

TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS

OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

June 27, 2002

OFFICE OF ZONING BOARD
(845) 566-4901

CUMBERLAND FARMS, INC.
270 Route 17K
Section 86, Block 1, Lot 14
IB Zone

Applicant is seeking to replace the existing convenience store and make improvements to the gas pumping facility on premises located at 270 Route 17K in the Town of Newburgh.

The improvements will require variances for the side, rear and front yard setbacks as well as an area variance to the total lot area requirement, and waiver of the 45 foot landscape buffer. Article IV, Section 185-11.

All mailings were in order.

Richard J. Olson of the law firm of McCabe & Mack represented applicant at the hearing. Robert Spiak, the engineer's representative on the project was also present at the hearing.

Mr. Olson stated that in the year 2000, they came before the Board and were granted variances for an addition to the back and also granted a 5 foot setback to the front property line to erect a canopy in connection with the addition proposed at that time. Since then we have entered into negotiations with the property owner to the rear for a lot line adjustment. What is now proposed is to raise the existing building, to set back on the site more than 50 feet from where the building existed and bring the canopy back an additional 10 feet from the one previously approved. We intend to upgrade the building giving it a new colonial style. He had given the Board a written submission why we need the criteria for the area variances we are requesting, which are basically a side yard setback down to 10.6 feet to allow us to set the building as far back as we can. We will need a minimum lot area variance even though we are picking up approximately 10,000 sq.ft. we are still going to be 10,000 sq.ft. under the required 40,000 sq.ft. with the land swap. We could not get any more without destroying the property to the rear. We would have to tear the house down or try to conform to the regulations.

Mr. Harris asked if they were purchasing the entire property.

Mr. Olson replied they are under contract to do that. The property will be resold and this lot will conform to all requirements the way it is currently set up. We will also need a variance to the minimum rear yard setback bringing this to 28.5 feet. The building is set there because there is an 80 foot setback requirement on Rock Cut Road. We are also requesting a waiver of the 45 foot landscape requirement for new development. We would have to move everything back in order to comply and it would not fit on the site. Essentially we are not changing this neighborhood. Hopefully we will be improving it by upgrading it with a new modern facility.

Mr. Galli asked if you bought the whole parcel would you tear the house down and move everything back.

Mr. Olson replied from a financial standpoint it doesn't make any sense. It is one thing to acquire vacant land and expect a rate of return, but when you have an improvement on top of it you are paying for the improvement and are entitled to the fair market value of that improvement. It would not be worth it to do that.

Mr. Galli asked if they didn't get the zoning variance, would they use the variance they got before.

Mr. Olson agreed they would then use the variance granted before to put an addition on the existing building.

Mrs. Eaton noted that they increased the number of pumps.

Mr. Olson replied the proposal we had before was for three pumps. The proposal now is for eight. The Planning Board has yet to review that but has given a positive recommendation. The canopy is larger and further back. For the investment put in we are obviously trying to get a greater rate of return of pumping capacity.

With regard to parking, Mr. Olson stated 24 are required. We have provided 20 on the site and Mr. Garling indicated to count spaces.....

With regard to the septic system they obtained a waiver from the Town Board and permission from the Orange County Department of Health to utilize the existing system until the moratorium is lifted at which time we will be connected to the central sewer system.

Mr. Harris stated it is an all or nothing proposition.

Mr. Olson replied we are proposing to upgrade the site. Due to the existing conditions, we could not put this type of development on the site. It is far too small. We are expanding as far as we can possibly expand to allow us to build on this site. This will give us much better circulation. It is providing 10,000 sq.ft. to the parcel.

Mr. McKelvey asked if they had added to the size of the building since the last time.

Mr. Olson replied about 500 sq.ft. The addition to the old building would have brought us up to 3100 sq.ft. This is a 3600 sq.ft. building.

Mrs. Cardone asked if there were any other questions from the Board. There being no response, she asked if there were any questions or comments from the public.

Ronald Hughes of Pampas Lane stated that the lot is 10,000 sq.ft. undersized and you are asking for 500 sq.ft. You have side, front, rear waiver of the landscaping is 10,000 shy; a septic system that was designed to take care of the house and you expect this project to fly.

Mr. Olson replied the septic system was not designed to take care of the house. It was designed for the existing site. Because of the opposition, we went back to Orange County and they have given us permission to utilize the existing septic on the site and the eventual hookup to the sewer system. It has been reviewed through environmental.

Mr. Hughes stated if you buy enough property behind and are concerned about the return on selling that house.....let's use a little better business sense here. There are too many things here.

George Woolsey of 24 Cooks Lane stated that it doesn't sound much like a hardship case to him. It sounds like this corporation wants to have everything. If they utilize that piece of property, they can probably cut their variances in half. This is like putting 5 pounds of product in a two pound sack. He didn't think it was a hardship case.

Mrs. Cardone asked if there were other comments from the Board or from the public. There being no response, she declared this part of the hearing closed.

Submitted by:



Mary Salantrie, Secretary
Zoning Board of Appeals

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After consultation with the Board's attorney, Mrs. Cardone asked if there were discussion on this application. Mr. Galli stated that the approval given a few months ago without the property in the back was sufficient. Now they are in contract to buy the property in the back. They are extending the pumps and everything else now. They should utilize the whole property, not just a lot line change and make it more accessible and easier to get in and out at that corner instead worrying about making a profit selling the property. Mrs. Cardone added the alternative would be to leave it as previously approved. Mrs. Cardone then asked if there were a motion to approve this application. There being no response, she asked if there were a motion to disapprove this application. Mr. Galli made a motion to disapprove the application, Mr. Maher seconded the motion. Mrs. Cardone asked all those in favor to please say "aye". All Board were present and approved by saying "aye". The motion was carried.