

TOWN OF CLARKSON ZONING BOARD OF APPEALS MEETING
Held at the Clarkson Town Hall and via Zoom
Wednesday, June 2, 2021 at 7:00 PM

Board Members

Conrad Ziarniak, Chairperson
Jim Gillette
Joseph Perry
Lisa Rivera-French
Joanne Scheid

Support Staff

Richard Olson, Town Attorney* Excused *
Kevin Moore, Code Enforcement
Anna Beardslee, Building Department Clerk

CALL TO ORDER:

Conrad Ziarniak called the Zoning Board meeting to order at 7:00 p.m. The Meeting was held at the Clarkson Town Hall and via Zoom.

PUBLIC HEARING:

Applicant: Shawn Smith

Property Owner: Speedway

Property Address: 7529 Ridge Road

Tax ID: 070.01-1-18.1

Zoning: Highway Commercial

The applicant is requesting to replace a permanent sign, a special permit for the new signage as well as an area variance for the new sign.

C. Ziarniak began reading the Legal Notice for applicant, Shawn Smith. He then asked Shawn to explain the proposals that Speedway are requesting in the application.

S. Smith explained that there are two signs that Speedway would like to replace with digital LED lighting. He explained the first component is the free standing sign, which is shown in the diagram provided labeled as E01. He further explained, that a portion of the existing sign would be replaced with digital LED lighted wording, to show the price of gas with a paycard and then toggle to the price of gas without paycard. He stated that they are not requesting to make the sign bigger, but to change the appearance with digital wording.

S. Smith further explained that the signage would toggle every 3-5 seconds and that the brightness and change of rate can be controlled and changed.

C. Ziarniak stated that the first signage request will be called Component 1. He asked S. Smith to explain the second component of the application.

S. Smith stated that the second request from Speedway is to change the pump toppers with digital LED lighted wording. He stated that the new proposed pump toppers are smaller than the pump toppers they currently have. The pump toppers will show the price with the paycard and without paycard once you have selected which option you would like to use at the pump.

C. Ziarniak stated that this is a Public Hearing and asked if there was anyone from the Public that would like to speak in regards to this application.

Carl Grasta is present and owns the property at 3736 Sweden Walker Road, which is right next to Speedway's property. He stated that a fence was supposed to be placed up as a buffer when Speedway was first built, and it was never done. He further explained that since there is no buffering in between the properties he has a lot of issues with bright lights from cars and his concern about new proposed signage requesting digital LED lighting may create more of a lighting issue.

C. Ziarniak asked K. Moore if buffering was required on the approved site plan.

K. Moore stated that he was the Building Inspector at the time that the Speedway project was approved, but he believes that buffering should be there. K. Moore further stated that permits could be held up until violations are rectified.

C. Ziarniak stated that we could check the site plan to see if buffering was included. He further stated that no matter what happens with this application, the buffering issue should still be taken care of.

C. Ziarniak asked if anyone else was present and wanted to speak in regards to the Speedway application. No one answered.

C. Ziarniak made a motion to close the public hearing, only for Component 2 of the application in regards to the price toppers.

J. Gillette seconded.
Unanimously carried.

C. Ziarniak read aloud Town Code 140-13B which states, Interrupted types of lighting of any description and moving advertising devices are prohibited.

C. Ziarniak stated that the town code specifically uses the word, “prohibited”, and his opinion is that, the Zoning Board would not be able to overturn a code that has the word prohibited.

K. Moore read aloud the definition of prohibited, which states, “not permitted, forbidden by authority.”

J. Perry suggested that S. Smith should look into the Byrne Dairy Gas Station’s signage that has stagnant pricing. He stated that the Byrne Dairy is very close to the Speedway.

C. Ziarniak stated that the signage on the freestanding sign (E01) would need to have stagnant pricing.

K. Moore stated that the only other option is to go in front of the Zoning Board for a use variance.

S. Smith stated that he appreciated their options and gave his opinion, stating that if the sign had stagnant pricing it would create 4 signs to address the information that is needed. He also stated that he would check out the signage for the Byrne Dairy to get ideas to consider.

C. Ziarniak asked S. Smith if the Zoning Board could table the first component of the application request to consider different options. S. Smith stated that it is required by federal law to show the pricing and he would like the opportunity to consider other options.

S. Smith stated that theoretically the change of price changes often, so there is already a source of movement in the lighting. He also stated that it’s possible they could do something with the text size.

J. Perry discussed his feelings on the intent of the signage and stated, he is not bothered with the lighting request, however, he stated, the town needs to be careful because other places may find ways around the code to get lighted signage as well.

