

**TOWN OF STONY POINT
Zoning Board of Appeals
Minutes April 4, 2013**

PRESENT:

Mr. Morlang
Mr. Keegan
Mr. Casscles
Mr. Vasti (Acting Chairman)
Mr. Fox
Mr. Porath

ALSO PRESENT:

Brian Nugent, Attorney

Chairman Wright (absent)

Acting-Chairman Vasti: 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.

Tonight, I will be filling in for Tom Wright as the Chairman Pro-Temp.

On the agenda we have a continued Public Hearing for the request of the Town of Haverstraw.

Request of Town of Haverstraw – App. #13-02

Interpretation and appeal of the Town of Stony Point Building Inspector’s decision in regards to permitted use, located at the east end of Holt Drive, 1800 feet and the east end of South Liberty Drive/Route 9W, (also known as Hudson River View Industrial Park Building D) (property), for the proposed gasification plant.

Section	20.02	Block	11	Lot	25	Zone	RR
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It is my understanding that this application was pulled and seeing that there is no one in the audience representing that application, I will move forward to the next item on the agenda.

The next item on the agenda is the Public Hearing for the request of Gerry Puccio.

Request of Gerry Puccio, Forty Four South Liberty Drive Association, LLC - App. #13-03

A variance from the requirements of the Town of Stony Point Zoning Code:

- Chapter 215, Article V, Section 15A-B-4 - Less than required front yard, required 15 feet, provided 0 feet;
- Chapter 215, Article V, Section 15A-B-4 - Less than required front set back, required 40 feet, provided 34.0 feet;
- Chapter 215, Article V, Section 15A-B-6 - Less than required rear set back, required 25 feet, provided 1.5 feet;
- Chapter 215, Article V, Section 15A-B-7 - Less than required rear yard, required 10 feet, provided 0 feet;
- Chapter 215, Article V, Section 15A-B-7 - Less than required side yard, required 10 feet, provided 0 feet;
- Chapter 215, Article V, Section 15A-B-10 - Development coverage, maximum 75%, provided 80%; and
- Chapter 215, Article 1X, Section 52-B-5 - Maximum allowed sign coverage, 80 square feet, requesting 100 square feet,

The variances that we need from the Code, the new Code since that was constructed, are the same variances that that building would need to open up. We still have the problem with the rear yard. Actually, this building goes over the rear yard. We still have the problem with the front yard and the buffer. The only thing that this does not require is the 5% additional pervious coverage. But, if we had to put any curbs or do any changes to that pavement we probably would be here with that.

That being said, it doesn't justify, but it does show that the building that we are proposing really doesn't exceed the variances that the old building, if you renovated and out of the picture, you are getting a better building. It is going to be set higher, meet the Code as far as safety for in and access to the site, handicap grades, everything that a 1950/1960 building doesn't meet; the new building would meet.

I have some hand-outs for the Board. The first page of the hand-outs is the site as we are proposing it. The orange or yellow color – that is the proposed building. The green would be a landscaping or lawn and the red that you see on there is the actual building envelope. That's the legal envelope for construction. So if we took the old building as it exists today, and try to set it into that envelope it would not set in the envelope because this is just the walls. It does not have any overhangs or anything else included. So the envelope of the construction for that lot has been reduced somewhat by the taking of New York State back in the late 60's and somewhat by just the shape of the lot. It is a very irregular shaped lot and to try to make it deeper or try to make it wider that's not possible because we have a building to the south. There's no extra property and, of course, we have this shopping center to the east or north, however, you want to look at it. So to meet the Code for just placing the building on site we can't do it.

The second page is the site as it stands and I listed the variances that we are requesting for the new plans. You will see that I labeled on the existing site the same conditions. "F" is the variance that we need for signage. The original gas station had a sign at both ends – one at the south end of the property it had a pylon sign and at the north end. So in reality the new plan is reducing the signage that was on the site for all those years.

The third page shows the variances that we need and the condition that we are trying to upgrade. The two variances for the rear were actually moving away from the property line – the existing building does sit on the property line and over the property line with the oil tanks.

