

WILTON ZONING BOARD OF APPEALS
THURSDAY April 24, 2014

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, April 24, 2014 at the Wilton Town Hall, 22 Traver Road, Wilton, New York and was called to order by Chairman O'Brien at 7:00 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Chairman O'Brien, Christopher Ramsdill, Rocco Angerami, James Deloria, Dean Kolligian, Tony McCracken, and Dave Buchyn. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney and Mark Mykins, Zoning Officer.

ABSENT: Robert Barrett

MINUTES: The minutes of the last meeting, held on March 27, 2014 were approved, as submitted, on a motion made by Mr. Kolligian seconded by Mr. Angerami. All board members were in favor.

CORRESPONDENCE: None other than those relating to current applications before the board.

RENEWALS:

APPEAL NO. 00-18 Sharee Kelley, 180 Gailor Road, Gansevoort, New York 12831. Request for the extension of a Special Permit, pursuant to 129-31, 129-21 (D) and 129-176 (Q) of the Zoning Ordinance, for the temporary placement of a mobile home to resolve personal hardship; property located on Gailor Road, Tax Map No. 127.00-1-29, zoned R-3, in the Town of Wilton. Special Permit originally granted on April 27, 2000 for a period of two years, is due for review and renewal.

No one appeared before the board to represent Ms. Kelley.

Mr. Kolligian made a motion to table Appeal 00-18, the renewal of a Special Permit for the temporary placement of a mobile home, until the next meeting due to applicant's failure to appear. Mr. McCracken seconded the motion. Mr.

Ramsdill, Mr. Deloria, Mr. Angerami, Mr. Kolligian, Mr. Buchyn, and Chairman O' Brien were all in favor. The motion passed.

APPEAL NO. 10-11 William Durrin, 124A Ingersol Road, Saratoga Springs, New York 12866. Request for the extension of a Special Permit, pursuant to Section 129-176 V of the Zoning Ordinance, for a private stable; property located at 124 A Ingersol Road, Tax Map No. 154.-1-58.1, zoned R-2, in the Town of Wilton. Permit originally granted on April 22, 2010 for a period of two years, is due for review and renewal.

Mr. Durrin appeared before the board. Chairman O'Brien asked if Mr. Durrin would like to renew the Special Permit. Mr. Durrin said yes. Mr. Mykins said there had been no complaints.

Mr. Kolligian made a motion to approve Appeal No. 10-11 request for a Special Permit for a private stable; property located at 124 A Ingersol Road, Tax Map No. 154.-1-58.1, zoned R-2 in the town of Wilton pursuant to Section 129-176 V of the Zoning Ordinance for a period of two additional years.

Mr. Ramsdill seconded the motion. Mr. Ramsdill, Mr. Deloria, Mr. Angerami, Mr. Kolligian, Mr. McCracken, Mr. Buchyn, and Chairman O' Brien were all in favor. The motion passed.

APPEAL NO. 12-17 Eric W. Borden, 119 Loudon Road, Saratoga Springs, New York 12866. Request for the extension of a Special Permit pursuant to Section 129-176 C of the Zoning Ordinance for an internet based home occupation as a firearms dealer; property located at 119 Loudon Road, Tax Map No. 155.-1-7.2, zoned R-2, in the Town of Wilton. Special Permit originally granted on April 26, 2012 for a period of two years, is due for review and renewal.

Chairman O'Brien read a correspondence from Mr. Borden stating he would like to withdraw his application for a Special Permit for a home based occupation a firearms dealer.

Attorney Schachner stated there was no action necessary.

APPEAL NO. 12-19 Timothy Dulski, 113 Old Gick Road, Saratoga Springs, New York 12866. Request for the extension of a Special Permit pursuant to Section 129-176 C of the Zoning Ordinance for a home occupation for an

electrical and home repair business; property located at 113 Old Gick Road, Tax Map No. 141.-1-5.2, zoned R-2, in the Town of Wilton. Special Permit originally granted on April 26, 2012 for a period of two years, is due for review and renewal.

Chairman O'Brien read a correspondence from Mr. Dulski stating he would like to withdraw his application for a Special Permit for a home based occupation for an electrical and home repair business.

No action necessary.

