

TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS
OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

December 16, 2000

OFFICE OF ZONING BOARD
(845) 566-4901

CUMBERLAND FARMS, INC.
Route 17K and Rock Cut Road
Section 86, Block 1, Lot 14
IB Zone

Applicant is seeking to renovate and construct addition to existing Cumberland Farms convenience store and gas station on premises located at Route 17K and Rock Cut Road in the Town of Newburgh.

Applicant will require a front yard setback for the addition to the convenience store and variances for canopy height, dumpster in front yard and identification signs on canopy.

All mailings were in order.

Richard J. Olson, attorney, represented Cumberland Farms, Inc. at the hearing. Also present was James Raab of Vincent J. Doce Associates.

Mr. Raab stated that they were here tonight to request five variances. The first variance would be for a side yard on Rock Cut Road against the Honch property to allow for a 19.59 foot side yard; required is 50 feet and 5.5 feet front yard to the existing canopy. Canopies are usually about 5 feet off the right of way line. We are also expanding a non-conforming use on an undersized lot. What Cumberland is trying to do is upgrade this store to their present standards to try to keep competitive with Exxon and Mobil down the road. They therefore, want to add a 1171 sq.ft. addition to the rear of the existing building. As the Planning Board mentioned in their letter, they want to landscape the area between Cumberland and the adjacent residential parcel on Rock Cut Road. There are existing pines and other trees along the border just inside the Honch property which will also add to the screening between the properties. As far as the ID signs on the canopy, they are 24 sq.ft. of additional signage. Right now there are 48 sq.ft. of signs and we will be adding 24 sq.ft. The Planning Board has also requested that Cumberland consider a fence on the border and we are going to erect a 6 foot stockade fence between our property and the adjoining residential property so there will be no interference between the properties.

Mr. Harris asked if there were additional parking planned. He has seen some herendous traffic jams in that lot. If you are putting 1200 feet on to the store you must be anticipating an increase in traffic.

Mr. Raab replied they already have.

Mr. Olson added that most of the stores today are designed so that they have large capacity cool storage in the rear and will allow for a decrease in the amount of restocking trips required to this site. The parking is being redone.

Mr. Harris asked if there was parking to the left there now.

Mr. Olson pointed out the new parking area on the site plan. They are going to upgrade the facility so that everything will be striped and basically clean up the site that has become very unsightly.

Mr. McKelvey asked about the dumpster. Will that be moved to the west side as recommended by the Planning Board.

Mrs. Cardone asked if they had taken the Planning Board's suggestions.

Mr. Raab replied that they had followed all the suggestions that were recommended by Mr. Garling and the Planning Board and have been put on the plan.

Mr. McKelvey noted that the dumpster site right now is horrible.

Mr. Olson added that the new dumpster site would be fully enclosed in accordance with the Planning Board's requirements. The biggest point is the fact that given the size of the site there is really nothing we could do to improve or add to the site.

Mr. McKelvey noted that putting the dumpster on the west side is better than where it was.

Mr. Raab pointed out that the expansion of the canopy area will add one more parking space. You have enough for four now and there will be four more. Customers will park there rather than along the spaces. When they stop for gas they stop and go into the store.

Mr. Maher asked if they were increasing the number of pumps.

Mr. Raab replied just one more pump.

Mr. Maher asked if it would be a single pump or double size.

Mr. Raab replied double size.

Mrs. Cardone asked if there were further questions from the Board or any questions or comments from the public.

Mrs. Honch, one of the next door neighbors wanted to know how all this would affect her property. What you are doing is for your advantage. There is a lot of traffic and she doesn't want to have her property ruined by whatever improvements are made.

Mrs. Cardone invited Mrs. Honch to come up and look at the site plan. Both Mr. Olson and Mr. Raab answered her questions with regard to the screening that will be provided.

Mr. Honch who was also present stated that someone called him and offered to buy the property. After telling them what he wanted for the property, he never heard from them again. He is ready to sell today.

Mr. Olson asked how much land he had and how much he was asking.

Mr. Honch replied one acre and the price was \$350,000.00. It is commercial property. He has never called back. They have no room at all over there.

Mr. Gaba asked after the Honchs looked at the site plan, if they thought it did any harm to their property. They are putting up a fence. They are putting in plantings.

Mr. Honch replied there are lots of bottles on his property.

Mr. Olson pointed out that was the reason the Planning Board asked them to put up the fence. They were concerned about any overflow from the Cumberland property unto to their property.

Mr. Gaba added that the addition would not generate more traffic because it is mostly for cooler space. In fact it may generate less traffic because there will be fewer restocking trips. That would seem to benefit the Honchs.

Mrs. Honch stated that they just wanted to bring to the Board's attention their concerns before anything is done and would like to be informed also about changes to the facility.

