

**Minutes of a Regular Meeting of the  
Town of Geddes  
Zoning Board of Appeals  
April 11, 2018**

**DRAFT**

**Members Present:**

David Balcer- Chairman  
David Tortora  
Dominick Episcopo  
Frank Smolen

**Also Present:**

Donald Doerr- Town Attorney  
Martin Kelley- Town Council  
Susan Lafex- Town Council

Chairman Balcer calls the April 11, 2018 meeting to order at 7:00 p.m. and asks for all cell phones to be placed on silent.

All members present

Approval of March 2018 minutes

1<sup>st</sup> – Smolen

2<sup>nd</sup>- Episcopo

All in Favor

Opposed- None

Motion – Carried

Chairman Balcer welcomes Ronald Benedetti to the Board, who was appointed to the Zoning Board of Appeals by the Town Board at its April 10, 2018 Town Board Meeting last night. Mr. Benedetti will join us at next month's meeting.

Chairman Balcer also acknowledged Board member Episcopo who was celebrating his birthday today.

All matters heard by the Zoning Board of Appeals are in the form of a public hearing. Everyone who wants to be heard will be heard.

**Appeal Case # 627-** at the request of Richard E. Roberts, applicant (Richard E. & Robyn Ann Roberts, Owners), for premises located at 126 Copleigh Drive (T.M. # 032.-05-32.0) located in a Residential A: Single Family Zoning District, for an Area Variance to place a 12' x 18' pre built shed in the side yard 6' away from the principle building (home) where 10' is required, and less than the required 5' from the side yard property line, and for such

additional relief as may be necessary or appropriate. Pursuant to Section 267-A of the Town Law and Section 240-11 C. (3) (b) & (e) of the Zoning Ordinance of the Town of Geddes.

Chairman Balcer opens the public hearing.

Chairman Balcer states that he received a phone call from Mr. Roberts earlier today requesting an adjournment due to a medical issue.

Chairman Balcer noted for the record that both he and Member Tortora went to the site and looked at the shed that is already in place and that it appeared to also violate the 5' setback requirement for an accessory structure having a 5' rear yard and side yard setback. He stated that he later went back by himself and took measurements and scaled the size of the shed onto the existing survey that the applicant submitted. Based on his calculations it appeared that the shed was placed approximately one foot from the property line (rear/side yard of lot). The survey submitted by the applicant does not indicate the distance the shed is from the property line and the sketch submitted with the building permit (not drawn to scale) indicates that the shed is 5'8" from the side/rear property line. Chairman Balcer noted that if it is less than 5' the applicant would need a second variance for being too close to property line in addition to the requested 4' variance for having the shed located 6' from the main residence. Town Attorney Doerr stated that he spoke with the applicant earlier this week and told him that if he believed that the shed was located greater than 5' from the property line that he should provide an updated "as built" survey as the survey he submitted with his application was dated June 10, 1987.

Jim Jerome –W. Genesee St, mentioned that it seems odd that the shed is already in place and up before he is asking for the variances. He also pointed out that there has been an unsightly boat on the property for years which is now in front of the shed.

In response, Attorney Doerr pointed out that the reason that the applicant is before this Board seeking an area variance is that Code Enforcement Officer Albrigo sent the applicant a letter informing him that he needed to submit a building permit for the shed he had installed on his property. Upon submission of the permit it was denied for not conforming to the Geddes Town Code. He further noted that any further enforcement action is stayed pursuant to the Town Law pending the outcome of the area variance application before this Board.

Attorney Doerr also stated for the record that Member Episcopo mentioned to him, in terms of full disclosure, that he lives across the street from the Applicant but that he felt he could fairly hear and vote on the application.

Based on the request of the Applicant, Chairman Balcer asks for a motion to Adjourn this case until the May meeting of this Board.