APPEAL NO. 12-22 Mario Maresca, 127 Edie Road, Saratoga Springs, New York 12866. Request for the extension of a Special Permit pursuant to Section 129-176 V of the Zoning Ordinance for the keeping of chickens; property located at 127 Edie Road, Tax Map No. 141.-2-82, zoned R-2, in the Town of Wilton. Special Permit originally granted on May 24, 2012 for a period of two years, is due for review and renewal.

Mr. Maresca appeared before the board. Chairman O'Brien asked if Mr. Maresca would like to renew the Special Permit. Mr. Maresca said yes. Mr. Mykins said there had been no complaints.

Mr. Angerami made a motion that Appeal No. 12-22 request for a Special Permit for a private stable; property located at 127 Edie Road, Tax Map No. 141.-2-82, zoned R-2 in the town of Wilton pursuant to Section 129-176 V of the Zoning Ordinance for a period of two additional years.

Mr. McCracken seconded the motion. Ramsdill, Mr. Deloria, Mr. Angerami, Mr. Kolligian, Mr. McCracken, Mr. Buchyn, and Chairman O' Brien were all in favor. The motion passed.

NEW BUSINESS:

APPEAL NO. 14-10 Timothy F. Farone, 386 Northern Pines Road, Gansevoort, New York 12831. Request for an Area Variance pursuant to Section 129-157 of the Zoning Ordinance for a side yard setback for a proposed pole barn; property located at 386 Northern Pines Road, Tax Map No. 140.-1-72 zoned R-1, in the Town of Wilton.

Mr. Farone appeared before the board. Mr. Farone stated he needed some additional space on the east side due to his irregular property line. Mr. Farone explained that his septic system and infiltrators were located on the west side of

the property. Chairman O'Brien stated the east side of the property was the only place Mr. Farone could place the pole barn. Mr. Farone explained an extension could be put on the existing garage, which would defeat his purpose. Mr. McCracken asked if there was a particular reason the pole barn had to be that size. Mr. Farone explained he had several cars and he would prefer not to leave them in the yard. Mr. Farone explained further the area was a dead area on the east side and he had never used it for anything except to park cars. Mr. McCracken asked if any of the board members had been by the site to see what is located on the east side. Board members stated there was nothing there. Chairman O'Brien asked if the neighbors had any problem with the pole barn. Mr. Farone answered no. Mr. Ramsdill stated Mr. Farone would be kind of intruding at an angle so most of the structure will not be that close just the front corner. Mr. Farone explained the farthest eastern corner of the building faces Northern Pines Road and that was the area requiring the area variance. Chairman O'Brien asked if there were any questions or concerns. Mr. Angerami asked about the slope of the area and if Mr. Farone would be raising it. Mr. Farone stated he would probably have to raise it approximately six inches. Mr. Mykins stated the area was pretty flat in that location.

Mr. Ramsdill made a motion to approve Appeal No. 2014-10 for Timothy Farone, request for an Area Variance pursuant to Section 129-157 of the Zoning Ordinance for a south east side yard setback of 18.167 ft. for a proposed pole barn; property located at 386 Northern Pines Road, Tax Map No. 140.-1-72 zoned R-1, in the Town of Wilton, be granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons;

1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the area variance because: There are several structures in the area that are similar to the structure that is being proposed. Because of the angle of the property, the structure will sit back farther than it would if the property line was straight.
2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by an area variance because: The septic system is on the other side of the property and because of the angular setback on that side, the property line intrudes into the front yard more than the back.
3. The applicant has demonstrated that the requested area variance is not substantial because: The building that is being proposed is the smallest building that can be put there in order for the applicant to do what he plans to do with it.
4. The applicant has demonstrated that the requested area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because: There are several other properties with similar structures.
5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. McCracken seconded the motion. Mr. Ramsdill, Mr. Deloria, Mr. Angerami, Mr. Kolligian, Mr. McCracken, Mr. Buchyn, and Chairman O' Brien were all in favor. The motion passed.

APPEAL NO. 14-11 Cletus & Elizabeth Simonetti, 89 Edie Road, Saratoga Springs, New York 12866. Request for Area Variances pursuant to Section 129 Attachment 8 and Schedule B of the Zoning Ordinance for square footage, frontage, and side yard setbacks; property located at 89 Edie Road, Tax Map No. 154.-2-3 zoned R-2, in the Town of Wilton.

