

Town of Northumberland Zoning Board of Appeals

Minutes

Wednesday,

August 5, 2009 7:00 pm

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*Accepted by the Zoning Board of Appeals*

**Present:** Mark Boyce, Chairperson, Hugo Leone, Bruce Bemis, Julie Trollip, Clinton Barber and Rebecca Hodgson

**Absent:** Carl Harrison and Gordon Strong

**Town Employees Present:** Richard Colozza, Code Enforcement Officer and Tia Kilburn, Zoning Board Clerk.

Mr. Boyce called the monthly meeting to order at 7:05 PM.  
All in attendance stood and recited the Pledge of Allegiance.

**PUBLIC HEARING** (for privacy purposes only the initials of individuals participating, not their full names will be used)

Mr. Boyce introduced the first application # 0004-09 for 5 area variances; the applicant is Stewart's Shops Corp., located at 1917 Route 32N, Gansevoort.

**Application #: 0004-09 – Area Variance / pump setbacks & lot coverage %  
(Site Plan Review – Special Use Permit)**

**Applicant: Stewart's Shops Corp.**

Location: 1917 Route 32N

SBL#: 103.12-4-3

Zoning: Hamlet

Acres: .868 +/-

Status: Public Hearing

Representatives: Brandon Meyers / Chris Potter

Mr. Myers asked Mr. Boyce to read the list of requested variances, Mr. Boyce read them as they were listed on the sheet attached to the application. Mr. Myers thanked him and introduced himself as representative for Stewart's. He explained they only have .868 acres to work with and that is why they need the variances. Referring to page 3 of the proposed site plan submitted, Mr. Myers said they have already squeezed everything they could to achieve what they wanted, they have also shrunk the building and redesigned the entire lot except the underground tanks and they need the variances to proceed. He said they are spending ¾ of a million dollars on this project, and are eliminating one of the existing entrances completely. The 3 gas pumps are the minimum they can install. He said they need to widen the entrance to enable the gas delivery trucks access. He stated if they don't widen the entrance they would need their best driver to always deliver and there is no guarantee they could always get the best driver to deliver, therefore they need the entrance to be 40' on Route 32. He said there will be a 6' area of green space and 20 proposed parking spaces including side parking. He added they will be relocating the kerosene tanks they will be further away from the road and they do meet all the safety codes. Mr. Myers explained the lot coverage variance is needed because the community has outgrown this site, they will almost double parking and the back up and turn around space will be increased, there will be safer ingress and egress. This site is more retail than gas it is about 75% retail sales. Mr. Myers then asked if he had covered all the requested variances. Mr. Boyce said yes. Ms. Hodgson asked where the well was located and Mr. Myers located it on the map. Mr. Leone asked if there were automatic fire extinguishers at the pumps, Mr. Myers responded yes they will be all up to code. Mr. Leone asked about the new well, Mr. Myers explained they had to relocate it to meet the setbacks required for the new leach field, which had to be enlarged. Mr. Myers asked if there were any other questions, Mr. Boyce asked if there were any questions or comments from the public, none were noted. Mr. Boyce then read a letter submitted by a neighboring property owner (in the file). Mr. Boyce asked if there was any other correspondence received, the Clerk responded no. He then asked for the State Environmental Quality Review Form, SEQRA, and if this application has gone to County Planning, the Clerk stated

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yes and the County indicated they approved of the plan. Mr. Boyce asked why the SEQRA form said there would be 6 pumps, Mr. Myers said that there will be 3 pumps with 6 dispensers. Mr. Boyce requested a correction on the form, Mr. Myers changed it to 3 and initialed it. Mr. Leone asked if the Kerosene tanks would remain above ground, Mr. Myers said yes, and Mr. Bemis reiterated the tanks would be further from Route 32, Mr. Myers said yes about 10 ' further from the road. Mr. Boyce asked if there were any other questions or comments, none were noted.

Mr. Boyce made a motion to close the public hearing for application # 0004-09, for Stewart's Shops Corp. Ms. Hodgson 2<sup>nd</sup> the motion, All in attendance unanimously agreed.

Mr. Boyce stated they would now open the public hearing for the following application;

**Application #: 0002-09 – Use Variance**  
**Applicant: Lawrence & Donald Neville**  
Location: 4750 Route 50  
SBL#: 116.-1-41  
Zoning: C/R  
Acres: .51  
Status: Public Hearing