S. Smith asked if there could be conditions on an approval, or asked for an interpretation of the code.

C. Ziarniak stated that he is asking the board members to give their interpretation of the code to see if they feel if it is considered interrupted lighting.

K. Moore stated that a condition can be put in the motion stating that no other messaging could be placed on the signage.

J. Scheid stated that her concern is that the change in the lighting will catch someone’s eye at a busy intersection.

L. Rivera-French stated that she feels it is interrupted lighting and suggested that S. Smith take a look at the Byrne Dairy signage.

J. Gillette stated that in regards to the signage for diagram E01 that he considered it to be interrupted lighting. J. Gillette asked if the pump topper prices change. S. Smith stated no.

K. Moore stated that he looked up a definition of interrupted lighting. It states, “Navigational light whose beam is interrupted at regular intervals by a brief period of darkness.”

C. Ziarniak asked board members about their feelings on the price toppers.
No members had any issues with the price toppers.

C. Ziarniak made a motion for Component 2 of the application in regards to the price toppers, to determine SEQR as a type II action with a negative declaration and does not need further environmental review.

J. Gillette seconded.
Unanimously carried.

J. Perry made a motion to approve component 2 of the application for the replacement of the pump topper signs with digital LED signs showing change of price for people paying with a paycard and without a paycard, with the following conditions:

- 1) The owner is in compliance with all conditions of the original site plan, including buffering of nearby properties.
- 2) The display will remain stagnant and no other advertising shall be on the price toppers.
- 3) The brightness of the LEDs will reduce intensity from dusk till dawn.

L. Rivera-French seconded.

Unanimously carried.

C. Ziarniak asked S. Smith if he was willing to table the Component 1 application request to provide alternatives.

S. Smith asked if he could get a count of how many board members would approve or deny the E01 signage.

C. Ziarniak asked the board members to give their answers on the Component 1 request of the application.

- J. Gillette stated no.
- L. Rivera-French stated no.
- C. Ziarniak stated, yes.
- J. Perry stated yes, with conditions.
- J. Scheid, stated, no.

C. Ziarniak stated that if we decide to move forward the Component 1 request would not pass tonight.

S. Smith asked if he could respectfully table the component 1 portion of the application request for alternatives.

C. Ziarniak stated that we would table and leave the Public Hearing open for component 1 of the application to allow time for Speedway to give alternatives for the signage on diagram E01.

PUBLIC HEARING:

Applicant: Darryl Moser

Property Owner: Darryl Moser

Property Address: 2637 Clarkson Parma Townline Road

Tax ID: 041.02-1-22

Zoning: RS-20

Applicant requesting an area variance to install a pool on their property 3 foot from property line, not in accordance with Town Code 140-21D(c)[2]

D. Dimensional requirements in the RS-20 District shall be as follows: (c) Minimum setback: [2] Side: 10 feet.

C. Ziarniak read aloud the Legal Notice for Darryl Moser and then asked D. Moser to explain his application for any public that is present to hear.

D. Moser explained that he would like to install a pool 3 feet off the North property line. The three feet would allow him to be able to maintain that strip of land and not create a hazard and be able to have the proper grounding for the pool as well. He explained that K. Moore came out and verified where the septic was on the property, and he confirmed that the pool installation would not interfere with the septic.

C. Ziarniak asked who owned the property on the north.

D. Moser stated that his mother owns that property.

C. Ziarniak asked if it was a 24 foot above ground pool. D. Moser stated, yes.

C. Ziarniak asked if anyone was present for the Public Hearing that would like to speak. No one answered.

C. Ziarniak made a motion to close the Public Hearing.

J. Perry Seconded.

Unanimously carried.

C. Ziarniak asked if the board members had any questions or comments.

C. Ziarniak stated that we have the updated instrument map that shows the pool location of 3 feet from the north property line.

C. Ziarniak asked K. Moore if he had gone to the site and determined that the leach lines are not in the vicinity of the pool. K. Moore stated that was correct.

C. Ziarniak made a comment stating that the map on file does show the leach lines and asked K. Moore if he had any other building code concerns.

K. Moore stated, no other concerns and it has been determined that there is no other location on his property to install a pool, due to the size of the lot, and the septic location.

C. Ziarniak stated that in his opinion a pool is never permanent and that it can always be removed. He also stated that by having that the pool 3 feet from the property line, there is still room to maintain the property, even if a fence is placed up.

C. Ziarniak asked if any other board members had any comments or concerns. No one answered.

C. Ziarniak made a motion to determine that SEQR be a Type II action with a negative declaration and would not need further environmental review.

J. Scheid seconded.

Unanimously carried.

L. Rivera-French made a motion to approve the variance allowing the installation of the pool 3 feet from his property line as stated in the application.