Mrs. Simonetti approached the board. Mrs. Simonetti explained she would like to build a chicken coop in a penned in area and have some chickens as pets in their backyard. Chairman O'Brien asked Mrs. Simonetti how many chickens they would have. Mrs. Simonetti said six to eight. Mr. Angerami stated in the application it was noted the number of chickens was eight to twelve. Mrs. Simonetti stated twelve chickens would be good. Mr. McCracken stated that there were two separate appeals. Attorney Schachner stated yes, there were two appeals and it was important to recognize that there are two applications; one is an Area Variance for several, minimum lot size, minimum frontage, and one side yard setback on the north side. Attorney Schachner further explained if the variances were granted there would be a Special Permit to consider. Mrs. Simonetti stated she could move the chicken coop over to eliminate one of the variances. Chairman O'Brien stated if you move the coop, you would not need the twenty feet. Mrs. Simonetti said yes, she could if she could still see it from her kitchen window. Mr. Ramsdill asked if the variances were for the coop, Mr. Mykins said yes. Mr. Ramsdill asked Mr. Mykins if the minimum lot size was for the Special Permit. Mr. Mykins explained that was what was required for the Special Permit as far as square footage. Chairman O'Brien asked the board if they would like Mrs. Simonetti to move the chicken coop to eliminate that portion of the variance. Mr. Kolligian asked Attorney Schachner if the Area Variance for 20 ft. on the side yard was approved and the Special Permit was approved for two years, in two years would the board just be approving the Special Permit because the Area Variance will carry over. Attorney Schachner said that was exactly right. Mr. Ramsdill asked if there were eight chickens on the side of the property where the twenty ft. was requested. Mr. Mykins explained that was the next appeal. Mr. Ramsdill asked if neighbor number one had chickens. Mr. Kolligian stated he thought the Simonettis just wrote that in the drawing. Mrs. Simonetti explained that the neighbors a couple of houses down had chickens. Mr. Mykins stated number 124 Edie Road had chickens. Mr. Ramsdill explained he had seen in the write-up that other people had chickens.

Chairman O'Brien asked if there were any concerns or questions. Mr. Kolligian asked Mr. Mykins if he re-called any of the neighbors having to get an Area Variance when they got their Special Permit. Mr. Mykins and Chairman O'Brien stated they didn't think there were any Area Variances granted for Special Permits because the lots were all between eight and ten acres. Mr. Kolligian started to address Mr. and Mrs. Simonetti regarding retracting the 20 ft. side yard setback for the Area Variance and just apply for the Special Permit. Chairman O'Brien stated there were other variances, Attorney Schachner further explained they would still need two variances one for lot size and also the minimum frontage, they wouldn't need an Area Variance for the coop itself. Mr. Kolligian apologized. Chairman O'Brien asked Mr. and Mrs. Simonetti if they would feel more comfortable with the twenty ft., Mr. Simonetti said yes.

Chairman O'Brien asked if there were any other questions. Mr. Deloria asked about the rule on disposal of the silage. Mrs. Simonetti stated she was going to have a compost pile. Mr. Deloria asked Mr. Mykins if the neighbors deal with the waste through a compost pile. Mr. Mykins explained that there are chickens all over the town and a lot of them compost it into the soils most of them have farms; he said it makes good bacterial waste if you are throwing it into a leaf pile. Mr. Angerami stated the removal had been discussed prior but he could not remember how it was resolved. Mr. Amgerami further stated you could not just pile it in one big pile for the rest of the year. Mr. Mykins explained it is not like hay for horses or straw for a horse; you are not going to have that large of an amount of excrement to have to remove it once a week. Chairman O'Brien remarked no tonnage.

Chairman O'Brien asked if there were any other questions. There were none.

Mr. Ramsdill made a positive motion to approve Appeal No. 2014-11 for Cletus and Elizabeth Simonetti, request for Area Variances pursuant to Section 129 Attachment 8 and Schedule B of the Zoning Ordinance for 38392.4 sq. ft. for square footage, 200 ft. for frontage, and 20 ft. for side yard setback; property located at 89 Edie Road, Tax Map No. 154.-2-3 zoned R-2, in the Town of Wilton, be granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons; 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the area variances because: There are other properties in the area that have chickens and the location is behind their home so it would not intrude on the neighbors. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by area variances because: The property is very long and narrow. 3. The applicant has demonstrated that the requested area variances are not substantial because: It is the minimum that can be requested at this time.