Mr. Neville introduced himself and stated his application was for an upholstery shop and the application itself explained his plan, he then asked if there were any questions for him. Mr. Boyce asked if anyone in the public attendance had any questions or comments. Ms. Hodgson asked if this was at the same location as "Just Service" was, Mr. Neville said yes, they had an office there and now he uses it for a shop. Mr. Bemis asked if the junk has been cleaned up, Mr. Neville said yes the metal has been removed, he stated there is a car that is still there, however it will either be moved or stored inside, it is a personal hobby of his to work on old cars. Mr. Bemis asked if the tires have been removed, Mr. Neville said yes he sold them all. MS, in the public attendance stated he was in support of the plan and asked why the variance was needed to begin with? Mr. Boyce explained the regulations were not specifically written to exclude the upholstery shop, but it was not listed as an allowed use either. Then MS asked what categories were specifically excluded. Mr. Boyce said there wasn't anything specifically excluded but there were specific categories listed as permitted uses. Mr. Colozza explained the town's plan was not to have strip malls and to stay with the nature of the neighborhoods and environment, the use for an upholstery shop just wasn't specifically listed, but a variance could be issued. MS then stated he would like to encourage businesses and would also like to maintain the right for his own property in the commercial / residential zone. Mr. Boyce read the allowed uses from the Zoning Regulations for the commercial / residential zone. Discussion ensued about allowed uses and the procedure for a site plans and variances. Mr. Colozza stated the Town really needs to look at the zoning again and make some changes for allowed uses because there are not many realistic allowed uses listed.

Mr. Boyce asked if there were any more questions or comments, Mr. Bemis stated he would like to add that there will definitely not be any auto repair performed there. Mr. Neville said it would only be his own personal hobby and only on the weekends. Mr. Bemis asked what happened to the Automotive Repair Shop sign that was posted at his location in Wilton. Mr. Neville said it is gone, he is no longer registered to perform automotive repairs, the sign was only required because NYS required it for him to dismantle and repair convertible tops on automobiles, but he does not do that anymore, he is handicapped and cannot do it, therefore the sign is not needed. Mr. Leone stated they could add contingencies to the approval. Mr. Neville stated he only works on automobile seats now and any mechanical work would be for his own vehicles as a hobby. He stated he owns a 1959 Cadillac that he is restoring. He added he would complete an affidavit to the effect he does not do any mechanical work for anyone but himself as a hobby.

Mr. Boyce stated to allow a use not otherwise allowed the applicant must demonstrate to the Board there is an unnecessary

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hardship and for that there are certain “test” for a variance to be approved. He stated the first is the applicant cannot realize a reasonable return, and he said this will be an upholstery shop and Mr. Neville is not living there. Mr. Boyce then asked Mr. Neville if the intended use at the time of purchase was the upholstery shop. Mr. Neville said yes, just the upholstery shop. Mr. Boyce stated there are other uses that are permitted in that area and asked Mr. Neville if it would be reasonable for him to change to one of those uses. Mr. Neville said no, he could not change the use, he will be performing upholstery repair until he dies, he stated the upholstery business has been in his family for a very long time.

Mr. Boyce asked if there were any more questions or comments, none were noted.

Mr. Leone made a motion to close the public hearing for Application #: 0002-09, Lawrence and Donald Neville, Mr. Barber 2<sup>nd</sup> the motion, All in attendance unanimously agreed.

**OLD BUSINESS**

**Application #: 0004-09 – Area Variance / pump setbacks & lot coverage %**

**(Site Plan Review – Special Use Permit)**

**Applicant: Stewart’s Shops Corp.**

Location: 1917 Route 32N

SBL#: 103.12-4-3

Zoning: Hamlet

Acres: .868 +/-

Status: Final

Representatives: Brandon Meyers / Chris Potter

Mr. Boyce asked if there were any questions or comments, none were noted.

Mr. Barber stated he sells milk to Stewart’s Shops Corp. and would abstain from the votes.

Mr. Boyce made a motion to close the public hearing,

Mr. Leone 2<sup>nd</sup> the motion,

All in attendance unanimously agreed.

Mr. Barber asked if the SEQRA form was completed. Mr. Boyce asked if a long form was needed, Mr. Colozza stated he spoke with Saratoga County Planning and they said a long form was not necessary because the “footprint” was already there. Mr. Boyce read and answered the SEQRA questions out loud. Mr. Boyce stated he would declare a negative declaration with no significant impact, no objections were noted.

Mr. Boyce made a motion to declare negative declaration on the State Environmental Quality Review Assessment Form, no significant impact,

Ms. Hodgson 2<sup>nd</sup> the motion,

Motion passed, 5-1, Mr. Barber abstained from vote.

Mr. Barber asked if they were going to vote on the individual 5 variances or the application for the 5 variances as a whole. Mr. Boyce asked the Board for their thoughts on a combined vote. It was decided to vote on the application as a whole listing each variance separately. Ms. Hodgson asked if the variances marked (3b) were 2 different variances pertaining to the kerosene tank, Mr. Boyce stated he thought it would be one variance with 2 different criteria and asked if there was any

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other discussion.

