

**ZONING BOARD OF APPEALS
TOWN AND VILLAGE OF ARCADE
Village Office - 17 Church Street, Arcade, New York 14009
Town Office – 15 Liberty Street, Arcade, New York 14009
Village Office 585 492-1111
Town Office 585 492-4685**

At a meeting of the Zoning Board of Appeals of the Town and Village of Arcade held on Monday January 18, 2021 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York: We are running this as a joint in person and Zoom Conference Call as authorized by Governor's Executive Order

PRESENT:

Jeff Snyder, Lee Ameis, Doug Eigenbrod,

ABSENT: Mike Sonner Jr, Tim Sonner

OTHERS PRESENT:

Michelle Karpinski, Michael Lococo, DeAnna Hyche, Dan Meyers, Jeffrey Mason, Ginger Comstock, Jim & Sheila Vrenna, Paul Bijhouwer, Brian Gross

The Chairman opened the meeting at 7:00 P.M.

APPROVAL OF MINUTES:

MOTION by Lee Ameis, seconded by Doug Eigenbrod and was unanimously carried, to accept the minutes of the meeting of December 21, 2020.

PUBLIC HEARING FOR AREA VARIANCE APPLICATION, SBL NO. 183.14-1-43.1, SUBMITTED BY MICHAEL LOCOCO, REQUESTING PERMISSION TO OPERATE A BUSINESS OUT OF HIS RESIDENCE-HE IS TRYING TO GET HIS FFL LICENSE FOR FIREARMS TO OPERATE A SMALL BUSINESS CONSISTING MAINLY OF TRANSFERRING OWNERSHIP OF FIREARMS AS DESCRIBED BY LAW AT 64 PARK STREET, NOT IN COMPLIANCE WITH SECTION 412.R2 DISTRICT-(LOW DENSITY RESIDENTIAL WITH PUBLIC SEWERS) IN THE VILLAGE ZONING LAW, NOT PERMITTED BY RIGHT.

MOTION by Lee Ameis, seconded by Doug Eigenbrod and was unanimously carried, to open the Public Hearing for Michael Lococo, SBL#183.14-1-433.1 was called to order at 7:05 pm.

No one in audience had any questions.

Chairman Snyder asked if the Board limited it to allow transfer of firearms without retail inventory and allow for Gunsmith services would that be enough to get Michael's FFL License. Michael said he believes so.

MOTION by Doug Eigenbrod, seconded by Lee Ameis and was unanimously carried, to close the Public Hearing for Michael Lococo, SBL#183.14-1-433.1 at 7:09 pm.

USE VARIANCE APPLICATION, SBL NO 183.14-1-43.1, SUBMITTED BY MICHAEL LOCOCO REQUESTING PERMISSION TO OPERATE A BUSINESS OUT OF HIS RESIDENCE-HE IS TRYING TO GET HIS FFL LICENSE FOR FIREARMS TO OPERATE A SMALL BUSINESS CONSISTING MAINLY OF TRANSFERRING OWNERSHIP OF FIREARMS AS DESCRIBED BY LAW AT 64 PARK STREET, NOT IN COMPLIANCE WITH SECTION 412.R2 DISTRICT-(LOW DENSITY RESIDENTIAL WITH PUBLIC SEWERS) IN THE VILLAGE ZONING LAW, NOT PERMITTED BY RIGHT.

MOTION by Lee Ameis, seconded by Doug Eigenbrod and unanimously carried, to approve the the application for the Area Variance Application, SBL No 183.14-1-43.1, submitted by Michael Lococo, to allow Gunsmith services and transactional sales at his location with a stipulation of no open storefront at location.

Board Members' Reason

Jeff Snyder voted Yes- I believe he is doing this to provide a personal service to the residents of the Village/Town of Arcade. I think this will also help to control the guns in the Village/Town of Arcade through responsible ownership.

Doug Eigenbrod voted Yes - I do believe he providing a service

Lee Ameis voted Yes- I agree he is providing a service that is not in the Village at this time and definitely for the better of the Village.

PUBLIC HEARING FOR A SITE PLAN PERMIT APPLICATION, SBL #193-2-6, REQUESTED BY BROADWAY GROUP, LLC TO CONSTRUCT A COMMERCIAL BUILDING WITH ONLY A 17FT SETBACK NOT IN COMPLIANCE WITH THE TOWN ZONING FOR L1/HC DISTRICT: LIGHT INDUSTRIAL, HIGHWAY COMMERCIAL WITH A 50FT MINIMUM REAR SETBACK AT LIBERTY STREET, ROUTE 98, ARCADE, NY.

