



# TOWN OF AMENIA

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ZONING BOARD OF APPEALS SPECIAL MEETING  
WEDNESDAY, NOVEMBER 28, 2012  
7:00 P.M. - 2<sup>ND</sup> FLOOR

PRESENT: Chairwoman Judy Velletri  
Kevin Cassone  
David Menegat  
Leo Blackman  
Ian MacDonald, Attorney

ABSENT: David Rosenberg

MOTION TO OPEN THE ZONING BOARD OF APPEALS SPECIAL MEETING ON WEDNESDAY, NOVEMBER 28, 2012 was made by Chairwoman Judy Velletri, seconded by David Menegat

Roll was called

MOTION TO ACCEPT THE MINUTES OF JUNE 13, 2012 was made by Kevin Cassone, seconded by David Menegat

ALL IN FAVOR - MOTION CARRIED

**Cumberland Farms**

**Sign Variance**

**Route 343  
Amenia, NY**

Chairwoman Judy Velletri stated Cumberland Farms has an application before the ZBA for a variance and also have a site plan application before the Planning Board, which is a separate issue. Tim O'Brien of Bohler, Inc. representing Cumberland Farms stated Cumberland Farms requested approval from the Planning Board for a variance. The Planning Board could then act on site plan approval. Ms. Velletri stated this was a variance for the canopy only.

Mr. O'Brien gave the Board an overview of the canopy and site plan. He then gave the Board a history overview of the site. Cumberland Farms wants to revitalize and remodel the property and

building. The store front that is usually rented out will be encompassed in the renovation of the store. There will be upgrades to the outside of the building, reface the canopy, and overall improvements to make it more modern looking. There will be some landscaping added that the Planning Board has suggested along with some new landscaping along the frontage. There is about 290' linear frontage. There is presently a free standing sign on the west side of the property and this will be located to the east side of the property and will reduce the height of the sign to 10' and all signage will be externally lit. David Menegat asked if there would be less light pollution, Mr. O'Brien stated it would be. Cumberland will put in additional landscape along the frontage to match what Dollar General has across the road. The existing fence along the west side of the property will be replaced with new fencing per the Planning Boards request.

The canopy sign is approximately 24 square feet – 3' high by 8'. Leo Blackman asked if all that was on there now was the Gulf logo and colors. Mr. O'Brien stated yes. The canopy is being upgraded along with new pumps. The Town has an awning requirement for signage; Cumberland looked at this as more of awning sign of 12 square feet. A Building sign can be no more than 32 square feet. Attorney MacDonald stated that the sign can't cover more than 10% of the front surface of the building. There is more square footage allowed if it is classed as an awning. Mr. O'Brien stated they are reducing all other signage on site; the calculation for the total signage that is allowed works out to be half of the total frontage – 1 square foot for every 2 linear feet, which is 145 square feet. Proposed signage on the site is about 119 square feet. They are below the cumulative however the canopy sign is larger. David Menegat asked if the lighting will come from behind the numbers on the gas pumps. Tim stated they will be externally lit. Cumberland has done quite well trying to get as close as possible to what the Town wants.

David Menegat asked if on the canopy what type of lighting will be used. Tim said there was a light up on top pointed down with a shade. There will be additional lighting on the canopy that is not there at present. Leo Blackman asked about the lighting under the canopy and the lot? Mr. O'Brien stated the rest of the lot will be lit with down lighting. There will be two additional poles on the property. Mr. Blackman asked is the lighting of the site is it regulated in the hamlet? Mr. O'Brien stated that the site is not that bright. Attorney MacDonald stated that in the sign provision Section 121-39, talks about illumination. Nina Peek stated usually for pole mounted lights – there should be no more than 2 foot candles, however in the hamlet there should be nothing pointed toward the sky. Mr. Blackman asked if there was a specific lumination level that is part of the Zoning Code. Ms. Peek answered no there is only the direction of the light, how they are mounted and no internally illuminated lights.

Ms. Velletri stated the canopy sign exceeds the square footage allowable even though there is more square footage allowed with the awning sign. At 24 square feet per sign, they are over the allowable square footage of 12 square feet. Mr. Blackman made the suggestion to trim the sign down to an 8 x 1 ½ foot sign and eliminate the border. He felt this was easy to fix. David

Menegat stated the green stripe is 6” wide; another spot is 8” wide. Leo Blackman felt if you eliminated all the air around the logo it would be 12 square feet. It would also be nice if the green stripe would go around the whole canopy. He also felt Cumberland Farms should be commended for making changes, however, this is in a historic hamlet and we are trying to change it from a strip mall to historic hamlet feel. That was the point of the Zoning when it was written.

Ms. Peek stated when Stagecoach Deli and Tile Showcase came before the Planning Board they wanted a sign on the front of the building and a sign for the window for both business’s plus a sign on the Route 22 side. In the end the Planning Board allowed them to have one sign either on the window or on the building for each business and no sign on the Route 22 side of the building. This was also based on the Dutchess County Planning referral.