4. The applicant has demonstrated that the requested area variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because: It is consistent with other people that have chickens in the area. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Ramsdill stated there would be a maximum of twelve chickens and no roosters on the property.

Mr. McCracken seconded the motion. Mr. Ramsdill, Mr. Deloria, Mr. Angerami, Mr. Kolligian, Mr. McCracken, Mr. Buchyn, and Chairman O' Brien were all in favor. The motion passed.

APPEAL NO. 14-12 Cletus & Elizabeth Simonetti, 89 Edie Road, Saratoga Springs, New York 12866. Request for a Special Permit pursuant to Section 129-176 V of the Zoning Ordinance for the keeping of chickens; property located at 89 Edie Road, Tax Map No. 154.-2-3 zoned R-2, in the Town of Wilton, be granted for a period of two years conditioned upon a maximum of twelve chickens and no roosters.

Chairman O'Brien asked if there were any questions on the appeal. There were none.

Mr. Ramsdill made a motion to approve Appeal No. 14-12 for Cletus & Elizabeth Simonetti, 89 Edie Road, Saratoga Springs, New York 12866. Request for a Special Permit pursuant to Section 129-176 V of the Zoning Ordinance for the keeping of chickens; property located at 89 Edie Road, Tax Map No. 154.-2-3 zoned R-2, in the Town of Wilton, be granted for a period of two years conditioned upon a maximum of twelve chickens and no roosters.

Mr. Kolligian seconded the motion. Mr. Ramsdill, Mr. Deloria, Mr. Angerami, Mr. Kolligian, Mr. McCracken, Mr. Buchyn, and Chairman O' Brien were all in favor. The motion passed.

APPEAL NO. 14-13 Golub Corporation, 461 Nott Street, Schenectady, NY 12308. Request for Area Variances pursuant to Section 129-157 of the Zoning Ordinance for a reduction in green space and side yard setback for Price Chopper Supermarket; property located at 3045 Route 50, Tax Map No. 153.-3-48.2 zoned C-1, in the town of Wilton.

Chairman O'Brien read a correspondence from the Wilton Planning Board for a positive recommendation to the ZBA regarding the request for the 8 foot variance

for side yard setback on the west side of the store. With regard to the reduction in green space from 19.1% to 16.7%, the applicant has agreed to use porous pavement in lieu of reduction of green space.

Chairman O'Brien read a second correspondence from the Saratoga County Planning Board for a no significant Countywide or intermunicipal impact (both actions) with comment.

Comment: While the overall impact of the proposed changes and additions relative to county or intermunicipal issues or concerns are minimal, we recommend a vigorous review and discussions by both local boards concerning matters such as: safe vehicular access at an existing entry as well as at a newly proposed egress, the impact on safe internal traffic circulation and movements throughout the site, the impact to visual appearances of the site due to an additional and (cumulative) significant reduction of green space, and consideration of whether this application is the catalyst for further discussions about a connection from the parking lot to the mall's loop road at the west end of the project site. Issues of access and traffic circulation have been and may continue to be critical to ongoing retail development on both sides of Rt. 50 in this area (ranging from the loop road that became Lowe's Drive, the future cross connection from the medical buildings to Lowe's Drive, the loop road connection from the Five Guys strip that died with the Trustco application). We recommend further review and updating of Wilton's townwide traffic study, as necessary, to provide for continued and smooth development while mitigating traffic impacts.

Mr. Koziol approached the board. Mr. Koziol stated he was there to represent Price Chopper and their proposal for a drive-thru pharmacy with a reverse vending addition. Mr. Koziol explained the proposed two ten foot lanes one for the main pharmacy window and one for a pass through, three parking spaces for the reverse vending, and a twelve-foot lane for exit. Mr. Koziol further explained the reverse vending structure was in the area where they are asking for relief. Chairman O'Brien asked if parking spaces would be lost. Mr. Koziol stated with this proposal one space would be gained. Mr. Mykins asked if per the Planning Board's recommendation the green space variance was going to be removed. Mr. Koziol explained the green space variance was being removed by the use of porous pavement. Mr. Mykins stated then there is no need for the variance for green space. Mr. Kolligian asked if the permeable pavement was going to be used in the entire drive-thru area. Mr. Koziol stated it would be used as needed to balance the loss of the green space. The applicants showed the board a revised plan of the proposed drive-thru. Mr. Kolligian made a statement to Mr. Mykins regarding permeable pavement being relatively new to New York State, Mr. Mykins said it has been around for about thirty years. Mr. Kolligian asked if it was relatively new to our area, Mr. Mykins said there had only been a few projects around this area. Mr. Mykins stated the Pine Bush was the first place it was used and it has been there thirty years without issues. Mr. Kolligian stated in our area the only place that has this pavement is the First Niagara Bank. Mr. Mykins said yes. Mr. Kolligian voiced his concerns about maintenance of the

