**PRESENT:**

John Jones, Chairman

Carol Ozella

Don Sue

Ron Kyser

Jeffrey Baxter

**ALSO PRESENT:**

John Krist, Code Enforcement Officer; several residents.

Notice of said meeting was sent to the Olean Times Herald and residents within 500 feet of the proposed carwash. Said notice was also posted at the Town of Allegany Town Hall and the town website.

Salute to Flag at 4:00 p.m.

**PUBLIC HEARING: AREA VARIANCE REQUEST BLUE BUFFALO CARWASH**

Meeting was opened by Chairman John Jones

This meeting was held to determine if Joseph Spino, of Blue Buffalo Carwash would be granted a variance from the provisions of Section 5.15 (b)(7), Article V of the Town of Allegany Zoning Ordinance III. He was requesting a variant of 3 feet of the required buffer yard on the property located at 3027-3037 NYS Rt. 417, in the Town of Allegany. SBL reference: 94.062-1-17.2, 94.062-1-18, 94.062-1-19, 94.062-1-20.

The changes made to the building plan after the last Planning Board meeting were discussed by Mr. Spino. These changes consisted of moving the traffic flow onto West State Street rather than Allegany Street to accommodate residents’ requests made at the prior meeting. These new plans would involve a variance of 3 feet into the required 40-foot buffer yard.

**Chairman Jones opened the meeting to public comments.**

Jeff Harris of Allegany Street questioned the variance request of 3 feet. He stated that letters he received requested an 8-foot variance. Joseph Spino states that the public notice residents received included a 5-foot sidewalk behind the building, therefore equaling 8 feet total. He goes into detail about a resident’s concern that traffic would drive through the grass onto Allegany Street to exit the carwash. He states that they cannot put a fence there to prevent that from happening, however, they can put landscaping or concrete bollards.

Chairman Jones asks Spino to clarify plans for the grass separating the building and Allegany Street to prevent cars from using the street as an exit. Spino states that they would need to speak with engineers and they have not committed to anything yet because they have to work with the town as it is their property.

Rob Granger of Allegany Street expresses concern about the decibel rating of the carwash operation, and states that this is a self-imposed request for a variance due to the lot not being large enough. Joseph Spino replies that the building fit onto the lot in the first plans, but they were changed to accommodate the requests of the neighborhood at the first planning board meeting.

Rob Granger states that he does not believe the board should approve the variance because the lot chosen does not fit what is needed in the building plans. Chairman John Jones states that the building could be constructed without a variance, but the request is being made to accommodate the neighborhood at their request. He then asks if anyone has concerns.

A resident states that her concern is with the traffic flow that will come with the business. She asks Joseph Spino what the proposed traffic flow is on a daily basis. Spino states that he would like to stay on topic about the variance, rather than questions that would better pertain to a planning board meeting. She then asks when the next planning board meeting will be, and asks if the variance vote should be postponed until after the next planning board meeting. Joseph replies that it is not possible due to the fact that this variance needs to be decided in order to move on with the planning board meeting

Chairman Jones asks if there are any more concerns, and if anyone else would like to speak.

**MOTION TO CLOSE THE PUBLIC HEARING**

All persons desiring to be heard, having been heard, a motion to close the Hearing was made at 4:29pm by Chairman Jones 2nd by Councilman Sue. Jones-aye, Ozella-aye, Sue-aye, Kyser-aye, Baxter-aye. CARRIED

**ZBA BOARD MEMBER DISCUSSION OF BLUE BUFFALO CARWASH AREA VARIANCE**

The board considered the following factors while making their decision about the area variance:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Board vote **NO**

Reasons: accommodate the residents, eliminate access to Allegany Street.

1. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Board vote **NO**

Reasons: Due to safety issues, neighbors want an exit besides Allegany Street.

1. Whether the requested variance is substantial: Board vote **NO**

Reasons: Only Approx. 3ft 3 ½ in.

1. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Board vote **NO**

Reasons: Saving the original trees, putting in fence by request of neighbors.

1. Whether the alleged difficulty was self-created: Board vote **NO**

Reasons: The neighbors requested the change of traffic outflow.

The ZBA, after taking into consideration the above five factors, finds that:

The Benefit to the Applicant DOES outweigh the Detriment to the Community.

**MOTION TO GRANT VARIANCE REQUEST**

A motion to grant the 3 ft variance request [Section 5.15 (b)(7), Article V of the Town of Allegany Zoning Ordinance III] was made by Councilman Sue. 2nd by Councilwoman Ozella. Jones-aye, Ozella-aye, Sue-aye, Kyser-aye, Baxter-aye. CARRIED

This action is listed as a Type II Action, requiring no further review under SEQR.

A Type II Action either:

* does not significantly impact the environment, or
* is not otherwise precluded from environmental review under SEQR.

**James Gwise/Jones Residence Buffalo Rd. Auxiliary Dwelling Unit**

Mr. Gwise, builder, explained how the landowners would like to finish the auxiliary dwelling unit prior to the completion of the primary building. Both will be under construction at the same time, but the auxiliary unit will be completed first. All members of the Zoning Board of Appeals agreed that Mr. Gwise does not need a variance to start on the property, however it was explained that he should meet with the planning board as a Special Use Permit would be necessary for this project.

**MOTION TO ADJOURN THE MEETING**

A motion to adjourn the meeting at 5:17pm was made by Councilwoman Ozella. 2nd by Councilman Kyser. Jones-aye, Ozella-aye, Sue-aye, Kyser-aye, Baxter-aye. CARRIED

Respectfully submitted,

Grace C. Straub, Town Clerk

6/5/2023