Chairwoman Velletri asked how is the Planning Boards interpreting this awning? Attorney MacDonald stated Cumberland has an application for a variance so the Board is not required to see where it fits in the code. They are asking a variance from the requirements of the code. The job here is to consider the application based on the criteria on the Zoning and Town Law considering area variances. He went on to say in making a determination, there should be some decision regarding what requirement a canopy fits under the Zoning Law. It is up to the Board whether to call it an awning sign or a building sign. Chairwoman Velletri felt the Board agreed on awning sign as it gives more footage. David Menegat felt that there should be the same signage on the canopy that is allowed for the building -7.2 square feet. Leo Blackman brought up the point that there is no signage on the canopy now, except for the Gulf logo. What is the necessity of this additional signage for the awning?

Chairman Velletri felt the Board should go through the criteria of the Amenia Zoning Code for area variances - 121-59.

- A. Yes - because the signage can be seen by the neighbors next door and make the hamlet less inviting looking more like a strip mall.
- B. Yes – it conforms to the code.
- C. Yes – it is decided the sign would be an awning sign. It is still not clear if that is 12 square feet on each side of the awning or 12 square feet total.
- D. Yes – it is non-conforming and in the historic district.
- E. Yes – There was no signage on the canopy before.

David Menegat felt that the other changes that Cumberland Farms is making are very positive.

Nina Peek asked if Cumberland Farms advises to withdraw the application and come back to the Planning Board, the Planning Board is not in a position to interpret the Zoning to allow you to put 12 foot signs on each side, so probably this is not the way to go.

Mr. O'Brien who represented Cumberland Farms will amend the application and ask for an interpretation of the awning.

MOTION TO CLOSE THE ZBA MEETING was made by Kevin Cassone, seconded by David Menegat.

ALL IN FAVOR - MOTION CARRIED

MOTION TO REOPEN THE ZONING BOARD OF APPEALS MEETING was made by Leo Blackman, seconded by Judy Velletri.

ALL IN FAVOR - MOTION CARRIED

**Leedsville Road Addition**

**Resolution**

**486 Leedsville Road  
Amenia, NY**

Attorney MacDonald stated there is an application before the Planning Board for a Special Use Permit to allow the expansion of a non-conforming structure which is permitted under section 121-27 of the Zoning Code. You can expand a non-conforming structure as long as it is less than 50% of the square footage of the original structure with a Special Use Permit from the Planning Board. The Zoning Law also requires on applications for a Special Use Permit if it is considered to be a major project, it must be referred to the Zoning Board of Appeals. The ZBA then can make comments on the application to the Planning Board which must be done in 45 days. The Planning Board will be having their Public Hearing tomorrow night 11/29/2012. Chairwoman Velletri stated that Ms. Peek, the Planning Board Chairwoman, had spoken with the ZBA giving them the background of this project. There are no setback requirements and the property is already non-conforming. Leo Blackman asked if this was on Troutbeck property. Ms. Velletri looked at the plans and stated it was across the street. The property is located in the RR district. The applicant is looking for a side setback. The ZBA had no comment for the Planning Board.

Ms. Velletri then read the resolution that was prepared for the Leedsville Road Application. Before the vote took place on the resolution, Leo Blackman had a comment for Ms. Peek. He asked if there was a review process for the Historic District Overlay or a specific process for construction within the Historic District. His concern is it should actually be reviewed on its aesthetic merits. Mr. Blackman felt they should comment to the Planning Board that there should be a process for looking at new construction in the Historic District so it doesn't look

completely inappropriate in the Historic District. David Menegat agreed. Mr. Blackman continued he felt that this is a problem with the Zoning resolution that identifies Historic Districts but doesn't regulate Historic Districts. This looks like a flaw that needs to be addressed. Ms. Peek stated it is on the list for things that need further clarity in the Zoning Code. Attorney MacDonald stated he would revise the Resolution, however the Board can adopt the Resolution with comments and he will revise it at a later date. Ms. Peek stated in the determination the ZBA notes that there should be some type of Board for oversight in regards to the Historic Overlay District. Attorney MacDonald reminded the Board that the Planning Board does not have the authority to change the Zoning Law it must be relayed to the Town Board. Kevin Cassone stated maybe give that assignment to an existing Board; do not create a new Board. Leo Blackman felt there may be a conflict of interest.

Attorney MacDonald stated that he will amend the Resolution to state the ZBA wanted to make the following comment, however it can be adopted tonight. It will contain the following comment:

“While not commenting on the specifics of the application since the property is in the Historic Overlay District there should be a mechanism created so the design of this application can be evaluated as to its aesthetic suitability in the Historic Overlay District.”

MOTION TO VOTE AS AMENDED was made by Chairman Velletri, seconded by Kevin Cassone

VOTE TAKEN - ALL IN FAVOR

MOTION TO CLOSE THE ZONING BOARD OF APPEALS MEETING was made by Kevin Cassone, seconded by David Menegat

Respectfully submitted,

Susan M. Metcalfe  
Zoning Board of Appeals Secretary

The foregoing represents unapproved minutes of the Town of Amenia Zoning Board of Appeals from a meeting held on November 28, 2012 and are not to be construed as the final official minutes until so approved.

Approved as read - February 13, 2013

Approved with: deletions, corrections, and additions