

TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – March 19, 2009

A regular meeting of the Zoning Board of Appeals of the Town of Sweden was held at the Town Offices, 18 State Street, Brockport, New York on Thursday, March 19, 2009, commencing at 7:00 p.m.

Members present: Frank Fisher, Pauline Johnson, Ken Reid, Mary Ann Thorpe

Absent: Peter Sharpe

Also present: Don Payne, Jim Pappas, Jim Hamlin

Chairman Reid called the meeting to order, introduced the Board members and read the notice of public hearing for:

Application of CountryMax, Victor, New York, for an area variance to operate a CountryMax Farm and Garden Center at 4875 Lake Road, Brockport, New York. The proposed open space is 26.13 percent. Per Town of Sweden Ordinance Chapter 175-41, Section E (6), Open area requirement is 30 percent.

4875 Lake Road

Mr. Donald Payne addressed the Board. He explained that application has been made to renovate the old Bob Johnson Ford dealership into a CountryMax store. After several Planning Board meetings, a determination was made that the property had to conform to code because it was a pre-existing, nonconforming site that had been left vacant for over a year.. Mr. Payne showed the plan referencing the proposed open space in blue. The initial plan utilized the parcel to the north to calculate the greenspace requirement. CountryMax is not interested in purchasing the northern parcel, and thus, made application for subdivision approval. The building size and required parking spaces have brought us to the ZBA for an open space variance. Initially, the southern parcel had 16 percent greenspace, and adjustments were made to obtain the proposed 26.13 percent. The additional square footage increased the open space almost all around the perimeter of the site.

Mrs. Johnson asked Mr. Payne to show the Board where the 17 parking spaces were eliminated. Mr. Payne showed the location on the map.

Mr. Payne discussed the criteria for granting an area variance.

- undesirable change in the neighborhood character or to nearby properties
The open space has been increased and the existing building updated.
- whether benefit can be achieved by other means feasible to applicant
Open space was added as much as possible while still maintaining the parking space requirement.
- whether request is substantial
The request is less substantial with all the improvements made to the open space.
- whether request will have adverse physical or environmental effects
There are no negative impacts to the environment.
- whether alleged difficulty is self-created
No additional building is being built; the applicant is working with the existing lot.

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Mrs. Thorpe asked if Arjay would continue to be the owner of the northern parcel. Mr. Payne stated yes.

Mr. Fisher asked how much square footage is equal to 4 percent. Mr. Payne stated 2 percent is about 3,500 sq. ft. so about 7,000 sq. ft. Mr. Fisher added the only alternative to increasing the open space would be to eliminate some of the parking, which is not possible, or purchase additional property, which is a financial burden. Mr. Payne stated that is correct.

Mrs. Johnson confirmed that the plan shows a 7.5 ft. buffer requirement. The Clerk stated it is a requirement and it has been met. Also, Mrs. Johnson asked if the front display has been calculated as part of the open space. Mr. Payne stated yes, that it was a suggestion from the Planning Board.

Mrs. Johnson asked what would be included in the display. Mr. Payne stated plants, etc.

Mrs. Johnson asked if the store was open in the winter. Mr. Payne stated yes, the store is open 12 months.

There were no other questions. Chairman Reid closed the public hearing.

Moved by Mrs. Johnson, seconded by Mrs. Thorpe, that having reviewed the CountryMax application for an open space area variance, is an unlisted action which will not have a significant impact on the environment.

Mr. Fisher – Aye
Mrs. Johnson – Aye
Mrs. Thorpe – Aye
Chairman Reid - Aye

Moved by Mrs. Johnson, seconded by Mrs. Thorpe, to **approve** the application of CountryMax, Victor, New York, for an open space area variance of 3.87 percent to remodel the commercial building at 4875 Lake Road, Brockport, New York, tax account number, 083.02-1-17, for the following reasons:

1. An undesirable change will not be produced in the character of the neighborhood.
2. The benefit sought by the applicant cannot be achieved by another method other than an area variance for the following reasons:
 - It is not economically feasible to purchase additional land.
 - Additional blacktop cannot be eliminated due to the minimum number of parking spaces required.
3. The requested area variance is not substantial.
4. The proposed variance will not have an adverse effect on the physical or environmental conditions of the neighborhood. It is actually improving the proposed open space from 16.5 percent to 26.13 percent.
5. The alleged difficulty is not self-created as the building is pre-existing, nonconforming.

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Moved by Mrs. Johnson, seconded by Chairman Reid, to approve the February 26, 2009 minutes as amended:

Change Mrs. Thorpe's vote from Abstain to Aye

Mr. Fisher – Aye
Mrs. Johnson – Aye
Mrs. Thorpe – Aye
Chairman Reid - Aye

The meeting was adjourned by motion at 7:45 p.m.

Clerk to Zoning Board of Appeals