

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – November 1, 2022**

A meeting of the Zoning Board of Appeals of the Town of Sweden was held at the Sweden Town Offices, 18 State Street, Brockport, New York on November 1, 2022, commencing at 6 p.m.

Members present: Robert Carges, Kevin M. Johnson, Pauline Johnson, Mark Sealy, Mary Ann Thorpe.

Also present: Nat. O. Lester, III, ZBA Counsel; Jon Long, Long Talley Engineering, P.C.

Chairperson Thorpe called the meeting to order at 6 p.m. and asked everyone to say the Pledge of Allegiance.

Application of Diana Petranek, 1900 Transit Way, Brockport, New York, for an area variance. Applicant is proposing to construct a 9,000 sq. ft. addition to the existing structure located at 1900 Transit Way, Brockport, New York, in a Light Industrial Zoning District. A loading dock is proposed on the east side of the parcel with a 35 ft. side yard setback where 50 ft. is required.

Customer Service Solutions – 1900 Transit Way

Jon Long, Long Talley Engineering, addressed the Board. He explained he is representing Custom Service Solutions, a light manufacturing business located at 1900 Transit Way. The applicant is proposing a 9,000 sq. ft. addition for manufacturing and warehouse space as well as to consolidate the temporary structures onsite into one permanent structure.

Mr. Long added a loading dock is proposed on the east side of the building with a side yard one setback of 35 ft. where 50 ft. is required. The west side of the building was proposed for the loading dock but due to the proximity of the existing building and the grading of the neighbor's property, it was not feasible.

Mr. Long stated there are parking enhancements shown to meet the twenty-three space required per code. The business owner needs twelve parking spaces for employees who work on different shifts. With twenty-three parking spaces proposed, a variance is not needed for parking. The existing 6 ft., 3.5-inch landscape buffer was discussed with the Town Engineer at the Planning Board meeting on October 24, 2022. A 7.5 ft. perimeter buffer was requested, which is shown on the revised plans. A final determination still needs to be resolved for the required side yard setback to the parking lot.

Ms. Pauline Johnson explained that after researching the code, the 7.5 ft. buffer is for Retail-Commercial zoning and not Light Industrial zoning, however, there is a minimum side setback requirement of 10 ft. from the parking lot to the side and rear lot lines. The original approved plans for this development in 1990 show the 10 ft. side yard setback to the parking lot.

Ms. Pauline Johnson asked if Mr. Long was aware of when the approved 10 ft. was modified to 6 ft., 3.5 inches. Mr. Long stated his client purchased the property in 2014 with the 6 ft., 3.5-inch side setback and has made no parking improvements. The only improvements made were the addition of the temporary structures for storage. The owner received a survey of the property when purchased, which shows the 6 ft., 3.5-inch side setback. Mr. Long will request a copy of the survey. The Clerk checked in the file and found a zoning letter issued from the Town that the property was zoned properly and that no violations exist.

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Ms. Pauline Johnson asked if the parking lot were moved to meet the 10 ft. side yard setback requirement, would the approximate 21 ft. drive aisle be satisfactory for truck traffic to the loading dock. Mr. Long stated the aisle width would be wide enough for tractor trailers and fire trucks, however, the required drive aisle width is 24 ft., which would require a variance. Parking spaces are required to be 10 ft. by 20 ft. The farthest the side setback could be moved would be 9.3 ft., which would still require a variance.

Ms. Pauline Johnson stated she would like to see the above issues resolved before proceeding with the granting of the variance for the loading dock.

The Board discussed what the next steps are for this application. Should a new variance be requested for the existing side setback of 6 ft., 3.5 inches, or for a smaller drive aisle width. If the variance is for the existing side yard setback, then the plan does not have to be changed for the Planning Board's approval.

Mr. Long will discuss the above options with the owner to avoid incurring costs for a pre-existing condition. The owner has an aggressive plan outside the Planning Board's decision, which involves moving forward with the building design. If the loading dock must be moved, then the entire site plan would have to be changed. If the variance request for the loading dock is not approved, it does not matter what the side yard setback or the drive aisle width is. Most likely, the building addition will not be built as the loading dock was proposed on the west side of the building and it did not work due to the elevation, then on the back of the building, but too much impervious surface would be added to the property. The only place that it will work is where it is proposed on the east side.

Ms. Pauline Johnson suggested to the Board that the loading dock variance be approved pending the resolution of the issue with the side yard setback to the parking lot. This way a lot of money will not be spent because of the aggressive building plan until a second variance for parking is granted. Mr. Long stated that engineering comments still need to be addressed with the Town Engineer to obtain planning approval. The major hold up is the granting of the loading dock variance.