J. Gillette seconded.

Unanimously carried.

OLD BUSINESS:

Applicant: Mike Corrigan

Property Owner: Mike Corrigan

Property Address: 1033 Lawrence Road

Tax ID: 030.03-01-16

Zoning: RS-20

Applicant requesting an area variance to build a barn/garage on the side of his property, not within Town Code.

C. Ziarniak read aloud the Legal Notice for the Public Hearing.

Jim Guion is present at the meeting to represent Mike Corrigan. He stated that at last meeting it was requested by the Zoning Board to provide a larger version of the property map as well as the renderings of the proposed barn/garage. He further stated that he submitted those and the Board members should have them.

C. Ziarniak stated that the map and renderings have been provided.

C. Ziarniak reviewed the map and renderings that were provided reading aloud the dimensions and details of the proposed barn/garage.

C. Ziarniak asked if both driveways that are shown on the map in use currently.

K. Moore stated that both driveways are in use. The two driveways have always been on the property throughout the years and is on the original plans.

C. Ziarniak stated that he just wanted to confirm that there were not any outstanding issues.

C. Ziarniak asked about the water situation.

J. Guion explained that it is a hydrant situation where the water drains into the ground and the garage slopes so the water will run out of the garage as well.

C. Ziarniak asked M. Corrigan if he would be doing any mechanical restoration with chemicals.

M. Corrigan stated, no.

C. Ziarniak made a motion to determine this as a Type II SEQR with a negative declaration and would not need further environmental review.

J. Gillette seconded.

Unanimously carried.

J. Gillette made a motion to approve the variance to build a barn 28.1 feet in front of the front setback of his house.

L. Rivera-French seconded.

Unanimously carried.

NEW BUSINESS:

Applicant: Christopher and Rebecka Coke

Property Owner: Christopher and Rebecka Coke

Property Address: 30 Valley View Drive

Tax ID: 054.18-1-23

Zoning: RS-10

Applicant requesting an area variance, to place a shed 5 feet from the side and 5 feet from the rear property lines not in accordance with town code § 140-22D 1c2 and c3.

D. In the absence of a public sanitary sewer system, development regulations shall be identical to those for RS-20 Districts. For houses on integral subdivision roads, if a public sanitary sewer system is provided, development regulations are as follows: (1) Single-family dwellings on integral subdivision roads:

(c) Minimum setback: [2] Side: 10 feet and [3] Rear: 30 feet to dwelling or attached garage; 10 feet to other structures.

C. Ziarniak read through the application, diagram, and instrument map for Christopher and Rebecca Coke to build a shed on their property 5 feet from the side property line as well as 5 feet from the rear property line, which is not within town code.

C. Ziarniak asked what size shed would they be building.

C. Coke stated that they were still deciding between a 10x12 or an 8x10 sized shed.

C. Ziarniak read through the application questions for the requested variance.

J. Perry asked what the shed would be used for.

C. Coke stated that he would like to use the shed to store yard equipment and sports equipment.

J. Perry asked if he was planning on having electric or any utilities in the shed.

C. Coke stated, no.

J. Perry asked if he would be placing the shed on concrete.

C. Coke stated that he was unsure.

J. Perry asked if there was a fence on the rear property line.

C. Coke stated that it is open space. He also stated that the neighbor behind him has a barn, and he likely wouldn't even be able to see the shed on his property. He further stated that he had asked his neighbors if they had any concerns with him putting up a shed and none of the neighbors had any concerns.

C. Ziarniak asked if there was a property nearby that had a similar shed.

C. Coke stated yes, the neighbor on the east side of him.

C. Ziarniak asked if that neighbor's shed was within the 10 feet from the property line.

C. Coke stated that it certainly seemed so.

K. Moore stated that C. Coke has picked the best spot on his property to place the shed since there are trees and an easement on his property.

J. Gillette asked how the drainage was in the back of his property.

C. Coke stated that he never has had any issues with standing water.

C. Ziarniak made a motion to put this on for a Public Hearing at the next meeting on June 16, 2021.

J. Perry seconded.

Unanimously carried.

MINUTES:

J. Gillette made a motion to approve the minutes from 5/19/2021.

L. Rivera-French seconded.

Unanimously carried.

ADJOURNMENT:

C. Ziarniak made a motion to adjourn at 8:13 PM.

L. Rivera-French seconded.

Unanimously carried.

NEXT MEETING:

The next meeting of the Zoning Board of Appeals will be Wednesday, June 16, 2021 at 7:00 PM in person and via Zoom.

Respectfully submitted,

Anna Beardslee, Building Department Clerk

Minutes approved on 6/16/2021