

**TOWN OF FENTON
ZONING BOARD OF APPEALS**

IN THE MATTER OF
CARRIER SERVICES GROUP NY, LLC

DECISION

1151 HOYT AVENUE
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 on Tuesday, June 20, 2017 to consider issuance of an Area Variance requested by Carrier Services Group NY, LLC, hereinafter “CSG”. The Town of Fenton Planning Board had suggested that a Variance would be required to satisfy the restriction cited within §150-15 D (1) that would obligate one parking space for each 500 square feet of gross floor area (GFA). Documents prepared by Keystone Associates would indicate the GFA to be 378,022 SF.

Additionally, the parcel must be re-zoned by the Fenton Town Board to Limited Industrial (I-L) from the current Residential–B designation for this application to have a valid basis.

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

Kenneth Kamlet, as attorney for CSG, submitted the Application for Variance and reiterated the pertinent issues. He noted that a reduction in the number of obligated parking spaces would result in less impervious surface and resultant stormwater runoff. Considering prior usage, there would be no negative impact to the essential character of the area. Attorney Kamlet indicated that the operations would not entail disposal or recycling; this would be a single shift operation and that anticipated freight movement would range for zero to three tractor trailers per day. Parcel deliveries (UPS, FedEx etc.) would be within normal daily activity. He cited a GSA document that highlights numerous aspects of the parcel including evaluation, remediation efforts and removal of contaminants, easements, covenants and other descriptive features.

The Town of Fenton Planning Board is considered the lead agency and will render any decision or associated filings with respect to SEQRA. An application to the Broome County Department of Planning and Economic Development pursuant to Section 239 1 & m of the NYS General Municipal law was submitted and a review returned that did not identify any significant countywide or inter-community impact but did express an opinion that the project should be contingent on a number of listed elements.

Bill and MaryJo Bowie expressed concerns regarding truck activity and weight considerations as well as traffic impact and routing.

John Kopalek provided some historical perspective regarding both prior use and environmental impact and noted that a great deal of effort had transpired to effect a satisfactory environment remediation.

Tom Tiffany had served on local boards (HEAT) and assisted interested groups to ensure that environmental concerns had been properly addressed. He pointed out that local residents had become accustomed to relative inactivity at the site following efforts to clean it up and rather enjoyed it that way.

Debbie Wilson expressed concern regarding the impact of traffic relative to work shifts and the increasing volume when the projected employment approached 55 individuals. She and John Kopalek opined that it would certainly be nice if an alternative energy provider would seek to establish operations at a site of this nature or otherwise be promoted as an industrial alternative to the diminished manufacturing base of the area. The benefits to the town were discussed including any PILOT provisions arranged through the Agency that would have an impact.

Joel Luchan voiced a general dissatisfaction with recent decisions by the town and associated boards. He felt that there was a conflict of interest within the legal representation posed by HH&K and was assured that this had been discussed, submitted for opinion at the state level and that understandings were in place that would serve to mitigate any repercussions.

David Gill, Superintendent of Schools for the Chenango Valley Central School district, stated the district's concern with traffic flow and desire to impose restrictions or modify the easement pertinent to the parcel and any proposed use.

Nathan VanWhy of Coughlin and Gerhart, attorneys for the school district, affirmed the basis for concern regarding traffic and safety and indicated that the district would pursue relief and hoped that the ZBA would consider factors necessary for issuance of a variance in this matter.

Rick Armstrong, Assistant Town Engineer and Planning Board member, provided insight into activities of the board, review processes and the lengthy discussions that have transpired to date. He detailed some of the sequential steps taken by the board during site plan review and interaction and communication with BC Planning.

DECISION

Pursuant to Town Code §150-45, The Town of Fenton Zoning Board of Appeals hereby postpones rendering a decision.

A motion was made and seconded to postpone a vote on the desired area variance pending an affirmative vote by the Town Board to re-zone the parcel to Limited Industrial. The ZBA also requested that the Planning Board ask the Town Board to re-evaluate the parking requirement within the (I-L) district to lessen the number of spaces/square foot. One space per 5000 SF was suggested for a warehouse operation of this nature.

While a decision may have been formulated to address the requested variance, the prevailing thought was that doing so would involve an inordinate number of conditions and stipulations. Allowing the Town Board an opportunity to provide legislative guidance seemed appropriate.

Members in Favor: Cynthia Cook
Mikel Lidell
Michael Ward
Dale Gregory

Members Opposed: Timothy Brown

Dated: June 26, 2017