up,
11 you would have suggested he go to the ARB and
12 ZBA, and you set a public hearing.

13 CHAIRMAN JOHNSON: Right.

14 MR. STACH: I don't know if you want to.

15 CHAIRMAN JOHNSON: Well, I don't know
16 that I can without him here, right?

17 MR. HONAN: Yeah. I mean, to refer him
18 to take any action on it, the applicant or
19 his representative has to show up at the
20 Planning Board meeting.

21 MR. STACH: Okay.

22 MR. HONAN: It's kind of a basic,
23 hundred percent of success is showing up.

24 MR. STACH: Is that in the code?

25 MR. HONAN: In life, generally. It's a

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2 footnote in the code.

3 THE CLERK: These two women live on the
4 property, 57, to the north.

5 CHAIRMAN JOHNSON: To the north.

6 THE CLERK: Yeah.

7 CHAIRMAN JOHNSON: Okay.

8 THE CLERK: And they said that his shed
9 is right on the property line. This is their
10 survey. If you want them to explain, I don't
11 understand.

12 MR. STACH: There's going to be a public
13 hearing.

14 THE CLERK: Mike had said something
15 about this, Mike Ferguson.

16 BOARD MEMBER BIEHLE: I don't know how
17 he gets a truck in there, in the back with
18 the shed.

19 THE CLERK: What?

20 BOARD MEMBER BIEHLE: I don't know how
21 he's getting a truck in there.

22 CHAIRMAN JOHNSON: He's going to take
23 down the loading docks. That will give him
24 all the room he needs.

25 BOARD MEMBER BIEHLE: I don't think so.

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2 MR. HONAN: This doesn't show any --

3 MR. STACH: Let me see if he has similar
4 on the plan.

5 CHAIRMAN JOHNSON: I think we've been
6 generous with the time allotment here.

7 BOARD MEMBER BIEHLE: Yeah.

8 MR. HONAN: It's the neighbor's survey.

9 CHAIRMAN JOHNSON: Right.

10 MR. HONAN: I think we probably could
11 make it part of the regular submission.

12 CHAIRMAN JOHNSON: But we can't do that
13 until the public meeting.

14 MR. HONAN: Yes.

15 CHAIRMAN JOHNSON: Right, okay.

16 MR. HONAN: But this is an original
17 survey, so I don't want to take it.

18 CHAIRMAN JOHNSON: Okay. So when the
19 applicant shows up, we will, we will send him
20 to the ARB, possibly the ZBA, and we'll set a
21 public hearing. When the public hearing
22 comes up --

23 PUBLIC SPEAKER: Yeah, we're just trying
24 to find out what exactly is going to happen.
25 We are real tight there.

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CHAIRMAN JOHNSON: Yeah. So do we.

PUBLIC SPEAKER: Okay. We could get you a copy. You want a copy of this? We could send it to you.

THE CLERK: I can make a copy at work. Just bring it to me.

PUBLIC SPEAKER: I'll bring you a copy. We have extras.

PUBLIC SPEAKER: Yeah, we'll get you a copy of that.

MR. HAGER: Thank you.

PUBLIC SPEAKER: We appreciate it.

CHAIRMAN JOHNSON: Does anybody have anything else?

BOARD MEMBER JASLOW: Not me.

CHAIRMAN JOHNSON: All right.

(Time noted: 7:22 p.m.)

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Town of Stony Point Planning Board May 26, 2022
74 East Main Street
Stony Point, NY 10980

Re: Planning Board application - Commercial Mixed Use
in BU district, Buffer requirement interpretation
53 North Liberty Drive, Stony Point, NY - Section
15.19, Block 2, Lot 56

Dear Planning Board members:

I have reviewed the Town of Stony Point Zoning Codes regarding buffers, including section 215-5 "Definitions" which establishes the definition of Buffer as "An area of specified dimension extending between a rear or side property line or a zoning district line and a required yard. The buffer shall not be used or otherwise encroached upon by any activities on the lot so as to provide for adequate separation and protection from otherwise inharmonious or incompatible uses" and including BU district bulk table language "A buffer of not less than 30 feet shall be provided between any use first permitted in this district and any lot containing a residential use

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in a residence district. A buffer of not less than 50 feet will be provided between any conditional or special permit use and any lot containing a residential use in a residence district."

Additionally, I have reviewed Article XIV.

"Nonconforming Uses and Noncomplying Bulk," specifically section 215-94 "Buildings, structures or lots with noncomplying bulk," paragraph B.

"Nonresidential buildings or structures. Normal maintenance and repair of, structural alteration in or reconstruction or enlargement of a building or structure with noncomplying bulk is permitted if the same does no increase the degree of, or create any new, noncomplying bulk in such building or structure. Minor repairs and/or minor additions shall be made without Planning Board approval if they meet all zoning requirements."

Based on my review and interpretation, I have come to the following conclusions:

1. Clearly the zoning codes require buffers for new construction. In the case of the BU district, the

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width required is 30' unless the use is a conditional or special use which requires 50'.

2. This project is not new construction and, although the current use would today be considered a conditional use requiring a 50' buffer, it appears the current use has been established since prior to codes requiring such buffer and thus is "grandfathered" as a pre-date scenario.

3. The current use is planned to continue in a reduced scale, plus a new use that requires a 30' buffer is planned to occupy space formerly occupied by the current use. The overall use is not planned to increase in building square footage. The parking area is planned to be increased to accommodate the two uses now planned for the site.

4. Since the pre-dating use, normally requiring a 50' buffer is exempt, it stands to reason that a new use requiring a smaller 30' buffer would normally also be exempt under pre-date, except that in this case the parking area in the back of the building is being increased constituting an "increase in the degree of noncomplying bulk" (see Art XIV, Sec215-94 B).

5. Given that the proposed site-plan intends to minimize impervious area and beautify the front area of the

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parcel, I feel confident in interpreting that the site requires no new buffer to the North at the neighboring residential property fronting North Liberty Drive.

However, since increased intensity of the rear areas of the parcel planned for parking and dumpster container/scrap tire storage, and new lighting, I also feel confident in interpreting that a buffer should be required between this parcel and the neighboring residential parcels to the West.

6. Since I believe a change of use could have been undertaken without Planning Board site-plan review, had the current tire shop simply moved out and a new retail/mercantile shop moved in without constructing additional parking and without impacting existing, or required to enhance a minimum 30' wide buffer, I am confident in interpreting that the Planning Board should require a 30' (not 50') wide buffer to the rear/westerly and not require any buffer along the Northerly line, although I would suggest a code compliant fence be considered that could help serve as some screening, but also must not interfere with site access and vehicle sight distance.

If you have any questions, please feel free to contact

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me in my office at 845-786-2716 ext. 101.

Sincerely,

John C. Hager

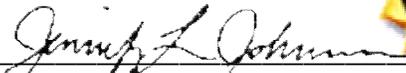
Building Inspector/Zoning Code Enforcement Officer

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THE FOREGOING IS CERTIFIED to be a true
and correct transcription of the original
stenographic minutes to the best of my ability.



Jennifer L. Johnson

