

September 22, 2010

A MEETING OF THE PLANNING BOARD of the Town of Ossining was held in the Ossining Operations Center, 101 Route 9A, Ossining, New York, on the 22nd day of September 2010. There were present the following members of the Planning Board:

Gregory McWilliams, Vice Chair
Dennis Kirby
David Krieger
Deborah Cohen

Absent: George Weeks, Chairman
James J. Vanoli, Town Engineer

Also Present: Wayne Spector, Town Attorney
David Stolman, Frederick P. Clark Associates, Inc.
Sandra Anelli, Secretary

ZAPPICO CAR WASH, 558 North State Road, Site Plan Approval

Mr. McWilliams acknowledged receipt of letters from Victoria & Ronald Trainham, 55 Gordon Avenue, dated September 16, 2010 and an email memo, dated September 22, 2010 from Pamela Finewood, on file and reviewed by the Board. Copies attached.

Mr. McWilliams reported that for this meeting he is acting Chair, Mr. Weeks was unable to attend and Mr. Vanoli, Town Engineer was not in attendance. Mr. McWilliams asked Mr. Zappi to present any new changes to the plan and noted that Mr. Stolman will provide a review memo. Mr. Zappi gave a brief description of the modifications which remove the two single-family homes proposed at the Gordon Avenue portion of the site and shortened the front of the carwash building to comply with zoning setbacks.

Mr. Stolman submitted and reviewed with the Board a memo titled, Proposed Zappi Carwash, dated September 22, 2010. It was determined that the sound levels from the drying blowers exceed the limitations in Chapter 130 Noise, of the Ossining Town Code, which was discussed at an earlier planning board meeting. In light of this, the applicant intends to eliminate the drying blowers and plans to employ the towel drying of cars instead. The plans should also indicate that the vacuum hoses on site will be connected to a central unit which is internal to the car wash building in order to minimize the noise from vacuuming. Mr. Zappi noted that an example of this sound would be similar to a central vacuum unit in a residential home. Residents from Gordon Avenue and neighbors along North State Road were in attendance, they expressed a great deal of concern with regard to the noise generated from blowers and vacuums, additionally noise that can be created from idling cars waiting to enter the car wash tunnel.

Mrs. Victoria Trainham, 55 Gordon Avenue noted that the General Business zoning ordinance is vague and asked if a car wash is in fact an allowable structure in this zone. She noted that most of the allowable uses listed are office buildings and retail stores. In response to Mrs. Trainham, Mr. Spector expressed that given certain precedences that exist in the Town and other uses and other interpretations, a combination of an interpretation of the language of the code and points that were raised regarding the language in the code is not clear. In a situation where there is some ambiguity, it is not construed in favor of denying the use. It is actually construed the other way around. Mr. Spector relayed that the Town did take a very extensive look at this use and in the end concluded that the Town could not support a position that it was not allowable. If it was strictly prohibited in the code, there wouldn't be an issue. That is not the case.

Mr. Stolman added that in another zone, Neighborhood Commercial NC, it specifically excludes automobile laundries, but GB zone does not. He referred to Section 200-18 A., 11. Motor vehicle sales establishments, service stations and repair garages, subject to the following special requirements: (a) No such use shall be permitted to be established on a lot that is within 2,500 feet of another lot on which a building permit has been issued for the construction of an automotive use.

Mr. Trainham asked if that complies with Scott Motors (currently vacant SAAB dealership) across the street. It was an automotive use. Mr. Rudy Albrecht, 552 North State Road, said that he measured that distance from the proposed car wash to the other one (Prestige), it was 742 feet, well within 2,500 feet. However, the site where Prestige currently operates was approved for construction of a new building and site plan. The proprietor of Prestige said he would be relocating. Mr. Albrecht asked that it be measured from Baccari's Auto, if Prestige is going out. In his opinion, Baccari's is just as close.

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Mrs. Trainham asked if environmental study has been done. In response to Mrs. Trainham, Mr. Stolman noted an environmental assessment form, other environmental studies, and a storm water analysis was done, which the Town Engineer could best explain and address these questions. Mrs. Trainham also asked about exhaust from cars, traffic, noise, and hours of operation. The plans show 7:00 a.m. to 7:00 p.m., specific days of the week need to be addressed.

Ms. Sandra Dellano, 593 North State Road, inquired if there will be a convenience store inside the building. Mr. Stolman indicated if the retail portion, even if expressed specifically by Mr. Zappi, were to change from one type of retail to another it still can be always be used as retail. Ms. Dellano asked how this fits in with the comprehensive plan to re-zone North State Road. She asked if General Business is going to change to something different. She said that 10,000 cars currently drive through just for Club Fit, the car wash will just add more to that. Mr. Spector outlined that the Planning Board can only address the current zoning as it exists, the Town Board implements the zoning, as long as it is in compliance, the applicant has a right to put the application in before the Planning Board. Ms. Dellano also asked if the minutes of the Planning Board and Zoning Board can be posted on the internet. Discussions are underway to provide minutes online.

