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VILLAGE OF WARWICK  
ZONING BOARD OF APPEALS  
OCTOBER 21, 2019

The monthly meeting of the Village of Warwick Zoning Board of Appeals was held on Monday, October 18, 2019. Present were: John Graney, Jonathan Prego, John MacDonald and Zoning Board attorney, Robert Fink. Others present were: Stephen Esposito, Paul LeDuc, Kevin Flasch, Jeannine Dreyhaupt, Jim Feldner, Margaret Mc Neely and others.

The Board recited the Pledge of Allegiance.

The Board could not accept the minutes of August 8, 2019 due to the lack of a quorum.

Mr. Fink - We are going to go through this in 2 steps, first we will address the applicant's request to amend the hours of operation from 6pm to 7pm Monday through Saturday. Then we will address the area variance for the building.

**18 ELM ST.                    AMENDING HOURS OF OPERATION                    WARWICK CAR WASH**

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Mr. Graney read the public hearing notice.

Mr. Esposito - In 1990 a variance was issued with a condition to limit the hours of the full-service car wash to not earlier than 8am nor later than 6pm. The Code allows businesses to operate much later than that but the applicant is proposing to extend the time until 7pm during Daylight Savings Time and 6pm when Daylight Savings Time ends.

Mr. Jim Feldner, 23 Orchard St. - I am in opposition of the additional hour there is too much noise now and opening later would just be more noise with longer hours, it is an imposition on people in the neighborhood for the additional hour. If the Board does agree to this I believe that stipulation should be written down about the Daylight Savings Time.

Mr. Fink - What is the connection if any to the detail shop and the car wash? Is it one in the same?

Mr. Esposito - There is a wooden shed that will remain and then there is about a 500sq.ft. steel & fabric structure adjoining it. The proposal is to take that down and build a 40 x 30ft. wooden framed structure and put all of the detailing inside that building. There is also 4 existing vacuums adjacent to those structures which will be brought inside. The building will help mitigate the noise.

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Mr. Fink - Is the detail shop the carwash operation that is the subject of this application?

Mr. Esposito - Yes, the new detail building is this application but it has nothing to do with the time application.

Mr. Fink - Perhaps the noise could be addressed during the area variance. This application is for the carwash only to increase the hours of operation from 6pm to 7pm.

Mr. MacDonald - What will be open the extra hour?

Mr. LeDuc - The automatic carwash.

Mr. MacDonald - Where does the noise come from?

Mr. Feldman - The detail shop. We also have traffic effecting us coming in and out of there which is will be more if he is opened longer, the intersection between Orchard, Elm & Welling is pretty bad, nobody stops.

Kevin, 24 Orchard St. - The noise is not just the operation of the carwash, they also have loud speakers outside that play music during the entire time of operation. It starts at 8am everyday till they close, so if you extend those hours they will extend the outside noise of the music too.

Mr. Feldman - Traffic and noise is our biggest issue. We have had numerous problems with operations in the past which have never been addressed and my feeling is that he is asking for a variance but he has not been a good neighbor. He has not been responsive to the neighborhood to their concerns and problems and I don't think he deserves the variance because of that.

Mr. Fink - We understand but the issues should have something to do with the time of operation. If there are other issues unrelated...

Mr. MacDonald - Unless the sound was exclusive to the hours of operation and if not that would or could be an enforcement issue for the Building Inspector or Police.

Mr. Fink - That could be an issue when we speak to the area variance.

Margaret McNeely, 5 Welling Ave. - There are also coin operated machines in the back that seem to be open at all hours, there are cars there 24 hrs. and constantly opened, that needs to be addressed so that the coin operated washers are closed at the same time as the automatic because people are there at 8,9, 10pm and that is very loud.

Mr. Esposito - The variance that was granted in 1990 states with regard to the coin operated facility is that they can operate no earlier than 8am and no later 11pm.

Ms. McNeely - Why would you have one at 6pm and one at 11pm?

Mr. Graney - One involves man hours and one is a do it yourself, I suppose.

Mr. Esposito - It actually makes the facility available to the community. We are here for the automatic car wash to stay open from 6pm to 7pm and any other operation that happens in this parcel is subject to the noise ordinance.

Mr. Graney - Unfortunately, this has nothing to do with self-service with the exception of the vacuums. When the variance was issued where were the vacuums at that time? Were there vacuums outside of the bay?

Mr. LeDuc - Yes.

Mr. Fink read #4 of the variance - No coin operated car washes, vacuum cleaners or other coin operated machinery shall be operated earlier than 8am nor later than 11pm.

Mr. Graney - So he is allowed to run the vacuums until 11pm.

Jeannine Dreyhaupt, 44 Orchard St. - I am very concerned that the extended business hour will negatively affect my property value and personal enjoyment. An increase in activity and customers from the proposed new business building and the longer operating hours will bring

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more traffic towards my backyard and that is already impeding my enjoyment and privacy. Having to endure added noise and traffic during dinnertime would be a hardship.

Robert Richie, 22 Orchard St. - I don't care if you put the Empire State building there but my concerns are my quality of life. I live on the corner, right behind the detail shop and I hear it at 6:30am, Mon-Sat. till 6pm and if I hear it now the impact from the noise and the car wash is as loud as it is now and now you are asking me to deal with it for another hour when it has not been dealt with, with complaints as far as the whole operation until now.

Mr. Graney - You are saying that the noise starts at 6:30am but it does not open until 8am? So people on working on existing projects?

Mr. LeDuc - Gas is open 6:30am.