The variances for in the front were at 34. It's required to be 40. We really can't move the building back or slide it over or else we get into a problem with the parking and dumpster and handicap parking. The variances for a buffer from the front yard – we really can't accommodate that because then we wouldn't be able to get cars in the site. The buffer variance for the front yard, the 15 foot, really is a requirement from the right-a-way to the curb line. In only on really large sites have we been able to meet that. We haven't been able to meet that at Provident, CVS, Walgreen's didn't meet it, but the Shop Rite in Stony Point did because it was a large tract - a 7 acre parcel. It was setback. So that wasn't a variance there, but almost every time a commercial site comes in for Stony Point we are asking for that variance to the front yard from the right-of-way to the curb line and I could name all the rest of the commercial sites that we did and the variances were there.

The last one is, of course, the site as we are proposing it and safety wise the site works for parking in the front, the handicap access with the ramp. It works with the dumpster. The Planning Board wanted to put the dumpster on the side, in between the buildings, so it wasn't visible.

The variances that are requested are the minimum we could request on-site. If we went and removed the impervious coverage of 5% we would actually be losing one parking space. That is about what we have. 5% of the site is about 700 square foot and a parking space takes up roughly 600 square foot with the length and the width in the back-out space.

The rest of the measurements on-site meet the Code as far as fire safety. It is a one-way access. We are asking for access on the south side to be the entrance and the access on the north side would be the exit. So you pull in the site – go in – it's a proposed "7-11". So it is quick movement in and out and exit from the site.

The variances, although they deal with a bigger building, in reality the use of this building is not any bigger than the building that is there. And what I mean by that, if you take that small building and take the commercial floor space in this building they are almost the same size to within, I think, 250 square foot. So the difference in that building, the old building and this proposed building, is just the storage of the coolers and the office and the bathroom. The actual square footage of the old building would fit in almost mirror image of the proposed new building. It does look big, but it's not because of oversize just for the convenience it's oversized to operate efficiently and the position of the building is to operate safely with the vehicles in and out. That we looked at very hard with the Planning Board and I think they forwarded the plan to you with a recommendation on that.

The other impervious coverage, like I said, that we could meet, but we would lose a parking space and it was deemed to have the parking space a little bit more than to just to me getting pervious coverage – so that's the request for the 5% and as far as the signage; the signage is just one pylon sign. It's not oversized. But, we can stand here and say the Stony Point sign requirements are very restrictive, but again they are because we are always asking for variances for them. In reality, we are removing one sign – one pylon sign from this site, so to work efficiently the plan has been developed safely and this is what the site needs to work financially.

We had comments from a Rockland County planner. We had some comments from the D.O.T. and we met all their comments except for the one that the County had that said the site must meet the Stony Point Code for signage and we don't. We need a variance. So the override we are asking for the Planning Board on that. The second comment was from the State of New York saying the site must meet the parking criteria and when they use that word "must" we are asking for an override. Although the Planning Board can give the waiver in relief for the parking and it would be considered meeting the Code. We just didn't want to get into a legal battle. So we are going to ask the Planning Board to override those two items.

Acting-Chairman Vasti: Thank you Mr. Zigler. Before I open it up to the public, do any of the Board members have any questions for Mr. Zigler?

Mr. Casscles: Dave, that little green section by the front walk, is that going to be actually planted grass or whatever?

Mr. Zigler: It's going to be grass and in the center of it it will one of the parking lot lights, but yes grass.

Mr. Casscles: You needed that for the impervious area? What would be the problem to take that out of here because that looks like it's going to be...

Mr. Zigler: It channels the cars better. We discuss this all the time at the Planning Board because a lot of people say it is easier to plow if you don't have that curb juggernaut out there. But the problem is if you don't have it there, somebody will definitely park on a painted stripped island. So although it looks like it does impede the traffic, it really is 20 foot wide which meets the Fire Code and we think that it would keep the alignment and not have somebody park in a space that they would really probably obstruct the traffic.

Acting-Chairman Vasti: Anyone else on the Board?

Mr. Keegan: I have two questions. The first question is – Has there been a drainage study by the Town Engineer? That is like a low point on 9W.

Mr. Zigler: The site itself – we are lifting the building about 2 - 2-1/2 foot...

Mr. Keegan: I am worried about the water coming off and going onto 9W.

Mr. Zigler: No. That's what I am saying. The building is going to be lifted about 2 – 2-1/2 foot, but all the site drainage is going on the back towards the dumpster and there is going to be an underground system there and from that system it's going to drain into the drainage into the shopping center.

