



William D. Reilich
Supervisor

TOWN OF GREECE

BOARD OF ZONING APPEALS MINUTES

FEBRUARY 6, 2018

Work Session Began: 6:30 p.m.

Meeting Began: 7:00p.m.

Place: Community Conference Room, Greece Town Hall

Present

Albert F. Meilutis, Chairman

Thomas F. Hartwig

Cathleen A. Nigro

Bradford Shea

Anthony F. Wechsler

Christopher A. Schiano, Esq., Deputy Town Attorney

Gary Tajkowski, Director of Development Services

Maryjo Santoli, Zoning Board Secretary

Absent

Andrew P. Forsythe

Randy T. Jensen

John T. Caterino, Planning Assistant

Additions, Deletions and Continuances to the Agenda

Announcements

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Old Business:

1. Applicant: Maiden, LLC & Village Crossing, LLC
Location: 3455, 3471 & 3507 Mount Read Boulevard
Mon. Co. Tax No.: 075.05-2-3.12, 075.05-2-3.11/COM, 075.05-2-5.1, 075.05-2-8, 075.05-2-9
Zoning District: BR (Restricted Business)
Request: a) An area variance for the proposed expansion of an existing business center to have 615 parking spaces, instead of the 722 minimum parking spaces required. Sec. 211-45 K (1), Sec. 211-45 Q, Sec. 211-45 S (1), & Sec. 211-45 Z
b) An area variance for the proposed expansion of an existing business center to have a lot coverage of 17.2%, instead of the 15% maximum permitted. Sec. 211-17 B (4), Table III
c) An area variance for a proposed driveway/parking area (335± linear feet) to be located 16.0 to 19.9 feet from a single-family residential district, instead of the 20.0 feet minimum required. Sec. 211-17 B (4), Table III
d) An area variance for a proposed drive-up service aisle/driveway (85± linear feet) for a one-story restaurant to be located a distance of 10.0 to 19.9 feet from a front lot line (measured from the west right-of-way line of Mount Read Boulevard) instead of the 20.0 feet minimum required. Sec. 211-17-C (4), Table III
e) An area variance for a proposed 6.0-foot-high, closed-construction fence (50± linear feet) to be located in a front yard of a business center, where fences in a front yard shall not exceed 4.0 feet in height and shall be of open construction. Sec. 211-46 L
f) An area variance for a proposed 8.0-foot-high, closed-construction fence (330± linear feet) to be located at the crest of a 2.0-foot-high earthen berm on a lot, where fences shall not be permitted between the lot line which generally parallels such berm and the toe of the berm slope which faces the interior of such lot. Sec. 211-46 H
g) An area variance for a proposed 8.0-foot-high, closed-construction fence (25± linear feet) at the crest of a 2.0-foot-high earthen berm on a lot, to be located in a front yard of a business center, where fences in a front yard shall not exceed 4.0 feet in height and shall be of open construction. Sec. 211-46 L

Ms. Nigro offered the following resolution and moved for its adoption:

WHEREAS, the Applicant came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 3455, 3471 & 3507 Mount Read Boulevard, as outlined above; and

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WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes an Unlisted action under SEQRA.
2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all parties in interest and citizens were afforded an opportunity to be heard.
3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.
4. The Board of Zoning Appeals has carefully considered environmental information that was prepared by the Applicant and/or the Applicant's representatives or the Town's staff, which included but was not limited to maps, drawings, descriptions, analyses, reports, reviews, and an Environmental Assessment Form ("EAF") (collectively, the "Environmental Analysis").
5. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered additional information submitted by the Applicant's representatives, including but not limited to: oral or written descriptions of the Proposal; maps and other drawings of the Proposal; and various oral or written comments that may have resulted from meetings with or written correspondence from the Applicant's representatives.
6. The Board of Zoning Appeals has carefully considered additional information and comments that resulted from telephone conversations or meetings with or written correspondence from the Applicant and the Applicant's representatives.
7. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered information, recommendations, and comments that may have resulted from telephone conversations or meetings with or written correspondence from various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development and the Town's own staff.
8. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered information, recommendations, and comments that recommendations, and comments that may have resulted from telephone conversations or meetings with or written correspondence from nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.
9. The Environmental Analysis examined the relevant issues associated with the Proposal.
10. The Board of Zoning Appeals has completed Parts 2 and 3 of the EAF, and has carefully considered the information contained therein.
11. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.
12. The Board of Zoning Appeals has carefully considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.

