

MINUTES

**Town of Wappinger
Zoning Board of Appeals
January 22, 2013**

**Town Hall
20 Middlebush Road
Wappinger Falls, NY**

Summarized Minutes

Members:

| | |
|-----------------|--------|
| Mr. Prager | Member |
| Mr. Della Corte | Absent |
| Mr. Casella | Member |
| Mr. Johnston | Member |
| Mr. Galotti | Member |

Others Present:

| | |
|--------------|----------------------|
| Mrs. Roberti | Zoning Administrator |
| Mrs. Rose | Secretary |
| Mr. Horan | Attorney |

Summary

Gas Land

Variance Granted per letter from Barbara Roberti

Appeal No. 13-7479

13-7480 Gas Land Petroleum, Inc-Is seeking an interpretation of Section 240.97 of District Zoning Regulations in an NB Zoning District. The applicant is seeking parking spaces under the canopy to be included as required parking spaces.

-Where **16 parking spaces are needed**, the applicant can only provide **10 without the 6 under the canopy counted**. The applicant is seeking a variance of **6 parking spaces**.

The property is located at **1831 Route 376** and is identified as **Tax Grid No. 6259-02-524833**. (Chazen)

Mr. Prager: Can I have a motion to go into executive session?

Mr. Casella: I make a motion to go into executive session.

Mr. Johnston: Second.

Mr. Prager: All in favor?

Board: Aye.

Mr. Prager: Can I have a motion to come out of executive session?

Mr. Galotti: I make a motion to come out of executive session.

Mr. Johnston: Second.

Mr. Prager: All in favor?

Board: Aye.

Mr. Lipine: My name is Chris Lipine and I am representing Gas Land Petroleum this evening.

Mr. Prager: Originally you had 10 parking spaces but in the interpretation you have 12. Which is correct?

Mr. Lipine: The 10 was an oversight. We have 12.

- Mr. Prager: If there is a public hearing, it will need to be changed.
- Mr. Lipine: Gas Land Petroleum is seeking to improve their existing site location on Route 376. They cleaned up the contamination left by the previous owners. They are proposing a 580 foot addition which would make this building approximately 2,360 square feet. The proposed retail use requires 1 space for every 150 square feet. This would require 16 parking spaces. The perimeter holds 12 parking spaces. There are also 8 parking spaces under the canopy. Under your Town Code a parking space is space used for a transient. A transient use is someone pulling up and getting gas and then departing. It is also very common for people who purchase gas to also frequent the store too. In today's gas market, more people are paying in cash than they are paying with credit card. Those also purchasing gas are also purchasing milk, bread and other small items on the way home and coffee in the morning. These people are not relocating their car after pumping gas so it is not uncommon for these spaces to service dual purposes.
- Mr. Prager: What are the new additions going to be used for again?
- Mr. Lipine: (Pointing to the map) these are going to be used for walk in coolers. This addition will be used for products to be sold.
- Mr. Prager: In your interpretation you say the building will be a 2,364 square foot building. Is that the outside of that building?
- Mr. Lipine: Yes, that is the perimeter
- Mr. Prager: It does not take into consideration the parts of the inside of that building that are not used for retail.
- Mr. Lipine: (Pointing to the map) approximately 360 square feet are coolers. It doesn't take into account the rest room, the counter or the space behind the counter.
- Mr. Horan: The parking count is based on gross floor area and we looked up the definition and it says the sum of the horizontal area of every floor of the building measured from the exterior face of the outside walls of such building but not to include porches, terraces, basements, cellars or unfinished floor areas having clear headroom less than 7 feet. So you will need to go by the whole building.
- Mr. Lipine: I look at your Town Code and what is a definition of a parking space is. An off street space is available for the parking of one motor vehicle on a

transient basis. This is not a permanent basis and we provided 8 of them in this particular location. Theoretically these spaces under the canopy meet your definition of a parking space.

Mr. Casella: What is the guarantee that the 8 under the canopy will not stay there 30 minutes or longer. Where do the people that work there park? Do they park under the canopy? Don't they take up some of the spaces?

Mr. Lipine: (Pointing to the map) employees will probably park over here.

Mr. Casella: Isn't that part of your 12 spaces?

Mr. Lipine: This particular use will probably need only one employee in an 8 hour shift.

Mr. Prager: So you will then only have 11 spaces if your employee parks there.

Mr. Lipine: Your code doesn't break down employees.

Mr. Horan: Some Town Codes do.

Mr. Casella: The reason why I ask this is because you say they are temporary. If an employee is there for 8 hours then it is not temporary. What about the repair shop?

Mr. Lipine: There is no repair shop.

Mrs. Roberti: It is part of the site plan; they took out the repair shop.

Mr. Horan: The requested interpretation is if we are counting the parking spaces under the canopy and if it meets with the definition of a parking space.

Mr. Horan: If I can ask one thing of the applicant, can you please provide us with an estimate of the floor area of how much floor area will be dedicated to the coolers and unusable space.

Mr. Lipine: I just need to reach out to the applicant and the architect.

Mr. Prager: We would need it by next meeting or you can e-mail to the office and it will be passed on to us.

Mr. Prager: I am going to make a Public Hearing for the interpretation and the variance. Just in case the interpretation doesn't go we can have the

variance Public Hearing and get it all done in one night. That will be February 12th.

Mr. Casella: I thought we had a site visit coming up for Verizon?

Mr. Prager: Verizon is coming back on the 12th.

Mrs. Roberti: It is still a discussion.

Mr. Prager: How about Mr. Darcy.

Ms. Rose: I have called them every day for the last week and a half asking them for a letter of withdrawal.

Mrs. Roberti: It has been a verbal withdrawn. They have been using it illegally. Lee Burns from DCH called to make sure this was legal before he signed the lease. It wasn't and Lee decided to come in for a use variance but since Lee wasn't the owner Brian would have to. His attitude was if I have to get a lawyer I want to make sure this is a slam dunk and if this is not I'm not going to spend the money. Lee is now looking for a place elsewhere and Brian verbally withdraw the application.

Mr. Prager: What about Joe Corino?

Ms. Rose: I spoke to him today and we are looking at the end of February or the beginning of March.

Mr. Prager: What about Mr. Swenson:

Mrs. Roberti: I don't know if he has the funds to move ahead or he just can't decide on an engineer. He is technically still in front of the Planning Board because he has not withdrawn.

Mr. Prager: What about Mr. Crawford?

Mr. Horan: We came up with a plan of action and now I have to write an interpretation.

Mr. Galotti: We asked Mr. Lipine the break down in the square footage but it really doesn't matter right?

Mr. Horan: Technically no. Not for purposes of what the count actually is.

Mr. Prager: Most of the people that go into the station get a cup of coffee and pay for their gas. They don't move their car into a parking space.

Mr. Prager: **Can I have a motion to adjourn?**

Mr. Johnston: **I make a motion to adjourn.**

Mr. Galotti: **Second.**

Mr. Prager: **All in favor?**

Board: **Aye.**

Respectfully Submitted,

Sue Rose, Secretary
Zoning Board of Appeals