

April 27, 2023

PINE PLAINS ZONING BOARD OF APPEALS MINUTES

Tuesday, April 24, 2023, 7:30 PM

In-person and Zoom

IN ATTENDANCE: Scott Chase, Chairman, Carl Baden,
Michael O'Neill, Marie Stewart, Amanda Zick,
Chris Wyant, Alternate

ABSENT:

ALSO PRESENT: Marcus Andrews Stewarts Shops, Sarah Jones, Brian
Walsh, Many Members of the Public

Scott Chase opened the meeting at 7:30 with a quorum present

Stewarts Shops Corp Continued Public Hearing: Chase read the letter received from the County after the 239M was submitted (see attached).

Chase asked Marcus Andrews from Stewarts Shop to review what he is asking for in his proposal. Andrews said Stewarts Shops is requesting a front yard setback variance for a new 4,040 sq foot Stewarts Shop that will be built behind the current store.

Chase then opened it up to the public for comment.

Frank Kilmar of Ryan Road asked Andrews if the current proposal is not approved, how long would the town be without gas. Andrews replied that Stewarts would then stay with the original store, but it would be at least 3 months without gas if they were to do a new store the way zoning stipulates.

Paul Brandt of North Main Street asked how the traffic pattern would change with the new construction. Andrews said the new store would have parking along the edge for larger vehicles and an easier in and out for gas customers. Brandt asked if it was four pumps that are perpendicular to the storefront - Andrews replied correct. Brandt asked about diesel fuel. Andrews replied there would be low flow diesel on one of the islands.

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Rich Jewett of North Main Street, and the manager of the Stewarts Shop, said he has been fighting for diesel fuel for the five years that he has worked at this shop. He also said deliveries will be easier and the new cooler will be better for the employees. He also feels a new store will be nice for the community. Jewett said he obtained 171 signatures from customers in 3 hrs. saying that they would like the new store to be built behind the current store.

Rich Prentice of Stissing Avenue said he supports the project and feels the new design is safer. Prentice said Stewarts has been a big supporter of the community.

Mark Berrada of Ryan Road expressed support for the project.

Doug Weaver of Ryan Road said to him it is a no brainer since currently there is no diesel and not a lot of parking.

Sarah Jones of Bean River Road said this business has been an enormous asset to the town. She is very impressed with what Stewarts has done for the community.

Matt Zick of Church Street said as a small business owner who drives a truck and trailer, the new pumps would be more convenient for him. Zick also said that Stewarts donates to many things in town such as the recreation program and theatre programs.

Paul Brandt asked if the county decides the zoning. Chase explained that it would take 4 out of 5 votes to pass. Chase said it goes to the county per the state law.

Doug Weaver said if it is not agreed upon maybe the vote should go out to the public. Chase said that is not possible. Weaver asked why. Chase said that is the way the state law is written.

Richard McCarren of Poplar Avenue said he approves of the project and that the new Stewart Shops are very nice with many improvements. He thinks the new store would enhance the town.

Mike Cooper of Victoria Crossing said he is at the meeting as a citizen but that he is also the recreation director. Cooper said Stewarts makes donations to the rec's concession stand and supports the teams by buying banners. Cooper said he is also on the fire

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company and Stewarts is the only thing open in town to grab something to eat after a call. Cooper feels that the town should support Stewarts the way Stewarts supports the town.

Ryan Brandt of North Main Street said to make Stewarts go by what the town says is sort of ridiculous and the town should go by what Stewarts says because it is the only thing going on in town.

Sarah Jones wanted to point out that if the application is passed by the ZBA it would then go to the Planning Board where a site plan would be reviewed. This application is just about the variance.

Paul Brandt asked how far back is the store now. Andrews said the current store is 104 feet back and the new store would be 163 feet back.

Andrews said all deliveries would be in the back of the new store away from customers.

Chase asked for a motion to close the public hearing, motion by Stewart, second by O'Neill, all in favor, motion carried.