Mr. Zappi offered the audience to ask him any questions about the plan and to discuss with him with any concerns they may have with drainage, sewer, or retaining walls, in the neighborhood. He offered to work with homeowners in the area to correct any trouble areas where ponding may occur now. Mrs. Trainham reiterated the fact that Mr. Zappi relayed to the Zoning Board of Appeals that the plan was not viable without the single-family provision. Mr. Zappi noted that the seller recently offered the property at a more affordable rate due to economic circumstances.

Mr. Albrecht said if twenty-two cars come in after a snow storm, there will be a great deal of water runoff. His property and the Trainham's property are much lower than this site. He asked if it is detergent nutrient runoff law compliant. He said his yard is a bog, it is always under water when it rains. He has a well. This will negatively impact everything in his life. Because of the way the GB and Residential zoning line is drawn, the car wash will intrude into the residential portion of the neighborhood and everyone in the neighborhood will be severely impacted by the noise, water runoff, and air quality. Mr. Zappi relayed that the project is DEC Compliant, and it is a 95% efficient car wash. Mr. Albrecht expressed strong opposition to the project overall. He asked the Board to consider the residents who have lived in the area all along. Mr. Stolman again noted that the Engineer is normally available to answer all of the questions relating to environmental runoff and drainage issues.

Mr. McWilliams noted that the project has not yet been approved and all of the comments tonight are taken into careful consideration by the Board. It is a work in progress, it is being analyzed and there are rules and regulations with regard to many of the issues noted such as hours of operation, advertising, signs, flags and banners, lighting, being discussed.

Mr. David Behrendt of 8 River Parkway asked that if this is an ongoing process, and the Board can't delay or hold back because there are certain rules about when this has to get done, what is the desired or proposed end date for this process? He expressed that as a community planning administrative board, if it was determined that there would be a detrimental effect on the property value and the homes of this area, how would the Board take that into consideration, or would the Board only follow the letter of law? Mr. McWilliams noted that there is no specific end date set at this time and both sides are considered. The Board would like to try and come up with the best solution for this project.

Ms. Sabrina Albrecht, 552 North State Road asked if the retail uses are closely monitored. In her opinion, if retail items such as beer and liquor are sold, it would impact the neighborhood differently than the retail sale of car wash items, like soap and car fresheners. She also expressed that if the mountain (which she referred to as Rock Mountain) is altered in any way, would the builder use dynamite for blasting, and if so, this would bring a serious impact to the homes and the environment.

Mr. McWilliams noted that this meeting was not a formal public hearing, however; all Planning Board meetings are open to the public. The input given by the residents was constructive and appreciated. A public hearing can be set for October 13, 2010. Ms. Cohen made a motion, seconded by Mr. Krieger to set the Public Hearing for the Zappico Car Wash application, October 13, 2010.

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MISCELLANEOUS

At a preplanning meeting held earlier in the week, a prospective buyer of 589 North State Road met informally to discuss the possibility of a plan for a Proposed Dog Care Facility. A sketch and a preliminary plan were submitted. The facility includes grooming, massage, hydro therapy, and several fenced-in dog runs. Application and general description of operations were not available. After review and discussion, due to the nature of the facility, which is primarily day care and possibly housing dogs overnight on occasion, it was determined that it may require an interpretation by the Zoning Board of Appeals.

MINUTES

A motion was made by Mr. Krieger, seconded by Ms. Cohen and unanimously approved to adopt the draft of minutes of the September 1, 2010 meeting of the Planning Board.

ADJOURNMENT

There being no further business to come before the Planning Board of the Town of Ossining, Mr. Krieger made a motion, seconded by Mr. Kirby that the meeting be adjourned to October 13, 2010.

Time noted 9:45 p.m.

Respectfully submitted,

Sandra Anelli

Sandra Anelli, Secretary
Town of Ossining Planning Board

APPROVED: October 13, 2010

September 22, 2010

RECEIVED

Victoria A. and Ronald N. Trainham
55 Gordon Avenue
Briarcliff Manor, New York 10510
(914) 762-3497

SEP 17 2010

Building & Planning
Town of Ossining

September 16, 2010

Ms. Catherine Borgia, Town Supervisor
16 Croton Avenue
Ossining, New York 10562

Dear Ms. Borgia:

We are writing this letter in response and as a follow-up to the July 12, 2010 Zoning Board Meeting. Applicant Zappico Car Wash submitted plans to build a HUGE car wash structure/retail space (entrance from 558 North State Road) as well as homes on the back end of the property with an entrance from Gordon Avenue. In order to build these structures the applicant requested that three (3) significant variances be granted. The zoning laws are clear and ***kudos to the Zoning Board for not approving the variances.***

The property in question is property that is unbuildable (exact words from the applicant's attorney) without these variances. This is not our problem, nor is it the responsibility of the Town of Ossining to grant variances just so that someone can turn a large profit. The applicant has a history in our neighborhood of doing just that. He will tell the Boards (Planning and Zoning) that he owns in the neighborhood, but the truth is he does not LIVE in the neighborhood – he is at best “an absentee landlord”.