pavement. Mr. Mykins addressed his concerns. Mr. Ramsdill stated that this issue was not before the board. Mr. Mykins said no the maintenance is not before the board. Mr. Ramsdill stated the board was only looking at the side yard setback not the green space. Mr. Ramsdill restated the board's only issue was the side yard setback, the green space had been withdrawn. Mr. Angerami voiced his concern regarding the maintenance of the porous pavement. Mr. Ramsdill stated this was not a variance request at this point. Mr. Koziol explained that part of their Planning Board approval would be to develop a storm water maintenance guideline that would have to be followed. Mr. Duffy Vice President of Storm Planning Design introduced himself to the board. Mr. Duffy explained they were fully aware of the maintenance of the product and would maintain it to the town's standards. Mr. Duffy further explained why the porous pavement would only be used in that specific area of the parking due to maintenance issues. Mr. Duffy made the board aware of some issues that were discussed at Planning Board such as; the addition of one parking space, an additional sidewalk along the side and a safety issue with the reverse vending area. Attorney Schachner stated all that is before this board now is just the side yard setback because the other requested variance had been withdrawn, that was Mr. Ramsdill's point. Mr. Buchyn questioned the approval of the permeable pavement by the Planning Board and its relationship to the Zoning Board. Attorney Schachner answered Mr. Buchyn and explained the Zoning Officer has also affirmed that. Mr. Mykins said he had also affirmed it. Attorney Schachner explained, by using Mr. Mykins determination and the use of the porous pavement they would no longer need the green space variance. Attorney Schachner further explained once Mr. Mykins made that determination it was part of the reason for the Planning Board's recommendation; the answer is yes that issue is not a ZBA issue. Mr. Mykins explained this is what has been done in the past to conform with green space. Mr. Ramsdill asked if it was compliant with our code, Mr. Mykins said yes. Attorney Schachner said you are correct it is not a ZBA issue. Mr. Mykins stated it's also compliant with New York State Storm Water Regulations. Mr. Chisholm Director of Real Estate for Price Chopper explained the maintenance of this parcel is separate from Home Depot and they will be able to control the snow contracts and the sweeping contracts of this parcel. Mr. Chisholm assured the board they would be able to control all the extra sweeps needed for the porous pavement and direct the snow contractor not to go back there with salt or sand. Mr. Kolligian explained he was trying to learn a little more about porous pavement and he didn't mean to spark a big debate over porous pavement. Mr. Mykins explained porous pavement dose not clog very easily and it should work without a problem in the proposed area. Mr. Ramsdill questioned the exit turn radius to the right and stated it looked a little tight in the drawing and that it was an extremely busy intersection. Mr. Koziol explained when it was laid out they used turning templates and car templates, it holds tight to the curb. Mr. Mykins stated the cars wouldn't have a problem getting to a ninety-degree angle to turn out. Mr. Deloria voiced his concern about the drive-thru lane for the pharmacy and people who

