

MINUTES
BOARD OF APPEALS
VILLAGE OF THOMASTON

May 7, 2020

PRESENT: Nick Toumbekis, Chair
Michael Nikrooz, John Pschenica, Lawrence Greengrass, and
Lawrence Levy, Members
Denise Knowland, Village Clerk
Linda Earley, Deputy Village Clerk
Brian S. Stolar, Village Attorney

Due to public health and safety concerns related to COVID-19, and pursuant to the Governor's Executive Orders, including, without limitation Orders 202.1, 202.10 and 202.15, the meeting and public hearings were held by videoconferencing, through Zoom. The meeting was recorded and a transcription will be provided at a later date.

The hearing notices for the applications provided the method for public participation, including the opportunity to submit comments through electronic mail before and during the hearings, or through Zoom videoconferencing during the hearing. The Zoom sign in information was provided in the hearing notices. The applicants presented their applications through Zoom videoconference. Upon the completion of the presentations for the respective applications, the Board asked whether any person sought to make a public comment on the respective application. As provided in the hearing notices, public comment could be made either by participating in the Zoom meeting or by submitting comments by email before or during the meeting.

The application materials were made available for viewing and downloading, on the Village website, before and during the application.

The Board called the meeting to order at 7:15pm.

The Board opened the public hearing on the application of GPK Restaurant Enterprises Corp, 607 Northern Boulevard, Thomaston, New York, to construct interior renovations, which requires variances of the following Village Code sections: (a) Village Code §203-125, in that there will be 34 parking spaces, where 56 parking spaces are required; (b) Village Code §203-65(A), in that four (4) parallel parking spaces are proposed in the front yard, where only pedestrian seating, pavement for entry walkways and for pedestrian use and access driveways to the street shall be permitted in a front yard; (c) Village Code §203-66(A), in that there is no landscaping or solid masonry wall in the last 15 feet of the rear yard, where the last 15 feet of the rear yard are required to be devoted exclusively to landscape screening and a solid masonry wall; (d) Village Code §203-127, in that no loading spaces are provided, where a minimum of one (1) space is required; (e) Village Code §203-62(F), in that a portion of the interior of the restaurant premises will be used for counter and bar services, where no such use is permitted. A restaurant use is permitted with permission of the Board of Trustees, but counter services and bar uses are specifically excluded as accessory uses to a restaurant use. In addition, the applicant seeks to maintain a wall sign and ground signs, which requires variances of the following Village Code sections: (a) Village Code §203-85.7(B), in that: (i) three (3) ground signs face Northern Boulevard, where only one (1) such ground sign is permitted; (ii) a ground sign (sign number 2) is 57.2 square feet and 10.5 feet in height, where a maximum of 30 square feet and 9 feet in height is permitted; (iii) a ground sign (sign number 3) is 34.9 square feet and 17 feet in height, where a maximum of 30 square feet and 9 feet in height is permitted; and (iv) a ground sign (sign number 4) is setback 10 inches from a street line and 0 feet from a residential

district boundary, where setbacks of 3 feet and 100 feet, respectively, are required; and Village Code §203-85.7(A), in that a wall sign has a vertical length of 35 inches and a horizontal length of 192 inches, where a maximum of 24 inches and 141 inches, respectively, are permitted. Premises are designated as Section 2, Block 143, Lot 477 on the Nassau County Land and Tax Map.

The application was presented, via Zoom, by Peter Takvorkian and Don Sclare. The hearing was recorded, and a transcription will be provided at a later date. Upon the completion of the testimony of the applicant's representatives, the Chair inquired whether any member of the public sought to comment and whether the Village had received any email comments. No member of the public sought to speak and the Deputy Village Clerk advised that no comments were received by email.

On motion duly made by the Chair, seconded by Mr. Levy, and adopted unanimously, the Board closed the public hearing, and reserved decision.

The Board noted that notice of the application has been provided to the Nassau County Planning Commission in accordance with the streamlining agreement between the Village and the County, and the Planning Commission has not sought a full referral of the application.