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13. The Board of Zoning Appeals has carefully considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis and all additional relevant information submitted.
14. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.
15. The Board of Zoning Appeals has made a reasoned elaboration of the rationale for arriving at its determination of environmental significance and the Board of Zoning Appeals' determination is supported by substantial evidence, as set forth herein.
16. To the maximum extent practicable, the project as originally designed or as voluntarily modified by the Applicant will minimize or avoid potential adverse environmental impacts that were identified in the environmental review process.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Seconded by Mr. Shea and duly put to a vote, which resulted as follows:

VOTE:	Mr. Forsythe	Absent	Mr. Hartwig	Yes
	Mr. Jensen	Absent	Mr. Meilutis	Yes
	Ms. Nigro	Yes	Mr. Shea	Yes
	Mr. Wechsler	Yes		

Motion Carried

Ms. Nigro then offered the following resolution and moved its adoption:

Mr. Chairman, regarding the application of Maiden, LLC & Village Crossing, LLC (collectively the "Applicant") as it relates to the properties located at 3455, 3471, & 3507 Mount Read Boulevard. On January 2nd, 2018, representatives of the Applicant, Mr. Peter Vars and Mr. Mike Bogojevski of B.M.E. Associates, Mr. Donald J. Riley and Mr. Bryan Powers of Maiden & Village Crossing, LCC appeared before the Board of Zoning Appeals (the "Board") regarding the redevelopment and expansion of an existing business center, which currently contains a Tops supermarket and gas station, Carmine's restaurant, and a strip of tenants on the north side of the Tops market, facing Maiden Lane. The expansion would allow for the construction of a one-story, 2,900±-square-foot Burger King restaurant, to be located just south of an existing driveway on the Mount Read Boulevard side, and the construction of a two-story, 47,380±-square-foot, commercial-use building, which would be located on two parcels that are currently residential single-family homes (collectively, the "Proposal"). As it relates to variances "a" and "b," they are needed due to the fact that under the Zoning Ordinance, these properties would be classified as a business center, meaning that it has "two or more office, retail or service uses which: occupy one or more buildings or lots; share

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vehicular access to one or more public streets; share parking; and function as a single, integrated site, regardless of the ownership of the lots which comprise said site." In terms of driveway/parking setback requests, those were requested due to a three-lane drive-up ATM station and to allow vehicles to bypass the station. The 10-foot drive-up service aisle and driveway will be located at the same distance as the Tops parking area that is currently on the site, and will be approximately three to four feet below Mount Read Boulevard. The need for variance "e" is due to the fact that the Mount Read side of the Burger King would be considered its rear entrance and would be utilized for the delivery of products to the restaurant. Also, during the public hearing, the Board received oral and written testimony from Amy and John Gester, who reside at 3443 Mount Read Boulevard, which is located directly south of the Proposal. The Gesters' concerns included but were not limited to: encroachment on their property; buffering and screening of the proposal; and other questions regarding the site design/layout. At the conclusion of the meeting, the Board voted to continue the public hearing until January 16th for the Applicant to address the comments/concerns from this Board and the Gesters, and to give the Town's Planning Board the opportunity to review the Proposal and the concerns this Board had with certain variances.

On January 16th, the Applicant reappeared before this Board. Prior to the meeting, they had received feedback from the Planning Board as it relates to certain variances and the Proposal as a whole. Additionally, the Applicant had met with the Gesters as it relates to the buffering/screening of the Proposal to the south. During the public hearing, it was stated that the building orientation had been rotated and the front of the building would face Mount Read Boulevard, and that the request variance "e" for the 6.0-foot-high, closed-construction fence was no longer needed. This variance has been formally withdrawn. A decorative 4.0-foot-high, open-construction fence with decorative columns was being proposed along the Mount Read frontage in front of the Burger King restaurant in an effort to collect trash from the plaza, which was brought up during Planning Board discussion. Additionally, on the south property line, which is adjacent to the Gesters, the drive-up ATM station had been removed and an updated plan was provided, showing a proposed 8.0-foot-high, closed-construction fence to be installed at the crest of a 2.0-foot-high berm. Also, due to layout changes, a reduction in parking spaces occurred. As a result of the parking changes and the introduction of the fence and berm, the application had to be re-advertised to reflect the site design changes. Additionally, the Board heard testimony from the Gesters regarding the updates of the Proposal by the Applicant. The Board concluded the meeting by voting to continue the public hearing until February 6th to give time for staff to re-advertise the variances and allow time for the Planning Board to review the updates to the Proposal.