were using the reverse vending all trying to exit at the same time. Mr. Koziol explained the interior of the Price Chopper build was going to be flipped. Mr. Koziol explained the statement he made by using a diagram of the new layout. Mr. Koziol further explained the new layout would cut down the congestion and improve safety. Mr. Koziol also spoke of closing off the area where the main entrance is now. Mr. Ramsdill asked if the closing of the main entrance could be made a condition of the variance. Mr. Mykins explained to Mr. Ramsdill that it was a Planning Board issue and he would bring it to the engineer's attention and he would make sure that it goes into the next plan going before Planning Board. The board agreed that closing the now main entrance would be a great idea. Mr. Ramsdill asked a question about the turning template, he asked if it was the minimum amount that was allowed for that corner Mr. Kopchik answered it was more than the minimum amount allowed. Mr. McCracken asked how many cars could fit in the pharmacy drive-up entrance before it would interfere with the cross walk. Mr. Duffy answered three cars. Mr. Duffy explained; in his experience the drive-thru pharmacy dose not normally have more than two cars in line at one time. Mr. Kolligian stated he had never seen more than one car at the CVS. Mr. Ramsdill asked if there was going to be any access to the inside of the building from the recycling center. Mr. Duffy answered the access to the inside of the building from the recycling center would only be for associates. Mr. Angerami asked if the drive-thru would be two lanes. Mr. Duffy stated it would not be two lanes the other lane was a pass through lane. Mr. Angerami asked about the installation of the porous pavement and the guarantee of it being installed correctly. Mr. Duffy explained, Mr. Kozoil is the PE of record and has project specifications that need to comply with the DOT. Mr. Koziol stated there was a certification they had to provide to the Planning Board for the town to make sure it would be built according to the drawings. Mr. Angerami stated porous pavement is trickier to install than blacktop. Mr. Angerami complimented Price Chopper on their ongoing good work.

Chairman O'Brien asked if there were any questions. Mr. Buchyn stated he wanted to make sure the board was not voting on replacing grass with porous pavement. Chairman O'Brien explained they were voting on just the side yard setback. Mr. Buchyn stated so all the other discussion they had was just for information. Attorney Schachner explained he had heard some concerns and further explained that separate and apart from voting on the side yard, setback relief requested if the board wants to include any suggestions to the Planning Board, you can do that. Attorney Schachner stated that would not be part of the decision-making, you can always make a recommendation back to the Planning Board. Mr. Buchyn questioned the vote at that moment. Attorney Schachner explained the vote; the decision was the side yard setback. Mr. McCracken explained to Mr. Buchyn that it was eight feet. Chairman O'Brien asked Mr., Mykins if he was going to rely the concerns of the board to the Planning Board. Mr. Mykins said he was going to meet with the Town Engineer tomorrow

morning. Mr. Deloria questioned the section of the SCPB referral, **comment** referring to the town wide traffic study. Mr. Mykins stated that was a completely different animal, the Zoning Board had nothing to do with the traffic study, that was the Town Engineer and it was an ongoing thing right now, a town wide traffic study was being worked on right now. Mr. Deloria stated it was part of the **comment** relative to this application. Attorney Schachner asked Mr. Deloria if he had a question. Mr. Deloria explained his thought was the board could make recommendations. Mr. Mykins stated the Town Board has already approved a town wide traffic study and the Town Engineer is now working on it, it's being moved forward. Attorney Schachner explained that it was a high profile thing that the Town Engineer and the Planning Board are working on, the county is very supportive of that which I think is all that is really being discussed here.

Mr. Ramsdill made a motion to approve Appeal No. 2014-13 Golub Corporation, 461 Nott Street, Schenectady, NY 12308 for Price Chopper Supermarket; property located at 3045 Route 50 Tax Map No. 153.-3-48.2 zoned C-1 in the Town of Wilton, The request for an area variance pursuant to Section 129-157 of the Zoning Ordinance for a side yard setback of 8 ft.; is granted, with the condition the in and out turning radius for the drive thru, be reviewed by the Town Engineer; because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the area variance because: It is a commercial district and it is consistent with the other properties in the area. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by an area variance because: There are limitations on the current property and in the way; the property was carved out from the larger parcel. 3. The applicant has demonstrated that the requested area variance is not substantial because: It is the minimum amount needed to be able to construct the structure in the allotted space. 4. The applicant has demonstrated that the requested area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because: It is consistent with the commercial zone that exists at the mall. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. McCracken seconded the motion. Mr. Ramsdill, Mr. Deloria, Mr. Angerami, Mr. Kolligian, Mr. McCracken, Mr. Buchyn, and Chairman O' Brien were all in favor. The motion passed.

ADJOURNMENT:

Mr. Kolligian made a motion to adjourn the meeting at 7:50 p.m. Mr. McCracken seconded the motion. All board members were in favor. The motion passed.

Dated: _____

Amy DiLeone
Zoning Clerk