The Board discussed GPK's application for a variance of Village Code §203-62(F), to permit a portion of the interior of the restaurant to be used for counter and bar services, where no such use is permitted. The Board stated that it had received a copy of a proposed resolution determining that the proposed use is an Unlisted Action under SEQRA, that the Board is the lead agency, and that the proposed use is not likely to have a significant environmental impact. On motion duly made by Mr. Greengrass,

seconded by the Chair, and adopted unanimously, the Board adopted the following resolution, which had been received previously by the Board members:

WHEREAS, the New York State Environmental Conservation Law and the regulations of the Department of Environmental Conservation as contained in 6 NYCRR Part 617 require review of the possible environmental consequences of various actions under consideration by the Board of Trustees, and

WHEREAS, the Board of Appeals is considering an application to grant a variance of Village Code §203-62(F), to permit a portion of the interior of the restaurant premises at 607 Northern Boulevard to be used for counter and bar service, where no such use is permitted (the "Proposed Use"); and

WHEREAS, the Board of Appeals has considered the nature and impact of the proposed action; and

WHEREAS, the Board of Appeals has reviewed the Short Environmental Assessment Form submitted by the applicant and the potential environmental impacts relating to the proposed use,

NOW, THEREFORE, IT IS

RESOLVED, that the Board hereby finds and concludes that the Board of Appeals is the Lead Agency with respect to environmental impact review of the Proposed Use as defined in the State Environmental Quality Review Act and its regulations, and

(a) the Proposed Use is an Unlisted Action;

(b) the Board has considered that the Proposed Use would not result in any change of use with respect to the subject premises, in that the proposed use has been in place since in or around 1966;

(c) the Board also has considered the following factors and made the following conclusions in respect to its review of the environmental impacts of the Proposed Use:

(i) the Proposed Use would not result in any substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, nor any substantial increase in solid waste production, nor create a substantial increase in the potential for erosion, flooding, leaching or drainage problems;

(ii) the Proposed Use would not result in the removal or destruction of large quantities of vegetation or fauna, substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on a significant habitat area, substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources;

(iii) the Proposed Use would not impair the environmental characteristics of any Critical Environmental Area;

- (iv) the Proposed Use would not conflict with the community's current plans or goals as official approved or adopted;
 - (v) the Proposed Use would not impair the character or quality of important historical, archeological, architectural or aesthetic resources or of existing community or neighborhood character;
 - (vi) the Proposed Use would not result in a major change in the use of either the quantity or type of energy;
 - (vii) the Proposed Use would not create a hazard to human health;
 - (viii) the Proposed Use would not create a substantial change in the use, or intensity of use, of land, including agricultural, open space or recreational resources, or in its capacity to support existing uses;
 - (ix) the Proposed Use would not encourage or attract large numbers of persons to any place for more than a few days, compared to the number who would come to such place without such use;
 - (x) the Proposed Use would not create changes in two or more elements of the environment, no one of which would have a significant impact on the environment, but when taken considered together would result in a substantial adverse impact on the environment;
 - (xi) the Proposed Use would not create substantial adverse impacts when considered cumulatively with any other actions, proposed or in process;
 - (xii) the Proposed Use would not result in substantial adverse impact with respect to any relevant environmental consideration, including noise, aesthetics, traffic, air quality, water quality or adequacy of water supply, drainage, soil conditions, or quality of life in the community in general and the immediate neighborhood in particular;
 - (xiii) the Proposed Use would be consistent with the protection of the environment in the O-B zoning district, in that it would preserve and maintain the existing character of the area;
- (d) the Proposed Use would not have a significant adverse environmental impact; and
- (e) no further environmental review is required with respect to the Proposed Use.

On motion by the Chair, seconded by Mr. Levy, and adopted unanimously, with regard to all variances except the proposed use, the Board declared itself as lead agency under SEQRA and determined that the application was a Type II matter under SEQRA which requires no environmental review.