1<sup>st</sup> – Tortora

2<sup>nd</sup> – Smolen

All in Favor

Opposed- None

Motion- Carried

**Appeal Case # 628-** at the request of John Szczech, Applicant (James j. & Arlie S. Carr, owners) for premises located at 3201 W. Genesee St (T.M. # 036.-08-05.1) located in a Residential A: Single Family Residential District, for a Use Variance to operate a bank (Solvay Bank) with a drive through, and for such additional relief as may be necessary or appropriate. Pursuant to Section 267-A of the Town Law for a Use Variance pursuant to Section 240-11 A. & B. of the Zoning Ordinance of the Town of Geddes.

Chairman Balcer opened the public hearing. Chairman Balcer first stated that the ZBA will take lead agency status for the purpose of SEQR and made a motion that for the purpose of the NYS Quality Review Act (SEQR) that this case will be determined to be an Unlisted Action, and will be given a negative declaration, with a finding that there is no adverse environmental impact.

2<sup>nd</sup> Episcopo

All in Favor

Opposed- None

Motion – Carried 4-0

Before asking the Applicant to present their case, Chairman Balcer stated for the record that he has a resolution from the Onondaga County Planning Board dated April 11, 2018 (OCPB Case #Z-18-103), determining that the referral will have no significant adverse inter-community or county-wide implications. However, he stated that the SOCPA Board noted the following comments for the next phase of development which he wished to read into the record:

1. Given the proximity of the residential uses and limited size of the site, the applicant is advised to consider a revised site plan that eliminates the front yard parking and moves the building closer to West Genesee Street and removes one of the drive-thru lanes to allow for a greater buffer between the proposed use and adjacent residential lots.
2. The applicant and the municipality are encouraged to improve the compatibility of this site with the nearby traditional neighborhood through architectural design, materials and scale as much as possible. In particular, the scale of ground and building signage is suggested to be reduced significantly.
3. The Board encourages the Town to consider the addition of sidewalks (and possibly street trees) along West Genesee Street to further improve the compatibility of this site with the nearby traditional neighborhood and foster walkability between residential and nearby commercial land uses. The New York State Department of Transportation strongly recommends that when locating sidewalks along a state road, they occur within the public right-of-way. In this case, appropriation of land to the New York State Department of Transportation would be required and should be coordinated with the Department.

4. The New York State Department of Transportation has determined that the applicant must complete a Traffic Impact Study (TIS) for full build out to meet Department requirements and is required to contact the Department to determine the scope of the study. The applicant must submit the traffic study to the Department for approval and complete any appropriate mitigation as may be determined by the Department.
5. The New York State Department of Transportation has also determined that the applicant must complete a drainage study or Storm water Pollution Prevention Plan (SWPPP) to meet Department requirements verifying that the proposed development would not create additional storm water runoff into the State's drainage system and is required to first contact the Department to determine the Department for approval and complete any appropriate mitigation as may be determined by the Department.
6. The applicant must submit a lighting plan to be approved by the New York State Department of Transportation and the Town to ensure there is no glare or spill over onto adjacent properties or the State right-a- way.
7. The Board notes the existence of longstanding storm water drainage issues on the site and encourages the Town to require drainage plans or careful review of plans for storm water accommodation, especially if a formal Storm water Pollution Prevention Plan is not required.
8. The Onondaga County Department of Water Environment Protection asks that the applicant contact the Department at (315) 435-6820 early in the planning process to determine sewer availability and capacity.
9. The applicant is encouraged to increase the amount of landscaping on site and reduce storm water runoff and improve storm water quality as much as practical by reducing impermeable surfaces and utilizing green infrastructure.
10. The applicant and municipality are advised to coordinate with the New York State Department of Environmental Conservation regarding the removal of any storage tanks on the site and safe development of the former gas station parcel.
11. The applicant and municipality are advised to ensure the following county, state, and / or federal regulations are met for the proposed project:
  - a. State Highway Access and/ or Work Permit- any new or modified driveways and work within the state right-a-way require a highway access and/or work permit from the New York State Department of Transportation.