Chase said it is not the role of the ZBA to hear what the public wants and to do it. Chase said state law sets up the parameters of which the board needs to find to approve something. Chase went over the five criteria required. Chase said just because people come and say if they are for or against a project doesn't always mean the board can accommodate a majority of the room. Chase said it is more of a judicial decision than a popularity contest.

Chase told the public that Baden would be recusing himself from this application due to his professional relationship with Stewarts Shop.

The board then went over the EAF Pt II (see attached).

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Chase asked for a motion declaring a negative declaration for the uncoordinated SEQR review, motion by Zick, second by O'Neill, all in favor, motion carried.

Chase mentioned his concern with approving this variance and setting a precedent. Chase said he feels it is possible to build a new store within the zoning guidelines.

O'Neill said we are here tonight for the setback variance and feels the board needs to make their decision and vote.

Zick asked about the county's letter, which says the board needs a majority plus one, in order to grant the variance, and to be notified of the board's reasonings, how does the board proceed with that - should they write down what the reasonings are and should they be tied to the five criteria of the board? Chase said yes, that is required by state and case law.

O'Neill asked about the human component and said that Stewarts is a big employer in the community.

Employees of Stewarts expressed concern with shutting down gas and customers going elsewhere.

Zick reminded everyone that this application will need to also go to the Planning Board.

Chase asked for a motion expressing reasons why the variance should be approved with a formal resolution to be adopted at the next meeting, motion by Stewart, second by O'Neill, four in favor (minus Baden who abstained), one opposed, motion carried.

Zick made a motion to approve the setback variance, second by O'Neill, four in favor (minus Baden who abstained), one against, motion carried.

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Approval of the March Meeting Minutes: Motion by Zick to approve the March meeting with changes made by Chase, second by Stewart, all in favor (minus Wyant who was not at the previous meeting), motion carried.

Motion by Zick to adjourn at 8:29 pm, second by Baden, meeting adjourned.

Respectfully submitted by:

Tricia Devine
Secretary

Scott Chase
Chairman

Dutchess County Department of Planning and Development

Fax info Only	To	Date	#pgs
	Co./Dept.	From	
	Fax #	Phone #	

239 Planning/Zoning Referral - Exemption Communities

Municipality: **Town of Pine Plains**

Referring Agency: **Zoning Board of Appeals**

Tax Parcel Numbers(s): **4439430000**

Project Name: **Stewart's Shops Corp**

Applicant: **Stewart's Shops Corp**

Address of Property: **7710 Main St, Pine Plains, NY 12567**

Please Fill in this section

Exempt Actions:* 239 Review is NOT Required

- Administrative Amendments (fees, procedures, penalties, etc.)
- Special Permits for residential uses (accessory apts, home occupations, etc.)
- Use Variances for residential uses
- Area Variances for residential uses
- Renewals/Extension of Site Plans or Special Permits that have no changes from previous approvals

No Authority to review these Actions

- Subdivisions / Lot Line Adjustments
- Interpretations

Exempt Action submitted for informal review

Actions Requiring 239 Review

- Comprehensive/Master Plans
- Zoning Amendments (standards, uses, definitions, district regulations, etc.)
- Other Local Laws associated with zoning (wetlands, historic preservation, affordable housing, architectural review, etc.)
- Rezoning involving all map changes
- Architectural Review
- Site Plans (all)
- Special Permits for all non-residential uses
- Use Variances for all non-residential uses
- Area Variances for all non-residential uses
- Other (Describe):

Parcels within 500 feet of:

- State Road:
- County Road: **Route 82**
- State Property (with recreation area or public building)
- County Property (with recreation area or public building)
- Municipal Boundary
- Farm operation in an Agricultural District

Date Response Requested: **3/27/2023**

Entered By: **Devine, Tricia**

These actions are only exempt in municipalities that signed an intermunicipal agreement with Dutchess County to that effect.