After further discussion, on motion by the Chair, seconded by Mr. Pschenica, and adopted unanimously, the Board granted the variances, on the conditions that (i) the

signage shall be maintained in good repair and free from damage or disrepair, (ii) landscaping provided along Northern Boulevard in the planting area shall be planted and maintained at a height and density to limit the view of cars parked in the front of the building from view from vehicles traveling along Northern Boulevard, and that such plantings shall be maintained in a manner that is consistent with the aesthetics of the building façade, as determined by the Building Inspector pursuant to a plan provided to the Building Department, (iii) no later than six (6) months after the filing of this decision with the Village Clerk the applicant shall obtain all required licenses and permits; (iv) no later than one (1) year from the date the applicant obtains such permit the applicant shall obtain all required certificates of occupancy and/or completion for the improvements proposed on the plans submitted to this Board, to the extent approved herein; (v) if the applicant requires an extension of time to obtain all required certificates, the applicant may make a written request to the Board to consider an extension, which the Board may consider without a public hearing if the extension request is timely made prior to the expiration of the time period to obtain all certificates, and (vi) all approved and authorized work shall conform to the plans submitted with the application, as authorized by this approval.

The Board opened the public hearing on the application of Qian Kun Zhang, 2 Singley Court, Thomaston, New York, to construct alterations and a second story addition, which would violate the following Village Code sections: (a) Village Code §203-19(A)(3), in that the front yard setback will be 26.42 feet, where a minimum of 27.83 feet is required, and (b) Village Code §203-20, in that the height will be 34 feet, where a

maximum of 30 feet is permitted. Premises are designated as Section 2, Block 334, Lot 46 on the Nassau County Land and Tax Map.

The application was presented, via Zoom, by Frank Capone and Joseph Uchmanowicz. The hearing was recorded, and a transcription will be provided at a later date. Upon the completion of the testimony of the applicant's representatives, the Chair inquired whether any member of the public sought to comment and whether the Village had received any email comments. No member of the public sought to speak and the Deputy Village Clerk advised that no comments were received by email.

During the hearing, the applicant's representatives agreed to reduce the maximum height of the dwelling to 32 feet. Mr. Nikrooz inquired as to the accuracy of the floor area calculation based on his interpretation of the floor area definition in the Village Code, and advised that he will discuss the definition with the Building Inspector.

On motion duly made by the Chair, seconded by Mr. Nikrooz, and adopted unanimously, the Board closed the public hearing, and reserved decision.

The Board noted that notice of the application has been provided to the Nassau County Planning Commission in accordance with the streamlining agreement between the Village and the County, and the Planning Commission has not sought a full referral of the application.

On motion by the Chair, seconded by Mr. Greengrass, and adopted unanimously, with respect to the Zhang application, the Board declared itself as lead agency under SEQRA and determined that the application was a Type II matter under SEQRA which requires no environmental review.

After further discussion, on motion by the Chair, seconded by Mr. Nikrooz, and adopted unanimously, the Board granted the variances, as modified during the hearing, on the conditions that (i) the height of the roof, including any solar panels, shall not exceed 32 feet, (ii) the modification to accommodate the reduced height roof does not permit any extension of the roof line beyond the exterior lines of the roof as depicted in the plans, (iii) no later than six (6) months after the filing of this decision with the Village Clerk the applicant shall obtain all required licenses and permits; (iv) no later than one (1) year from the date the applicant obtains such permit the applicant shall obtain all required certificates of occupancy and/or completion for the improvements proposed on the plans submitted to this Board, to the extent approved herein; (v) if the applicant requires an extension of time to obtain all required certificates, the applicant may make a written request to the Board to consider an extension, which the Board may consider without a public hearing if the extension request is timely made prior to the expiration of the time period to obtain all certificates, and (vii) all approved and authorized work shall conform to the plans submitted with the application, as authorized by this approval.

There being no further business, the meeting was adjourned at 10:18 pm.

THE ABOVE MINUTES WERE FILED IN
THE OFFICE OF THE VILLAGE CLERK
OF THE INCORPORATED VILLAGE OF
THOMASTON AT
TIME: _____ A.M./P.M. on

DATE: _____
(Month) (Day) (Year)

BY: _____
(Print full name of filer)