- b. Permitting for Demolition- per the Onondaga County Department of Water Environment Protection, any and all demolition of buildings requires a permit for sewer disconnects. The applicant must contact Plumbing Control to ensure appropriate permits are obtained.
- c. Offset Plan- Per the Onondaga County Department of Water Environment Protection, the project shall comply with Local Law #1 of 2011([www.ongov.net/wep/uselaws.html](http://www.ongov.net/wep/uselaws.html)) where applicable. Unless it can be demonstrated that anticipated sanitary flows will not exceed previous flows in excess of one sewer unit over prior uses, the applicant must develop a 1 gallon to 1 gallon offset plan/ project in coordination with the municipal engineer to offset new sanitary flow by the removal of extraneous flow and submit a letter confirming the acceptance of the offset plan to the Onondaga County Department of Water Environment Protection.

Chairman Balcer next read into the record a letter report from Town Engineer William D. Morse dated March 28, 2018:

I have briefly reviewed the site plan submitted for the above project, prepared by LJR Engineering and dated March 16, 2018, and have the following comments:

1. No grading plan or lighting plan is included, and the landscaping shown is not determined as to number, size, and species.
2. A SWPPP will not be required provided the actual disturbance is held to less than one acre. However, the plan must show the limits of disturbance and how the undisturbed area will be protected during construction.
3. A drainage study will still be required, which must document no increase in flows from the site after redevelopment. The drainage study must include an assessment of the capacity of the current drywells on the site. An erosion control plan must also be included.
4. There are existing sidewalks on the site. Given the amount of pedestrian traffic in this area, new sidewalks should be provided.
5. There is an existing drainage inlet along Terry Road which is in one existing exit and will be in the middle of the proposed exit. Consideration should be given to having the grate on this inlet reset on a flexible grade ring.
6. The driving aisle on the east side and the Terry Road entrance are wider than the 24' maximum width given in the Town Zoning Regulations. The West Genesee Street entrance is also wider than 24' but this is under the jurisdiction of NYSDOT.
7. While no grading plan was included, the slope on the south side of the parking area will wind up being very steep, probably requiring a retaining wall. The buffer on this side could easily be increased by reducing the width of the driving aisle on the north side of the site 22', and reducing the parking spaces to 18' as allowed by Geddes Code. In fact, I recommend that all the aisles be reduced to 22' and all spaces be reduced to 9'x18' as allowed by code to minimize the additional impervious area.

8. Existing curbing along Terry Road is asphalt. We recommend that new curbing installed along Terry Road and the entrance radius be granite.

Finally, Chairman Balcer read into the record some preliminary comments he received from a member of the Geddes Planning Board stating that while these are not formal recommendations to this Board, he thought he would share them with the Applicant so that they might be able to address some of the concerns prior to appearing in front of the Planning Board at the end of this month.

- 1) A: If possible, I would like to see an actual address rather than a post office box for John Szczech on page 1.
- 2) B (page 2): for Item e, SOCPA probably should be listed, and for Item g, NYSDEC should be listed for its authority over the USTs at the site.
- 3) D.1.b (page 3): The total acreage of the action is listed as 1.1 acres, while the acreage to be disturbed is 0.8 acres. However, there is no demo plan or grading plan so that we can see which area actually is being disturbed; that will be required. If any of the 0.3 “undisturbed” acreage is to be used for equipment laydown, parking, soil storage, or related uses, then it also is being disturbed. Also, we need to know whether the fence along the south border will remain or be replaced.
- 4) D.2.d (page 5): Liquid waste generation is estimated at 200 gallons/day. About how many people are expected to be working there; what size work force does this relate to?
- 5) D.2.f (page 6): Response notes that the site will not have air emissions. How will it be heated?
- 6) D.2.n.ii (page 8): It is noted that anew vegetative buffer will replace the one at present. However, no vegetation plan has been presented, including species and planting plan.
- 7) D.2.p (page 8): The bank will not have any petroleum bulk storage. However, we will need to know how the existing tanks, their contents, and the potential for subsurface contamination is being managed, and what party will be responsible for their management. If there are reports or communications with the NYSDEC, we would like a copy, and the name of the NYSDEC contact if there is one at this time.
- 8) E.1.b (page 9): There is insufficient detail in the drawings to be able to confirm what acreage the applicant is including in each of these metrics.