Mr. Graney - So no one is detailing cars at 6:30am?

Mr. LeDuc - No.

Mr. Fink - You are operating until 7pm now, correct?

Mr. Esposito - Yes.

Mr. Fink - I understand it was just brought to your attention.

Mr. Esposito - Correct.

Mr. Fink - Can you produce some documentation as to the traffic that is generated for that extra hour.

Mr. LeDuc - It is less than what it is during the day.

Mr. Fink - If there is not a whole lot of traffic, is this something that you really need?

Mr. LeDuc - It is a convenience for the public.

Mr. Graney - It has been operating until 7pm, can statistics be shown to the public & to us that shows what your business is between 6pm and 7pm, typically. You just have to look and see how many cars you have between the hours of 6 & 7.

Mr. LeDuc - It is less than what we do during the day, a lot less.

Mr. Graney - This is something that may improve the life quality if it rolled back and enforced to 6pm versus saying it has been going on 18 years. Is it only the carwash or is it the oil change too that you want to keep open till 7pm.

Mr. LeDuc - Just the automatic carwash.

A MOTION was made by John Prego, seconded by John MacDonald and carried to table the application for extending the time of operating the automatic carwash from 6pm until 70pm until May 18, 2020. (3 Ayes)

## **CAR WASH            AREA VARIANCE**

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Mr. Esposito - The applicant is proposing to build a wood framed structure with 3 bays which is where the detailing will occur inside the building. We would like to line-up with the existing setback from the two existing buildings that are currently there is 1.8ft. In the LI zone the setback requirement is 10ft. It is a pre-existing, non-conforming sideyard and we would like to extend that relief to the new building.

Mr. Prego - The bay that is entering from the side, will that remain open? The building height that is proposed is the same that is there now?

Mr. Esposito - Yes it will remain open and the height will be pretty much the same.

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Mr. Fink - The variance for the building is for detailing?

Mr. Esposito - Yes.

Mr. Fink - Do you have a problem restricting the use to detailing?

Mr. Esposito - It is absolutely for detailing and we are moving the whole operation inside to help abate noise.

Mr. Fink - The variance that would be granted would be for detailing and should you want to change the use you would have to come back to change the use.

Mr. Prego - Do you have enough room to pull into the bay with the propane pump? There are no issues?

Mr. Esposito - There are no issues.

Mr. Prego - The sideyard already exists?

Mr. Esposito - Correct.

Mr. Graney - Is this opened on both ends?

Mr. Esposito - Yes, you can drive through.

Mr. Fink - You are putting it on the same footprint?

Mr. Prego - You are going from 2 bays to 4 bays...

Mr. MacDonald - From semi-temporarily to permanent...

Mr. LeDuc - Correct.

Mr. Graney - The vacuums you are removing...

Mr. LeDuc - Yes, we are removing them and it will be a central vacuum inside the building.

Mr. Esposito - Right now the existing structure is open on each end and with the proposed building any noise that will be coming out of the building will be out towards the existing carwash not towards the existing residences.

Mr. Prego - If the noises are restricted to the hours of operation then it is really not our concern. We have already resolved the hours of operation and now we are resolving the sideyard variance which already pre-exists.

Walter Thompson, 24 Orchard St. played a recording of the noise from the carwash. He stated that the noise was recorded at 2:24pm today.

Mr. Prego - They are eliminating the outdoor space which creates more of the noise. We are talking about a variance that already exists.

Mr. MacDonald - This new building should reduce the noise.

Mr. Thompson - Will there be any doors or windows or any openings on the south side of the building?

Mr. Prego - The only openings are the entrances.

Mr. Esposito - On the west side.

Mr. Feldner - The noise is extremely penetrating, is there some type of restriction on the building like with to reduce noise? It will help that there are no windows on the south side of the building.

Mr. Fink - Does detailing produce noise?

Mr. Prego - That noise is from the garages, they are air tools.

Ms. McNelly - It is very difficult to separate each one of the separate activities that goes on within the gas station, service station, car wash, vacuums and detailing shop. You need to imagine it is one big piece and not separate the buildings. When we start looking to change the setbacks regardless of the ownership we are really looking to change the very essence of how we maintain the Village. The new setbacks for a carwash is 400ft. from a residential neighborhood.

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Mr. MacDonald - The setback has already been established and there is already a structure there that is just being replaced by a better structure.

A MOTION was made by John Prego, seconded by John MacDonald and carried to close the public hearing. (3 Ayes)

The Board went through the criteria's;

- 1) Undesirable Change - No - the existing structure is a detail shop and the new construction is for the same purpose and will enclose the operation creating a visual improvement and presumably will reduce noise associated with the operation.
- 2) Achieved by another method - The benefit of moving the building 8ft. or so would be diminimous at best.
- 3) Substantial - The proposed structure is replacing an existing structure at the same distance from the sideline.
- 4) Adverse Effect - No
- 5) Self-Created - Yes

A MOTION was made by John Graney, seconded by John Prego and carried to declare this an Unlisted Action with no adverse effect under the SEQR process. (3 Ayes)

A MOTION was made by John Prego, seconded by John Graney and carried to grant the area variance as advertised with the restricted use to be a Detail Shop. Any other use will require a modification from the Zoning Board of Appeals. (3 Ayes)

A MOTION was made by John Prego, seconded by John MacDonald and carried to adjourn the meeting. (3 Ayes)

Respectfully submitted;

Maureen J. Evans,  
Zoning Board of Appeals