Mr. Leone made a motion to approve 5 variances, for Application #: 0004-09, as proposed by Stewarts Shops Corp., located at 1917 Route 32N Gansevoort, NY as follows; (attached to Zoning Board Motion Form and in the file)

1. *Requesting variance for 3 proposed gasoline fuel dispensers of 2.0 feet from 50.0 feet required setback and relief of 11.0 feet for 1 fuel dispenser from the 50.0 feet required setback to a property line.*
2. *Requesting variance for 1 above ground kerosene tank of 23 ft. from the 50 ft. required to a property line and a variance of 40.0 ft from a property line required of 50 ft.*
3. *Requesting a variance of 9 ft from required 15 feet from a side property line to parking spaces.*
4. *Requesting a variance of 20 ft from entrance width of 50 ft on Stump Street and a variance of 10 ft for the entrance width of 40 ft on NYS Rt 32*
5. *Requesting a variance of 10 percent for 70 percent lot coverage if granted under a retail description or 20 percent if granted under a gas station description. Proposed is 70 percent lot coverage for the building, concrete and pavement.*

(proposed setbacks are shown on the site plan in the file)

Mr. Bemis 2<sup>nd</sup> the motion,

Mr. Boyce called for a roll call vote;

Mr. Bemis	Yes
Ms. Hodgson	No
Mr. Leone	Yes
Ms. Trollip	Yes
Mr. Barber	Abstained
Mr. Boyce , Chairperson	Yes

Mr. Boyce stated motion passed, 4-2, all 5 variances approved as proposed, he explained to the applicant they have 6 months to complete their project and if they are unable to complete it in that amount of time it can be extended to 1 year, all they would have to do would be to come back to this Board and request.

**ACTION**

Variations approved.

**Application #: 0002-09 – Use Variance**

**Applicant: Lawrence & Donald Neville**

Location: 4750 Route 50

SBL#: 116.-1-41

Zoning: C/R

Acres: .51

Status: Final

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Mr. Boyce asked if there is any correspondence from County Planning for this application. The Clerk responded no. Mr. Boyce asked if they should hold this application over for a response. Mr. Colozza stated they did not have to hold it because County Planning had sufficient time to respond, and they don't always review every application sent in to them. Discussion ensued on the rules for waiting for a response from County Planning, Mr. Boyce read from the regulations that if the County Planning Board disapproved this Board would need a supermajority vote to approve or if they fail to respond this Board may act without the response. Mr. Boyce asked if there was a SEQRA form, none was in the file so Mr. Neville completed a short form while the Board discussed other business.

Mr. Bemis asked Mr. Colozza if the U Haul truck rentals at the current location for Reeds Hydraulics had obtained a special use permit from the Planning Board. Mr. Colozza said he would look into that, he was unsure if one was needed because they were approved before for equipment sales / automobile sales at that location, and Mr. Allen, the current owner took over it was part of the original approval, he has not found anything listed under rentals. Mr. Bemis asked if Mr. Allen had ever come into the office to asked if he could do it. Mr. Colozza said no, he believed Mr. Allen assumed it was ok. Mr. Bemis stated sales is one thing and rentals are different it's a contractual thing. Discussion ensued to determine if there is a difference. Mr. Colozza said he would talk to Mr. Ward, the towns attorney to determine if anything additional is needed.

Mr. Boyce asked Mr. Neville to complete item #'s 5 and 7 of the SEQRA form, Mr. Neville said he did not understand what they were asking, Mr. Colozza helped him complete the missing information. Mr. Boyce asked if that was the correct acreage listed as 9.1 and Mr. Neville said it should be .91, and corrected it. Mr. Boyce reviewed part II of the SEQRA and completed it.

Mr. Boyce made a motion to close the public hearing,  
Mr. Barber 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

Mr. Boyce made a motion to declare a negative declaration, no significant impact on SEQRA for Application # 0002-09, for Lawrence and Donald Neville, located at 4750 Route 50, Gansevoort  
Mr. Barber 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed, negative declaration declared on SEQRA.

Mr. Barber made a motion to approve the use variance for an upholstery shop for application # 0002-09, for Lawrence and Donald Neville, located at 4750 Route 50, Gansevoort, based on the following conditions; there will not be any mechanical work performed on automobiles or boats on the premises and/ or automobile inspections will not be performed.

Ms. Hodgson 2<sup>nd</sup> the motion,

Mr. Boyce asked for a roll call vote;

Mr. Bemis	Recuses himself
Ms. Hodgson	Yes
Mr. Leone	Yes
Ms. Trollip	Yes
Mr. Barber	Yes
Mr. Boyce , Chairperson	Yes

**ACTION**

Motion passed, 5-1, (one recused)

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**NEW BUSINESS**

None

Mr. Boyce asked if there were any corrections for the July Minutes, Mr. Leone gave them to the Clerk.

Mr. Leone made a motion to accept the July Minutes with corrections,  
Mr. Bemis 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

Mr. Barber made a motion to adjourn the monthly meeting at 8:17 PM,  
Mr. Leone 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed, meeting adjourned at 8:17 PM.

**FUTURE MEETINGS**

Regular Monthly Meeting, September 2, 2009 – 7:00 PM

Respectfully submitted,  
Tia Kilburn, Zoning Board Clerk