

**TOWN OF FENTON  
ZONING BOARD OF APPEALS**

IN THE MATTER OF NG  
ADVANTAGE, LLC

**DECISION**

65 – 69 & 93 WEST SERVICE ROAD TOWN OF FENTON  
BROOME COUNTY, NEW YORK

Members Present: Dale Gregory, Chairman  
Timothy Brown, Cynthia Cook, Mikel Lidell, Michael Ward

**FACTS**

A hearing by the Town of Fenton Zoning Board of Appeals was held in the Town of Fenton Town Hall (Gymnasium) on Tuesday, May 23, 2017 to consider issuance of an Area Variance requested by NG Advantage, LLC, hereinafter “NG”. This “Rehearing” addressed a procedural issue raised given the prior decision rendered prior to the completion of the 239 l & m by Broome County Planning. The ZBA voted unanimously to reopen the matter per §150-45-C(13).

The Town of Fenton Planning Board had suggested that a Variance would be required to satisfy the restriction cited within §150-10 D (6) d that would obligate a five foot rear set- back. The (minimal) distance has effectively been achieved by securing a lease with Michael J. Boland yet the parcel limitations create the need for an Area Variance. Considerations involved separation from neighboring park areas and traffic flow. The cover letter from Griffiths Engineering and the initial application were considered to be relevant documents. The requested Area Variance was granted on March 7, 2017 conditional upon stipulations cited in the decision.

Notice of a Public Hearing was published in the Press & Sun Bulletin.

Gerry Myers, COO of NG Advantage, gave a limited overview of the project and operations of NG Advantage as well as site design and considerations.

Residents and concerned citizens were given an opportunity to comment. Joel Luchan, Mr. Bennedetto, Vera Scroggins, Becky Smith, Walter Hang, Joyce Gioia, Tim O’Hare and Tom Homa expressed concerns regarding noise, traffic congestion, health and safety issues and Mr. Hang, of Ithaca, introduced studies produced by his firm – Toxic Targeting – that highlighted several previously identified hazardous material sites or spills or matters under other consideration within close proximity. Victor Furman, Jamin Boland and Mike Grasso spoke in support of the project and pointed out that the ban on pipeline expansion in NY has led to transport methods involving the compression of natural gas such as this facility will accomplish. Similar activity is taking place in Pennsylvania and the feeling was that the jobs and favorable property taxes generated would be a welcome boost to the local economy. They felt the concerns raised by others had been addressed or mitigated. The posted weight restriction presented by the Village of Port Dickinson seemed to be selective obstruction since vehicles in excess of the stated five ton limit have used that section of both the West Service Road and highway access for many years. A letter was submitted in the initial hearing from Ruth Pierpont, Deputy Commissioner for Historic Preservation the NYS Office

of Parks, Recreation and Historic Preservation (OPRHP), who found that this project would have no impact on archeological and/or historic resources.

E-mails or letters were submitted by Gerri Wiley (Owego), Linda Best, Tom and Theresa Tiffany and Christine Tyrell that expressed concerns related to pollution, noise and traffic congestion. Notably, letters by David P. Gill, Superintendent of Chenango Valley CSD were received which primarily highlighted concerns regarding traffic flow, health and safety issues and proximity to school properties and the potential dangers posed to students and residents. Comments (some of which are duplicated) are also included in the lengthy and detailed GML 239 l & m review (ref. BC Case# 239-2017-050) by the Broome County Department of Planning and Economic Development which recommended denial of the project as submitted.

### **DECISION**

**Pursuant to Town Code §150-45, The Town of Fenton Zoning Board of Appeals hereby approves the Area Variance with noted stipulations.**

The Area Variance is approved in accordance with drawings/plans as submitted to the Town of Fenton Planning Board conditional through the life of the lease with Boland. The approval is subject to satisfaction of the further concerns and requirements cited within the 239 l & m review by BC Planning or those of the Town Planning Board.

The Board voted unanimously to classify this as a Type II action under SEQR.

While the ZBA gave due consideration to the substantial objections and subsequent recommendation for denial by BC Planning, those voting in favor based approval on the merits of the Area Variance as requested. The project was viewed as having addressed critical areas pertaining to health and safety and was not detrimental to the essential character of the area. The Variance, as granted, allows the application to proceed within the Site Plan approval process through the Town Planning Board. The many concerns and issues pertinent to the overall site plan and facility operation along with any necessary conditions to be imposed are left to the Town of Fenton Planning Board as lead agency.

Members in Favor: Timothy Brown  
Mikel Lidell Michael  
Ward Dale Gregory

Members Opposed: Cynthia Cook

Dated: May 24, 2017