Mr. Keegan: Okay, so drainage is done.

Mr. Zigler: Drainage is back to the south – I guess you can call it the southeast and not out into the street.

Mr. Keegan: Okay great. The second question is – in terms of the parking, how many spaces are we talking about between what the Code provides for and what you are providing?

Mr. Zigler: 5.

Mr. Keegan: 5 spaces. So it's 5 spaces shy?

Mr. Zigler: Yes. Let me just double check here...yes 5 spaces shy. And to mitigate that, we actually did a 12 hour traffic study, I shouldn't say traffic study, it is a parking lot study at the 7-11 on Central Highway where we started at 6:00 and we went to 6:00 on a Friday and every 10 minutes we counted how many cars - open spaces were on the site. And for that entire 12 hours we never had all the spaces taken. As a matter of fact for that entire 12 hours, we never had the same car in the space 10 minutes before. So people were in and out of the store and at high times you might have had 2 spaces or 3 spaces and most of the time you had half the spaces open. And that brings something else up – a lot of people, and I am one of them, will park in the shopping center next door on a Sunday because I have a pick-up truck and it is easier to do that and walk through and go to 7-11. They actually opened the gate up there and we believe that that is the same thing that is going to happen here. I would not be surprised to see people out of the Vince Monte building go over there to get coffee and walk back or people from the shopping center – you know they eat on Friday night and go up and get their lotto tickets or something. So, the Town is actually studying that with their new Master Plan and they are reducing the parking space requirements. Because when you have inner connected shopping centers, just like this, although this is just one building, you do get a lot of use back and forth.

Mr. Keegan: Continuing with that question – you said it's 5 spaces shy.

Mr. Zigler: Shy – yes.

Mr. Keegan: Okay, how many spaces overall?

Mr. Zigler: 20. It should have 20.

Mr. Keegan: It should have 20. So 5 is 25% actually.

Mr. Zigler: Yes.

Mr. Keegan: Talking about ingress/egress from the adjoining parking lot, are there any plans for like a full ingress/egress like a staircase or something so you don't have to climb over that wall?

Mr. Zigler: No, actually by raising the grade of the store, the curb lines will be dead level. Then we are getting an easement from that shopping center and we are going to landscape down that curb line, that long curb line...

Mr. Keegan: Okay.

Mr. Zigler: So this whole site is going to lift up and it will be dead level from curb-to-curb and then we are getting an easement, a grading easement, and we are going to landscape, a common landscape there, so that when you come down 9W you don't see the back of this building and there is going to be a row of trees. The second thing is the Planning Board asked for a future access easement here. So we are offering an easement that is someday if something happens that the Vince Monte building comes in, there could actually be an inner-connection because I don't know if you've ever been there, but this end of the Vince Monte building is a dead-end parking. It is not what you want, but unfortunately that's the way that site played out. So someday in the future when this comes in for a site plan there will be an inner-connection here, but it will be good for both parcels and actually open up two more parking spaces over there at this lot (pointing at map).

Mr. Keegan: Are they providing that easement?

Mr. Zigler: Yes.

Mr. Keegan: Okay, thank you.

Mr. Casscles: Are they making any provisions for when they are getting their deliveries?

Mr. Zigler: No.

Mr. Casscles: You get a couple of delivery trucks in there...they will be 5 spots short, you said it works and everything according to the Garnerville store, but if you get a couple of delivery trucks in there you are going to be another 5 short right off the bat just for the truck.

Mr. Zigler: There was deliveries during that 12 hour period...you know that the link stays open 24 hours. They try to deliver off-hours. At the time of the deliveries, because you back into that Garnerville store and you block usually like 3 or 4 spaces and there was no problem. The 12 hour study which I filed with the Planning Board actually included deliveries. And at times there was 1 to 2 deliveries. I think what would happen most likely is somebody delivered here would probably delivering inside that shopping center and they might pull over to the side and do both at the same time. That's a problem with any of these little sites and it would be a problem if we renovated that gas station. It's just...you need those deliveries to come in off-hours.

Mr. Casscles: Is there any way they can work on...

Mr. Zigler: They will do that. I mean – yes. Because if you run that store you definitely don't want to be running your customers out the door. So you want the deliveries to come in very early in the morning or during the late evening hours.