Mrs. Cardone asked if there were other questions or comments. There being on response, she declared this part of the hearing closed.

Submitted by:



Mary Salantrie, Secretary
Zoning Board of Appeals

/ms

TOWN OF NEWBURGH:
ZONING BOARD OF APPEALS

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In the matter of the application of:

VSH REALTY, INC. - CUMBERLAND FARMS, INC.

DECISION
AND
RESOLUTION

for a variances to Code §185-19(C) (1) to decrease the side yard and front yard set back on an undersized lot below the minimum requirements of Table of Use and Bulk Requirements, IB District and to increase the maximum permitted height as well as increasing the maximum permitted signage.

Tax Map # 86-1-14
P.B.# 2000-56

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The property which is the subject of this application is located at the intersection of NYS Route 17K and Rock Cut Road, Newburgh, New York and is designated on the tax map as Section 86, Block 1, Lot 14. It is located in the IB District.

The subject property is a legal nonconforming lot which fails to conform, among others, with the minimum required lot area (40,000 sq. ft. required; 21,184 sq. ft. provided). It is improved by a small (1,785.87 sq. ft.) "Cumberland Farms" convenience store which sells gasoline.

an accessory structure

The applicant wishes to upgrade the convenience store and to improve the lot in general. Particularly, the applicant proposes construction of a 1,173 square foot expansion of the convenience store and replacement of the gasoline pumps and storage tanks. The applicant is before the Planning Board seeking amended site plan approval and has now come before this Board for variances under Code §185-19(C) (1) upon referral from the Planning Board.

Code §185-19(C)(1) provides that a nonconforming building may be enlarged only if the addition does not increase the degree of or create any new nonconformity. The applicant's plan clearly will increase the existing nonconformity as it nearly doubles the size of the existing building on an undersized lot and requires variances to required front and side yard set backs. Therefore a variance is required.

A public hearing on the application was scheduled for December 22, 2000 at the Town Hall, 1496 Route 300, Newburgh, New York. Notice of said public hearing, including the subject, date, place and time, was duly published and mailed. Proper affidavits of publication and mailing have been received from the applicant.

The public hearing was held on December 22, 2000. The applicant appeared and testified before the Board. The testimony and exhibits at the Public Hearing established that the subject property is a corner lot improved by a convenience store. The applicant claimed the main purpose to be served by the addition was to provide additional storage space, particularly for perishables, beverages and goods which must be kept refrigerated. The increase in storage space should cut down on the number of deliveries which must be made to the store. The upgrade of the gasoline pumps and parking facilities is long overdue and will be a welcome change in the neighborhood.

The Board unanimously determines that the proposed action is an Unlisted action under SEQRA and a negative declaration has

been made as lead agency in an uncoordinated review. The Board determines that this is an application for an area variance and that the criteria which the Board must consider in determining whether or not to grant the variance is the factors set forth in Town Law Section 267-b. In considering the benefit to the applicants if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood and community by such grant, the Board has considered the following five factors.

I. WHETHER AN UNDESIRABLE CHANGE WILL BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES WILL BE CREATED BY GRANTING OF THE VARIANCE?

Construction of the addition and the other alterations to the property will not produce an undesirable change in the character of the neighborhood. The detriment (if any) to nearby properties from increasing the size of the building on an undersized lot is more than compensated for by the improvement in the appearance of the subject property.

II. WHETHER THE BENEFIT SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY SOME METHOD FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE?

The applicant cannot construct the addition and other changes without a variance.

III. WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL?

The variance requested is substantial. However, this factor alone does not require denial of the requested variance.

IV. WHETHER THE PROPOSED VARIANCE WILL HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD?

The changes made pursuant to the variances requested herein will not have any adverse impact on the physical or environmental conditions of the neighborhood.

V. WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED?

The applicant's difficulty is self-created. However, on the facts of this case, the Board declines to give any significant emphasis to this consideration.

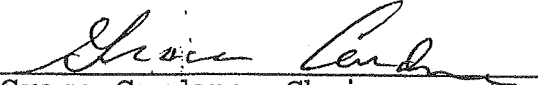
RESOLUTION

The Board determines that an area variance should be granted under Town Law §267-b. It is hereby resolved that a variance to Town Code §185-11, Table of Use and Bulk Requirements (IB District) and Code §185-19(C)(1) to permit construction of the proposed addition and other alterations as well as increased signage is granted. The Board finds that such variance is the minimum variance necessary and adequate to address the circumstances of the case.

Present and Voting on this decision:

Paul Blanchard,	Aye
Grace Cardone,	Aye
Ruth Eaton,	Aye
Michael Maher,	Aye
Frank Galli	Aye
John McKelvey	Aye
Richard Harris,	Aye

Dated: January 25, 2001
Newburgh, New York


Grace Cardone, Chairman
Town of Newburgh Zoning
Board of Appeals