MOTION by Lee Ameis, seconded by Doug Eigenbrod and was unanimously carried, to open the Public Hearing for Broadway Group LLC, SBL#193-2-6 was called to order at 7:13 pm

1. Jeff Mason, 222 Liberty St., Arcade

The Village/Town have adopted a Zoning ordinance and carefully thought out the front, sides, and rear setbacks and 50ft is there for a reason. The difference between 50ft and 20ft is a huge difference. I have driven past this several times and didn't notice the retention pond in the back because it is mowed, it looks like the property just keeps going back, but it doesn't. The idea of squeezing a store in there is too big of a variance for what's in our zoning. I came to the Planning Board last week to voice my concerns about the speed limit, and that's not for your Board to get involved in. I cannot see granting a Variance for something like this, I'm assuming there are properties elsewhere and this company that wants to build the store has done a market analysis and knows there is a market someplace around here. Why can't they go to a place that meets the Zoning requirements or a Town with no zoning. I would be very much opposed to a Variance like this. Thank you.

A Response from DeAnna Hyché (Broadway Group-Development Manager)

If you have the site layout the parcel is a narrow and directly behind the site is a retention Pond owned by TPI. DeAnna reached out to TPI and they told her of the retention pond So nothing can be built beyond the proposed site, if Broadway Group gets approval for The setback it would never affect anyone in back of the site. Originally the driveway was on the south side of the lot, as per the DOT due to a pole that would need to be moved. The Planning Board has voiced concerns and talked to the DOT and Broadway Group has a second drawing that will shift the building and parking lot over to the middle of the lot, that way the neighbors on both sides will be equal distance to the proposed store Unfortunately, with the switch of the driveway and building location changes the setback to 17ft in instead of the original 20ft back setback..

Chairman Snyder spoke and explained to Mr. Mason that we do have setbacks in place to Protect adjoining neighbors and since nothing can be developed in the back of site, Due to the retention pond. Chairman Snyder asked Mr. Mason if that made him Feel better about the setback and Mr. Mason responded with no.

2. Dan Meyers, 11 Madison Ave, Arcade
Represents his parents at 209 Liberty St
Represents a sibling at 7974 Rt. 98s

I object to this variance and agree with Mr. Mason's statements. We have zoning in place for particular reasons or anyone could do what they please without having any regards to anything except for their own agendas. Before purchasing the property the developer had access to our zoning laws, instead they chose to put in all the time and effort and run with presumptions and arrogance in my opinion rather than wait for the approval. It's not for us to prove why they don't get a variance; it's up to them to why we need to allow them the variance. And, from what I have seen they have not done that. We are not creating a hardship for them it is self-imposed and it is something that should have been brought up before they started the project. I totally agree that our zoning is for 50ft and the variance well exceeds that amount. Thank you very much for your time.

DeAnna Hyché from the Broadway Group replied to Mr. Meyers, we have not bought this property and would never make the assumption that we would get permitted. We did reach out to the proper authorities and they thought that the variance would be manageable because the property is a very narrow piece of land from the Zoning setbacks for that parcel. The owner of the property has little ability to sell this property. The narrowness of the property is not a hardship and there is nothing behind the property to be inconvenienced, furthermore we have made every effort to add privacy fencing and additional shrubbery added to the sides to give the neighbors some more privacy. I would respectfully disagree with Mr. Meyers, we are doing everything we can to meet the needs of this parcel within your ordinance. So, having said that we did reach out to TPI in an effort to purchase additional land to make this parcel bigger but that was not an option. We did look at other properties in the area, but based on metrics and availability this was the parcel available at the time in your part of the Country.

Mr. Meyers commented, if this variance is approved for this project it sets a precedent for future developments for any unsellable properties in the area to come in to make the same arguments.

Chairman Snyder pointed out that when we put Zoning Laws into effect, not everyone understands that having a Board like this is a requirement because not everything falls into the basic Zoning Laws, we do require that some things in Law are changed. In going thru the history of Arcade, several properties that have been issued variances for different reasons and we need to weight the difference the Law we adopted and what is in the best interest of the community and people. That is what we are doing here today trying to balance it out and the proposed property will not have anything developed behind it, my opinion is don't see how that would interfere with the variance itself, this is where we need to be somewhat flexible. One of things we as a Board looked at other properties available and they would have taken them out of the Town's tax base and that would be a deterrent to the Town, so we do have to weigh the interest of all parties.

Mr. Meyers asked the Board if they can take this into consideration, a well-established manufacturing company (TPI) that several years ago was looking at an expansion project, and for whatever reason it was tabled, but who's to say it will not be done in the future. Back when they were looking into the expansion they would have more retention for runoff water and given the location on the South side building they would have to go to the North with their water retention system. And, because they have been a part of our community for so long I think we should give them the benefit of the doubt for future expansions.

Chairman Snyder stated TPI does know about the proposed project.

DeAnna Hyche said she spoke with TPI's CEO, Mr. Burns and it was discussed that they own a great deal of land behind the proposed site and behind the retention pond so if expansion is considered at a later date they would have adequate amount of land needed.