Chairman Balcer states for the record and for the purposes of full disclosure that he knows Mr. Szczech from when he worked at Grossman’s and that he was a client of his in the late 80’s but that he has not seen him since the early 90’s.

Mr. John Szczech then appeared and presented his case to the Board. Appearing along with Mr. Szczech was his attorney, Mr. Jon Petosa and two representatives from Solvay Bank, Mr. Paul Milla, and Mr. Bill Murphy.

Mr. Szczech explained that they are seeking a Use Variance to redevelop the property at 3201 W. Genesee St, demolish the building and tear out the tanks under the guidance of the DEC. He is proposing a 3,210 square feet Solvay Bank building with a drive- thru and 27 parking spaces.

He stated that they had an informal meeting with the neighbors and we are going to meet with them again regarding buffering and site plan. Attorney Doerr stated for the record that the meeting he is referring to was not a formal ZBA meeting and if the neighbors have any concerns that they need to bring them up at the Public Hearings or forward their concerns in writing to the ZBA Chairman. He also cautioned the applicant that it is this Board, with input from the Planning Board that will make the ultimate determination on whether to grant the Use Variance, what conditions and site plan modifications are required.

Mr. Szczech acknowledged that this is not a complete application, and that they still need to submit several additional filings including but not limited to a traffic study and drainage study. He feels they will not be disturbing more than an acre so they will not need a SWPP. Attorney Doerr states that SOCPA is asking for SWPP and it will ultimately be up to the Town Engineer as to whether a SWPP is required.

Mr. Szczech stated that they will also be coming in for a sign variance, he was informed today that he submitted the wrong application. Attorney Doerr clarified that although the proposed building is commercial, since it is being built in a residentially zoned area and they will need to comply with section 240-38 B. (1) of the Code:

**§ 240-38. Signs requiring permits.**

The following signs shall require a sign permit:

\* \* \*

**B. Signs in residential districts.**

(1) For any nonresidential use or building permitted in residential districts: one wall or freestanding sign for each street frontage not to exceed 20 square feet in area. The sign(s) may either be nonilluminated or illuminated by indirect light only. No wall sign or portion thereof shall extend above the first story of the building wall to which it is attached, and no freestanding sign shall exceed a height of six feet measured to the top of the sign or be closer than five feet to a public sidewalk or property line.

Attorney Doerr indicated that in the plans submitted with the application there were two wall signs and two pole/monument signs so if they still wanted 4 signs they would need to get a variance for two additional signs and if the pole/monument signs are greater than 6' tall or otherwise did not meet the above, additional variances would be required. He asked that when they submit the sign variance application to please include all proposed signage at the site.

Mr. Szczech stated that they will also be looking to put sidewalks in as mentioned by the Town Engineer and SOCPA.

No additional comments from the Board at this time.

Chairman Balcer then opened the public hearing to those in attendance.

Mark Kolakowski – 166 Alhan Parkway- First he wants to speak in favor of the application and redevelopment of the site. He wants to know why they have to put sidewalks in leading to nowhere. Chairman Balcer responded that the theory is to

provide for the sidewalks with the hope that other properties will be developed. He asked about signage and was informed that the existing signage is non-conforming and that since this is a new project that they will have to comply with the current code. Overall, he thinks it is a great proposal.

Maureen Martin- Parsons Drive, had three concerns/comments:

1. At the informal meeting and SOCPA's suggestion to move the building forward and put parking in the back, that would be a significant change and she hopes the neighbors are notified. Chairman Balcer replied that that is why we have Public Hearings so that neighbors can come in and listen and give their feedback.
2. With regard to the Use Variance requested, it is her hope and desire that the Board limit the scope of the Use Variance since it runs with the land and she hopes it is as narrow as possible so that 20 years down the road when the bank is not there any longer that the use variance be limited.
3. She is in favor of having sidewalks put in along the whole West Genesee corridor and this is a beginning. Chairman Balcer responds that SOCPA is asking for the sidewalks to be built within the State's ROW so there would have to be coordination with the State. Other than that, she thinks it's a great proposal.