This evening, it was announced by staff that the application was re-advertised, mainly the modification of variance "a" from 624 parking spaces to 615 and the addition of variances "f" and "g," which relate to the proposed 2.0-foot-high berm and 8.0-foot high fence. While this Board has not seen many applications like variances "f" and "g," there has been precedent for these type of features on commercial properties when they adjoin residential districts/neighborhoods. A notable example would be on the east side of Ridgemont Plaza, where in January 1991, this Board approved a 6.0-foot-high, closed-construction fence to be located on the crest of a 4.0-foot-high berm. Similar to this application, the berm and fence were installed to provide additional buffering and screening for the residents on Fox Meadow Road. The applicant worked an agreement with the neighbor and the Planning Board regarding the 8-foot-high board-on-board fence on a 2-foot-high berm to the front setback line to provide screening and buffering, and to prevent pedestrian cut-through. Roy LaForce of 136 True Hickory Drive appeared before the Board to voice concerns, mainly which Planning Board handles and will be addressed tomorrow. Bryan Powers did state that the lighting will be LED-based and will be much shorter and will meet the Town Ordinance regarding light spillage. And regarding the pond, it has been moved out of the area of concern.

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In making its determination, the Board of Zoning Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood or community. In making such determination the Board shall also consider the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. It is in the opinion of this Board that an undesirable change will not occur. The Property is located in close proximity to the intersection of Maiden Lane and Mount Read Boulevard, which has a mixture of different commercial uses; the Burger King and Village Crossing projects would be an extension of those commercial uses.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the area variance. No other method is feasible to pursue, other than the area variances. For example, the lot coverage variance request is due to the fact that when Tops was initially constructed in the early 1990s, the lot coverage requirement for commercial properties was 20%, instead of the 15% requirement today. As separate sites, the Tops Plaza and Burger King/Village Crossings locations would comply, but because they are considered a single site, the variance is required; this not uncommon for existing business centers that are undergoing expansion. Previously, this Board has approved similar lot coverage and even area variances for parking at locations such as Ridgemont and Stoneridge Plaza, to name two. Also, in terms of the 10-foot-wide drive-up service aisle and driveway, this will be located at the same distance as the parking area that is currently on the site.
3. Whether the variance is substantial. While the number of variances can be viewed as substantial, the granting of these variances would result in a site design/layout which is satisfactory to the Applicant, the neighbors, this Board, and staff. Also, the Proposal was reviewed by the Monroe County Department of Planning and Development, which did not have any significant comments.
4. Whether the proposed variance will have adverse effect or impact on the physical or environmental conditions in the neighborhood or district. While there is a physical impact, because a residential parcel will be converted to commercial uses, it would be located in an area of the Town where you have commercial uses. Also, in terms of any environmental conditions, the Proposal will require site plan approval by the Planning Board and will have to comply with any necessary environmental regulations.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance.

Having reviewed all the testimony and evidence as just summarized in the findings of fact, and having considered the five statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this Section, and having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community and that the benefit to the applicant is substantial, and having found that this is an Unlisted action under SEQRA, requiring no further action by this Board, I move to approve this application with the following conditions.

1. That the Applicant obtains all necessary approvals.
2. As offered by the Applicant, variance "e" regarding the proposed 6.0-foot-high, closed-construction fence has been formally withdrawn.

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3. The Applicant shall obtain site plan approval from the Planning Board for the Burger King and Village Crossing project sites.

Seconded by Mr. Hartwig and duly put to a vote, which resulted as follows:

VOTE:	Mr. Forsythe	Absent	Mr. Hartwig	Yes
	Mr. Jensen	Absent	Mr. Meilutis	Yes
	Ms. Nigro	Yes	Mr. Shea	Yes
	Mr. Wechsler	Yes		

Motion Carried
Application Approved
With Conditions

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ADJOURNMENT: 7:25 p.m.

APPROVAL OF BOARD OF ZONING APPEALS MEETING MINUTES

The Board of Zoning Appeals of the Town of Greece, in the County of Monroe and State of New York, rendered the above decisions.

Signed: _____

Date: _____

Albert F. Meilutis, Chairman

NEXT MEETING: February 20, 2018