TOWN OF COEYMANS PLANNING/ZONING BOARD MEETING

November 14, 2022

Attendees

Members Present: Mr. Nolan, Mr. Collins, Mr. Pietropaoli, Ms. Stanton, Mr. Boomer, Ms. Grogan, Mr. teRiele

Members Absent: Mr. Gonzalez

Also Present: Mr. Brick, Mr. Chmielewski, Ms. Ziegler

Public Present:

Call to Order/Pledge of Allegiance

Meeting was called to order at 7:00 p.m. There was a quorum; one board member absent. Mr. Nolan led the Pledge of Allegiance. Mr. Nolan read the notice for the public hearing for the McHugh appeal re Marebo site plan review.

Approval of Minutes

Mr. Mr. Boomer made motion to approve the minutes of October 26, 2022; seconded by Ms. Grogan; all in favor.

Report of the Building Inspector – None

Area Variance

**Wayne Flach (22-005ZAV)**: An application for a 21’ front yard variance to accommodate a single family dwelling on the property owned by him located at 38 Fares Road, Tax Map #167.-1-30.1.

Mr. Flach was present. Maps were provided/reviewed and discussion was held, including:

* Mr. Flach wants to build and small house and garage for his son on the property.
* The property slopes off the back; because of the elevation drop a variance is needed.
* A public hearing is required.

Mr. Boomer made motion to schedule public hearing for December 28, 2022; seconded by Mr. Collins; all in favor.

Public Hearing

**George McHugh 22-002INT**: An application for an appeal for the Marebo LLC site plan review (22-002SR) located on US Route 9W, Tax Map #s 156.-2-1.3, 156.-2-1.6. 156.-1-6.2 and 156.-1-6.3.

Mr. Pietropaoli made motion to open the public hearing; seconded by Mr. Boomer; all in favor.

Ms. Grogan chaired this portion of the meeting; Mr. Nolan and Mr. Collins were recused.

Mr. Brick explained the process for tonight’s public hearing: appellant speaks first, the Building Inspector is next, then the property owner, and then the public at large.

Mr. Brick stated that Mr. McHugh was unable to attend tonight’s meeting and Mr. McHugh had requested that his memo be read into the record. Mr. Brick stated it can be part of the record without being read into the record, it would be part of the record in this proceeding.

Mr. Chmielewski stated that he is standing by his decision.

Ms. Grogan read letter from Brian Bailey, RCS Superintendent (copy is attached to the minutes)

Mr. Long (President of Long Energy) stated they are proposing to put a trucking terminal on the location. Two tanks (30,000 gallons) will be used to hold propane which will be distributed throughout the area, The process will be: they order a tanker truck full of fuel which is pumped into their tank; his trucks are loaded from that tank for distribution. There are no retail sales – no customers; will basically be unmanned most of the time (only drivers); no long term storage. It is a seasonal industry; might be more deliveries in winter than in summer. Delivery times can be schedule for non-busy highway traffic times.

Mr. Brick reminded the Board and everyone present that the purpose of tonight’s hearing is on the legal issue of whether or not the Building Inspector’s determination was appropriate in light of what exists in the Zoning Code. The applicant does have a site plan review pending where all of site details/issues will be hashed out to the satisfaction of the Board. The business tonight is on the appeal.

Mr. Warren stated that the public hearing is limited to addressing whether the facility as described fits within the usual and customary accepted meaning of a trucking terminal. It is not defined in the code. When this happens, customary use is applied. He looked at zoning ordinances in other areas to see if trucking terminal is defined.

Ms. Grogan read the Mr. McHugh’s appeal for the public’s behalf.

Mr. Brick asked Mr. Warren if he had raised the issue of standing. Mr. Warren replied that he did not. There is no issue of standing.

Mr. Warren further commented: Is it a legal or customary definition? Should it be treated as a gas station which is defined in the Town of Coeymans code? This is not a gas station and there is no nexus between a gas station and a bulk fuel storage facility. In conclusion Mr. Warren stated that the finding of the Building Inspector was accurate and the facility fits well within the definition of a trucking terminal, which is allowed in the C-1P district; Board should affirm that decision.

The public was advised of the three minute limit; Mr. teRiele was the timekeeper. Mr. Brick reminded everyone that this is a very narrow issue before the Board tonight: sole issue is whether or not the Building Inspector correctly concluded that the application be classified as a trucking terminal. Two members the public had comments:

Mr. Biscone stated this issue had already been before the Board’s predecessors. He represents Nolan Propane. All of the Board members are wondering why Nolan Propane is where it is. The Building Inspector was Larry Conrad. Nolan Propane came before the Planning Board on exactly what Mr. McHugh has written in his definition about a gasoline and gasoline distribution station. Code allows that to be in certain zones; R/A is one of them. With respect as to whether or not that was proper, this Board, Mr. Conrad and Board’s Counsel has determined that is where those facilities are to be placed, if at all, in this municipality. Nolan Propane is in the R/A zone. Counsel for this Board, the Building Inspector for this Board and your predecessor determined that gasoline, petroleum and substances of that kind were to be allowed in zones only within that definition and at that time determined where this type of facility could be allowed in the Town of Coeymans. There are many, many such sites available and that should be where he should go with this application, Unfortunately, in a C-1P it is not allowed. Mr. Biccone stated that the precedent has been set in the past and this Board is bound by that precedent.

Mr. Brick inquired as to the date the issue came before the present Board’s predecessors. Files will be reviewed to obtain the information.

Brian Morrill: A trucking terminal is a shipping facility for unloading an incoming vehicle and reloading quickly to an outgoing vehicle with no storage time in between. If this was to be a storage facility under means and purposes of storing propane under the definition of a trucking terminal then this would not be a trucking terminal.

Mr. Warren responded to the comments. He is expressed concern again about recusal issues of Board members. Mr. Brick reiterated previous discussion about this issue. Mr. Warren stated that the Zoning Board approved the R-A gasoline station use in 2011. He feels that the current Board is not bound by that; it is not a precedent. It was the wrong determination; it did not say R/A was the only place it was allowed.

No one else from the public spoke.

Mr. Brick will meet with the Board under client/attorney communication to discuss the information presented tonight and what the options are. The Board has 62 days to make a decision.

Mr. Boomer made motion to close the public hearing; seconded by Ms. Stanton; all in favor.

Adjournment

Mr. Boomer made motion to adjourn; seconded by Mr. teRiele; all in favor.