Don Schwanke- 124 Timber Wolf Circle, states that the back of his townhouse faces the intersection where this proposal is. He stated that he thinks this proposal is a positive step in the right direction and he hopes that we can do something about the abandoned gas station across the street. He is in favor of the proposal.

Jim Jerome – W. Genesee Street, states that he is in agreement with Mr. Kolakowski's comments and sees no need for sidewalks. He is in favor of the proposal.

Pasqualina Testa- 3202 W. Genesee Street, states that she is directly across from the parcel and that she and her family are in favor of the development and it is an excellent project and the corner needs to be cleaned up. They are a residential home and the proposal is a big commercial entity and is surrounded with other commercial entities and her opinion a use variance is a band aid on a prolonging standing issue in the area. The area needs to be zoned Commercial. It isn't zoned correctly with the traffic that goes thru the area. This proposal will be bringing more traffic in the area and the area needs to be looked at to be rezoned Commercial. Chairman Balcer replies that a Zone change is not in the purview of this Board (ZBA).

Someone from the audience questioned the need for 4 signs as well as the height of the signs and asked that the impact be limited as much as possible by the Board. Mr. Szczech responded that one will be 15 feet high and the other on Terry Road they have cut down to approximately 6 feet.

Chairman Balcer asked the applicant about the site plan with the drive thru canopy with 3 lanes and asks if one is a by-pass lane. Mr. Szczech states that it will be 3 lanes, one is the ATM the second one is the drive thru and if traffic increases the third will also be a drive thru. Chairman Balcer recommends to put a sign notifying the public "Drive thru only-No Bypass" so customers



do not try to cut through the property. Mr. Szczech then spoke about the possibility to increase the buffer.

Chairman Balcer agreed with SOCPA and would like to see more in the way of landscaping and a fence along the back of the property.

Attorney Doerr asked that the applicant and his attorney go over the factors necessary for the Use Variance criteria when the application is ready to be voted on. He indicated for the record that before the meeting this evening he did receive documents from Berkshire Hathaway from the applicant with regard to the first factor of a use variance, reasonable return as indicated by competent financial evidence. The Board recommended that Mr. Szczech get as much information to the Planning Board as possible before their meeting on April 25, 2018 so that when they make their recommendation back to this Board they will have all the information necessary.

Chairman Balcer invited the neighbors to attend the Planning Board Meeting as well as the next ZBA Meeting and/or to present any written comments to him as Chairman of the ZBA.

Mr. Petosa, attorney for the applicant thanked the Board and Town Attorney and stated that he will provide complete and full documents and plans that are required submitted.

With no further comments, Chairman Balcer asks for a motion to refer this application to the Planning Board for their site plan recommendations.

1<sup>st</sup> – Tortora

2<sup>nd</sup> – Episcopo

All in Favor

Opposed- None

Motion- Carried- referred to the Planning Board for their 4/25/2018 meeting.

Chairman Balcer also makes a motion to adjourn the Public Hearing to the next meeting assuming that the Planning Board will have their recommendations back to us.

2<sup>nd</sup>- Smolen

All in Favor

Opposed- None

Motion- Carried

**Appeal Case # 621 and # 618 (Interpretations, Michael Kempisty, Thad Kempisty)**

Chairman Balcer stated that he received correspondence in an email from Michael Kempisty early this am and that he is asking that both cases be adjourned until the May meeting of the ZBA.

Chairman Balcer asks for a motion to adjourn **BOTH** cases

1<sup>st</sup>- Episcopo

2<sup>nd</sup>- Tortora

All in Favor

Opposed- None

Motion- Carried

Chairman Balcer asks someone to make a motion to close the meeting.

1<sup>st</sup>- Smolen

2<sup>nd</sup>- Episcopo

All in Favor

Opposed- None

Motion- Carried

Meeting closes at 7:49 p.m.

Minutes ratified by ZBA Board: May \_\_, 2018

DRAFT