For County Office Use Only

Response From Dutchess County Department of Planning and Development

No Comments:

- Matter of Local Concern
- No Jurisdiction
- No Authority
- Withdrawn
- Incomplete - municipality must resubmit to County
- Exempt from 239 Review
- None

Comments Attached:

- Local Concern with Comments
- Conditional
- Denial
- Incomplete with Comments- municipality must resubmit to County
- Informal Comments Only (Action Exempt from 239 Review)

Date Submitted: **3/3/2023**

Date Received: **3/3/2023**

Date Requested: **3/27/2023**

Date Required: **4/1/2023**

Date Transmitted: **3/31/2023**

Notes:

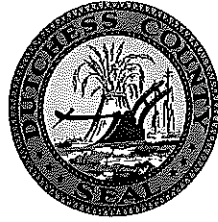
Major Project

Referral #: **ZR23-065**

Also mailed hard copy

Reviewer: 

WILLIAM F.X. O'NEIL
COUNTY EXECUTIVE



EOIN WRAFTER, AICP
COMMISSIONER

COUNTY OF DUTCHESS

DEPARTMENT OF PLANNING & DEVELOPMENT

March 31, 2023

To: Zoning Board of Appeals, Town of Pine Plains
Re: **ZR23-065, Stewart's Shops Corp – Area Variance**
Lot: 443943, South Main Street (CR 82)

The Dutchess County Department of Planning & Development has reviewed the subject referral within the framework of General Municipal Law (Article 12B, §239-l/m).

ACTION

The applicant is proposing the construction of a new Stewart's Shops convenience store and gas canopy to replace the existing structures on the site including the installation of underground storage tanks. A 138.5-foot variance is being requested from the maximum front yard setback of 25 feet in the H-MS (Hamlet Main Street) District.

COMMENTS

The applicant is requesting a substantial variance in order to locate the proposed convenience store 163.5 feet back from the front lot line. This would create a larger expanse of uninterrupted blacktop, setting the store back even further from the street than the existing layout, with the gas canopies acting as a visual barrier between the two. Section 275-56(J)(3) of the Town code states that it is the Town's preference that fuel pumps and canopies be sited to the side of a principal building (rather than in the front) – to the extent practicable.

While the existing Stewart's Shop may have a non-conforming setback, it was constructed prior to the adoption of the Zoning Law in 2009 and the fact that the applicant is proposing to raze the existing store and build a new one presents a unique opportunity for it to be sited in a way that is consistent with the goals identified in the Town's Zoning Law, Comprehensive Plan, and Design Guidelines. Orienting the store to the street by siting it toward the front of the lot in a landscaped yard with the canopy and parking placed in a secondary position, either to the side or toward the rear, would allow for a direct sidewalk connection to be made which will improve pedestrian safety and walkability; the nearby Post Office is a good example of this preferred layout.

We believe that siting of the proposed project can be adequately accomplished by adhering to the setbacks required in the code. These dimensional regulations were created by the Town to ensure that new developments follow preferred land-use patterns within the H-MS District so that they are in keeping with the area's compact and walkable character. At the February Zoning Board meeting, the applicant presented several alternative site plan layouts that conformed with the front yard setback and would require no variance, or possibly a smaller variance. The Board should consider whether these alternatives are more desirable as NYS directs that only the minimum variance necessary be granted. Should the Board grant this substantial variance, it may set an unwanted precedent that could negatively impact site plan decisions made in future developments.

RECOMMENDATION

For the reasons stated above, our Department recommends that the Board **not** grant the requested front yard setback variance.

Voting and Reporting Requirements: If the Board acts contrary to our recommendation, the law requires that it do so by a majority plus one of the full membership of the Board and that it notify us of the reasons for its decision.

Eoin Wrafter, AICP, Commissioner

By

A handwritten signature in black ink, appearing to read 'CG', is written over the word 'By'.

Clayton Gurnett, Junior Planner

Project: STEWART'S AREA VARIAN
 Date: 4/24/2023

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Project:

Date:

Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

TOWN OF PINE PLAINS ZBA

Name of ~~Lead~~ Agency

4/24/2023

Date

SCOTT CHASE

Print or Type Name of Responsible Officer in Lead Agency

CHAIRPERSON

Title of Responsible Officer

Scott Chase

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)