3. Ginger Comstock via Zoom- she was in support of Mr. Mason's concerns.
4. Sheila & Jim Vrenna via Zoom-they were also in support of Mr. Mason's concerns and Wondered how the car traffic would be affected. She asked how many parking spots would be available at the Dollar General and how much traffic the store would generate.

DeAnna Hyche responded by saying there are 31 parking stalls and the type of store is not Considered a destination location, it is a type of store that averages a 10 minute visit and at any given time you could see a handful of cars and at the average peak hours, based on stores across the Country it could be 8 to 10 cars in the parking lot. We are working with the DOT on access for this development and the engineer has been very involved with approval for this project and at no time has this particular store trip any indication of additional traffic, this type of store will draw in the cars already going by and not type of store to draw additional traffic to the point that you would notice.

Mrs. Vrenna asked how many trucks will come into the facility.

One semi-truck will deliver once a week a week depending on the volume could be twice a week at times. There are several box trucks (example Little Debbie) they would have 5 or six deliveries per week.

5. Don Robert's wanted to state that they have several stores in the Wyoming County area and there have been no complaints about car traffic increasing. This is exactly the kind of store that is permitted and zoned for that location (HD/LI, Light Industrial, Highway Commercial) it is a permitted use and the only reason they are before the Zoning, because of the rear setback. Some comments that Don has from the Planning Board meeting that Broadway Group, LLC is going the extra mile for the first Concept plans and as well on the second Concept Plan thus reducing any side yard concerns and headlight concerns for to the adjacent properties next to them. The Planning Board is really in favor of talking to

The DOT and seeing about moving the building location and driveway in the middle of the Lot so equal between both adjacent properties, the Planning Board has tried to eliminate any issues of adjoining properties and with the Concept #2 that the Planning Board is in favor of it, that creates not a 20ft setback but now it is 17ft. I point out that we know what the property behind it is and it undevelopable property due to retention pond and ask the Zoning Board to reduce the rear setback up to and not exceeding 17ft, so then the Planning Board can then decide if they are going with Concept #1 or Concept #2, depending on the DOT clearance. Thank you.

6. Paul Bijhouwer-Chairman of Planning Board, thanked Don Robert's and said he summarized the opinions of the Planning Board. The Planning Board is in favor of Concept #2 and it does create a 17ft setback, but it is beneficial for the adjoining properties. The Planning Board is LEAD Agency on this project and made a negative declaration and the Zoning Board just needs to find any additional findings.
7. Lee Ameis-Zoning Board Member would like to say I think it has been very well put that this fits the use of the Zoning that it was intended for and us as a Board are here to look at the rear setback but the people that are here, where I live I could be in the same situation by being next to a big field that is Highway Commercial and I being in a Residential area non-conforming use that is Grandfathered in and I get what you are saying and I sympathize with you but as a member of this Board and what we are here to rule on is that setback and with non-developmental behind it and that being undevelopable and just a retention pond it makes it a harder decision to take the personal part out of it and do what we are here to do as the Board.

Chairman Snyder asked if there were any more comments or questions. There was none.

MOTION by Doug Eigenbrod, seconded by Lee Ameis and was unanimously carried, to close the Public Hearing for Broadway Group, LLC, SBL#193-2-6, at 7:43pm.

SITE PLAN PERMIT APPLICATION, SBL #193-2-6, REQUESTED BY BROADWAY GROUP, LLC TO CONSTRUCT A COMMERCIAL BUILDING WITH ONLY A 20FT SETBACK NOT IN COMPLIANCE WITH THE TOWN ZONING FOR L1/HC DISTRICT: LIGHT INDUSTRIAL, HIGHWAY COMMERCIAL WITH A 50FT MINIMUM REAR SETBACK AT LIBERTY STREET, ROUTE 98, ARCADE, NY

MOTION by Lee Ameis, seconded by Doug Eigenbrod and unanimously carried, to approve the Application for the Use Variance Application, SBL No 193-2-6, submitted by Broadway Group, LLC, asking for up to and not to Exceed a 17ft setback.

Board Members' Reason

Jeff Snyder voted Yes- I believe this project fits it with the plan for Arcade and recommended by the Planning Board to move forward with it. I can see where we can reap benefits from the business being located in the limits of Arcade both by tax basis and possible employment of local people.

Doug Eigenbrod voted Yes – I believe the property behind the building is unusable and won't have any effect on that property at all.

Lee Ameis voted Yes- I approve the setback variance with just looking at the setback, retention pond and un-developmental property that it will not create a hardship for the adjacent property.

ADJOURNMENT:

There being no further business brought before the Board, the meeting adjourned at 7:48 P.M. upon **motion** by Doug Eigenbrod , seconded by Lee Ameis and unanimously carried. The next regular meeting of the Zoning Board of Appeals of the Town and Village of Arcade will be held on Monday, February, 2021 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

Respectfully submitted,

Michelle Karpinski
Secretary