Mr. Casscles: Okay.

Acting-Chairman Vasti: Anyone else on the Board have a question – Mr. Morlang

Mr. Morlang: This concrete curb – there is no elevation shown. Is it going to be a tripping hazard or is it going to be a climb-over hazard or is it going to be...

Mr. Zigler: No, concrete curbs by the Stony Point Code can only be 6 inches so any of the curb that's proposed here is just your normal curb, 6 inches which is equal to a step. At the sidewalks, it has to be a drop-curb, handicapped accessible so all the sidewalk entrances to the pavement will be flush, but the curbs will be 6 inches. So if you are going to walk from one shopping center to the other, you have to step over a 6 inch curb. There will be a 6 inch curb there.

Mr. Morlang: Could that not be eliminated? The curb put in – a flat part put in.

Mr. Zigler: Absolutely, but I would be here for another variance. No, really that's the Town Code. The Town Code is a concrete curb or a Belgian block curb.

Mr. Morlang: If you are discussing, in seriousness, the possibility as a matter of fact the recommendation that the 2 parking lots should help each other why not open it up and put the opening in it now rather than do it later.

Mr. Zigler: We could ask that to the Planning Board if they would like us to put an opening so you could put a drop curb opening. That is fine. We have no problem with that.

Mr. Morlang: That would be the thing to do.

Mr. Zigler: It's not a bad idea. I agree with you. If you put that in a recommendation to the Planning Board we will look into it – definitely. It's only a benefit for both.

Acting-Chairman Vasti: Mr. Fox.

Mr. Fox: Mr. Zigler, do you know what the area of the existing 7-11 store in Garnerville as opposed to the proposed one here?

Mr. Zigler: They are both the same size. That one in Garnerville is rectangular, and this is their new shape. They have 2 shapes. This is the rectangular shape, but they are both the same size- 2,400.

Mr. Fox: Thank you.

Acting-Chairman Vasti: Mr. Zigler, when it snows where are you going to put it when you plow it?

Mr. Zigler: In a case like this, the snow would be pushed off to the side and later on they would come in and load it out.

Acting-Chairman Vasti: So they won't have no room.

Mr. Zigler: No, you don't. Nobody has room.

Acting-Chairman Vasti: If you get a very large accumulation, there could be a problem there.

Mr. Zigler: They would probably push it up into the north corner and come in and load it out later on.

Acting-Chairman Vasti: Now the curb cuts on both the access and exit are 30 feet wide and is that sufficient for emergency vehicles to get in and out?

Mr. Zigler: Yes. That is the way they exist today. So we are not asking for any change. A 30 foot wide curb cut is equal to a new Town road. Your State highway, 9W, is 36 foot wide. So a 30 foot curb cut is very wide. There is plenty of room for the trucks to get in and out.

Acting-Chairman Vasti: One of the things that you didn't talk about to a great degree, you did mention it slightly, was the topography of this site and the topography of this site is slightly – there is a slight depression and an incline. You did mention that the dwelling would be raised 2-1/2 feet. How are you going to compensate for the depression that currently exists there; in the ground?

Mr. Zigler: If you think about it when you were out there, if you raise the building floor up 2 – 2-1/2 foot the lowest part of the property is down at the south entrance. From the south entrance going north it goes up as you are going to the traffic light. So if you just filled the site with pavement, put fill in, put the pavement in; the water would run out into the southeast corner of 9W. What we did is we made an artificial low point between (pointing at map) right here. From this corner and this point of 9W so the water will come down and collect in this area. We couldn't go back here and we couldn't go over here because if they ever connect these parking lots we had to have them at the same grade and this would be the lowest point so we actually fenced this catch basin for a radius of this new road that would come in. That catch basin is lower than that curb point right there.

Acting-Chairman Vasti: Any other questions from the Board? I will entertain a motion to close the Public Hearing.

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

Acting-Chairman Vasti: Next item on the agenda is other business – the minutes of March 21, 2013.

*****MOTION:** Mr. Morlang made a motion to accept the minutes of March 21, 2013; seconded by Mr. Porath. Hearing all in favor; the motion was carried.

*****MOTION:** Mr. Porath made a motion to adjourn the meeting of April 4, 2013; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

Respectfully submitted,

Kathleen Kivlehan
Secretary
Zoning Board of Appeals