Discussion took place as to how soon another hearing could be held. The granting of tonight's variance would be contingent upon the granting of a new variance for a reduced drive aisle width or the existing side yard setback to the parking lot.

Mr. Kevin Johnson asked if there was any discussion of buying additional land from Mr. Daniel Hogan, owner of the property to the east. Mr. Long is not aware of any communication with Mr. Hogan. Buying additional land would increase the cost of the project and require more time to obtain resubdivision approval from the Planning Board.

Counsel Lester added that the only variance that can be approved tonight is the loading dock variance because it was the only one advertised in the legal notice. Also, it is important to note that the applicant did not expand the parking lot, it was like that when purchased or pre-existing. Mr. Kevin Johnson asked if it was important to clean up the pre-existing, nonconforming parking issue. Counsel Lester stated it would benefit the applicant down the road if the property was ever sold. It could cause a problem with bank financing. Counsel Lester added the loading dock could

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be approved with the condition that the second variance is granted. A new legal notice would have to be completed for a variance to reduce the drive aisle width or the existing side yard setback to the parking lot.

Mr. Sealy would be more concerned with a reduced drive aisle width due to the tractor trailer traffic. Ms. Pauline Johnson indicated that the future owner of the property may prefer more buffer between the properties. Mr. Carges stated the property to the east has been vacant for thirty years and could remain that way another thirty years.

The Board informally discussed granting a variance for the side yard setback to the parking lot would be a better decision than to grant a variance for a reduced drive aisle width because of safety reasons.

There were no more questions.

Moved by Ms. Pauline Johnson, seconded by Mr. Carges, that the public hearing be closed.

Chairperson Mary Ann Thorpe – Aye
Mr. Robert Carges – Aye
Mr. Kevin M. Johnson – Aye
Ms. Pauline Johnson – Aye
Mr. Mark Sealy – Aye

Ms. Pauline Johnson offers the following resolution and moves for its adoption:

Having reviewed the application and Short Environmental Assessment Form of Diana Petranek, Custom Service Solutions, for an area variance to construct a 9,000 sq. ft. addition to the existing structure located at 1900 Transit Way, Brockport, New York, in a Light Industrial Zoning District where a loading dock is proposed on the east side of the building with a 35 ft. side yard setback, 50 ft. is required, will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Seconded By Mr. Robert Carges and duly put to a vote, which resulted as follows:

Vote: Chairperson Mary Ann Thorpe – Aye
Mr. Robert Carges - Aye
Mr. Kevin M. Johnson – Aye
Ms. Pauline Johnson – Aye
Mr. Mark Sealy – Aye

Motion carried.

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Ms. Pauline Johnson offers the following resolution and moves for its adoption:

That the application of Diana Petranek, Custom Service Solutions, 1900 Transit Way, Brockport, New York, for a 15 ft. area variance to construct a 9,000 sq. ft. addition to the existing structure located at 1900 Transit Way, Brockport, New York, in a Light Industrial Zoning District where a loading dock is proposed on the east side of the addition with a 35 ft. side yard setback, 50 ft. is required, tax account number 084.01-1-1.115, *be approved* for the following reasons:

1. An undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties by the granting of the variance.
2. The requested area variance is not substantial.
3. The proposed area variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood.
4. The alleged difficulty was not self-created because the elevation of the property to the west side prohibited the loading dock from being constructed there.
5. No one appeared for or against the variance.
6. This is a conditional approval upon the resolution of the side yard setback to the parking lot for 6 ft., 3.5 inches, where 10 ft. is required by December 31, 2022.

Seconded By Mr. Mark Sealy and duly put to a vote, which resulted as follows:

Vote: Chairperson Mary Ann Thorpe – Aye
Mr. Robert Carges – Aye
Mr. Kevin M. Johnson – Aye
Ms. Pauline Johnson – Aye
Mr. Mark Sealy – Aye

Motion carried.

A public hearing date of November 17, 2022, at 6 p.m., was agreed upon by the Board for the side yard setback to the parking lot variance request.

Moved by Ms. Pauline Johnson, seconded by Mr. Carges, that the minutes of April 21, 2022, be approved.

Chairperson Mary Ann Thorpe – Aye
Mr. Robert Carges – Aye
Mr. Kevin M. Johnson – Aye
Ms. Pauline Johnson – Aye
Mr. Mark Sealy – Aye

The meeting was adjourned by motion at 7:35 p.m.

Respectfully submitted,
Phyllis Brudz
Zoning Board of Appeals Clerk