It also needs to be mentioned that the water table, while very high where the subject property is located, has stayed contained for all of the 37 years we have lived in the neighborhood. And although the applicant insists he is adding storm drains, it is a fact that any disruption to the natural flow of water is a recipe for disaster.

The applicant's plans are smoke and mirrors and bastardize the property in question; the reality is a white elephant, creating large amounts of car exhaust, noise and a deterrent to our beautiful neighborhood. There are ordinances that protect our quality of life and these need to be remembered.

Our neighbors and us request that the property in question, 558 North State Road, be cleaned up immediately by the current owner. The house is deteriorated; the property is a dump yard for construction equipment and garbage and, in fact, has not been

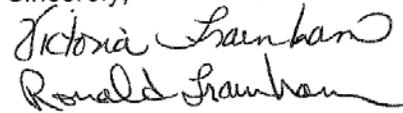
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maintained in years. For the first time in 37 years we are seeing **rats** in our beautiful neighborhood. I am sure the owner is in violation of many ordinances which should be adhered to.

While we sympathize with the plight of the small business owner in these difficult economic times, we will not endorse structures that do not compliment our neighborhood. **If the applicant continues to pursue the car wash plan with the Town, we request to be informed immediately, so that we have every opportunity to legally defend our neighborhood.**

Sincerely,



Victoria and Ronald Trainham

Encl.: photos of 558 No. State Road property

cc: Wayne Spector, Town of Ossining Attorney
John Hamilton, Building Inspector
Salvatore Carrera, ZPA Chairman

Zoning specialty attorneys:

Mt. Kisco – Shamberg, Marwell, Davis and Hollis
White Plains – Cuddy Feder (Joe Carlucci)

Article 78 is what attorney's applicant files w/state when they think that the town has exceed their authority and did not take everything into consideration.

September 22, 2010

Sent via DROID on Verizon Wireless

-----Original message-----

From: "Finewood, Pamela M " <pamela.m.finewood@citi.com>
To: "'finewoodoco@aol.com'" <finewoodoco@aol.com>
Sent: Wed, Sep 22, 2010 17:01:41 GMT+00:00
Subject: FW:

We are writing this email with regards to the Car Wash being proposed on North State Road. We are ten year residents of the local community as well as local business owners. We are in complete **opposition** of this proposal for the following reasons:

Safety Hazard - North State Road is not a road that can accommodate the build up of cars that would ultimately wait along the road for their turn. There are many residents especially children that walk along North State Road and our fear is how this proposal will endanger our residents especially children using the walk way. A car wash in a predominately residential neighborhood is a safety hazard.

Traffic Congestion - As this is proposed to be a high volume car wash why is it not being proposed on a high volume road? North State Road is a two lane road built for light traffic. Again the road is not capable of being used for high volume car business without major safety and traffic concerns.

Pollution - The exhaust/pollution from cars idling would be detrimental to the community in a variety of ways. An idling car emits an enormous amount of carbon monoxide, nitrogen oxide, sulfur dioxide and benzene. All which are extremely dangerous to inhale - imagine putting that cloud over a residential area filled with children. The result would be increased respiratory infections, asthma, and cancer rates. Again this proposed site is surrounded by homes filled with children. A major health concern for anyone living in the surrounding area.

Noise level - The noise level of the industrial blowers and machinery would be incredible disruptive. The decibel level of a car wash can be associated with a diesel train traveling at 45 mph. The noise would be continuous and very disruptive. That is not appropriate for a relatively quiet business and residential area. The noise would without a doubt reduce the quality of working and living for all in the area.

Environment - As the proposed parcel of land has been a home historically it is a concern that a large complex would increase the amount of flooding that impact some of the neighboring homes. Drainage from a car wash and from the complex is a major concern as well.

No need - While we are aware of the existing hand car wash/car care on North State Road there is no comparison to what is being proposed. The existing car care business is an auto detailing business not a high volume car wash. The car wash along Route 9 (four lane - high volume road) was just re-done and a car wash is opening in Millwood on Route 100 (four lane -high volume road) in the near future. There is no need for a car wash when 2 exist - less then 2 miles away.

We would hope that the developer would have done that proper studies such as how the proposal would affect the environment (air pollution), safety issues for pedestrian traffic, auto traffic patterns, noise levels, and current flooding issue many homes on Gordon Ave face when there are heavy rains.

North State road while zoned for light business is surrounded by residential neighborhoods on all sides and the home owners far outweigh the number of business owners. A car wash is a very noisy and traffic inducing business.

Thank you for taking the time to read our concerns. It was our hope to be their in person however we have another obligation.

Pam and Richard Finewood
42 Gordon Ave