

**TOWN OF SCHODACK - COUNTY OF RENSSELAER - STATE OF NEW YORK
ZONING BOARD OF APPEAL FEBRUARY 11, 2018
CALLED TO ORDER BY: CHAIRMAN CALARCO AT: 7:00 P.M.**

PRESENT

David Calarco, Chairman
Ed Brewer
Anthony Maier
Lou Spada
Attorney Craig Crist, Esq.
Richard Laberge, P.E. Planning Board Engineer
Nadine Fuda, Director of Planning and Zoning

MEMBERS ABSENT

APPROVE MINUTES from JANUARY 14, 2019

Spada moved, Brewer seconded that the minutes be approved as amended

4 Ayes. 0 Noes

Ayes: Brewer, Calarco, Maier, Spada

Oppose: None

Nadine Fuda, Director, read the hearing notice(s) as published in the Troy Record on the following variance application(s):

Stewarts Shops Corp published on February 2, 2019

public hearing open 7:00 p.m.

public hearing closed 8:27 p.m.

Stewarts Shops Corp.

Z778-19/HC/178.-14-5/178.-14-6/178.-14-7

1538/1542 Columbia Tpke.

Proposed - Water quality control Law Waiver

Chuck Marshall, representing for Stewarts shop

Chairman Calarco spoke to the people in attendance on the meeting process.

"On the agenda is Stewarts Shops request for a variance from the Water Quality Protection Law. Let me explain for those of you not familiar with it, just how this process works. This is not a request for a variance from chapter 219 zoning law, but rather from chapter 223 Water Quality Protection, which is a separate town law.

The ZBA is not acting under "Appellate Jurisdiction" where the authority to grant variances is given to the ZBA by state statute but rather, we are acting under what is

called "Original Jurisdiction" where the authority to grant a variance to the Water Quality Protection Law is "originally: given to the ZBA by the town board in the law itself, when that law was written.

223-9A Variance to this chapter shall be pursuant to procedures established in Chapter 219, subject to the following additional requirements.

223-9B Variances to the chapter may be granted by the Zoning Board of Appeals after a review and recommendation by the Planning Board. (The Planning Board shall review whether the health and safety of the public will be protected and the NYSDEC water quality standards will not be violated by any variance.)

And although we follow the procedures established in chapter 219 of the town code, this is not a variance from Zoning law which must meet the requirements under the state statutes."

Chairman Calarco also stated that all public comments need to be germane to the Water Quality Protection law, it is not under the preview of the Zoning board nor will we be considering things that relate to Special permit or Site Plan and that are under the jurisdiction of the planning board. These would include things like traffic issues at the site, actual site plan layout, lighting , noise, economic consideration, alternative sites or the historic nature of the Edwards building. The public will have ample opportunity to address these concerns at the Planning Board's Public hearing.

Mrs. Fuda Read the public notice and apologized that the public notice had an added address listed on the notice.

Resident stated the public notice was read incorrectly and requested that this hearing be null and void until a correct notice can be resent to the public.

It was explained the letters are sent by bulk mail which certifies where the letters are going. And all mailings are done this way and meet all legal requirements and as far as the mistake on the notice chairman Calarco reads the law regarding the noticing.

Mr. Marshall gave a quick status update on the project, they had a meeting with NYSDOT regarding the access configuration and at the next meeting they will have the changes on the map that were requested by DOT and the town. Back in 2015 Stewarts made the same application to the town under the water quality control act for the new Stewarts at New Road and Route 20, what they are proposing to do at the new location at the corner of Sunset Rd. and Columbia Turnpike is upgrade the in ground double walled fuel tanks the same tanks that are in service at their New Road store. The total storage of Fuel will be 27,000 gallons fuel, the break down is 15,000 gal. Reg. gas a 6000 gal high grade and 6000

for diesel fuel. They have been installing these tanks for 16 years and have had no releases into the environment from the tanks.

He spoke about the Laberge Letter (see below) and the stormwater and the grading, catch basins and the oil water separators

Mr. Spada asked about the brine solution between the tanks and how it is monitored.

Mr. Marshall stated it is monitored for volume. Should the solution increase or decrease by any amount the system notifies the home office and the store and shuts the pump down.

Mr. Spada asked how long has Stewarts used these tanks.

Mr. Marshall stated 16 years with no breach to the environment.

Mr. Brewer asked about the number of these tanks that have been installed to date.

Mr. Marshall stated about 200, when a tank upgrade is due that's when they look for a new site and upgrade everything, which is why 1607 Columbia Tpk. is up for the upgrade, the tanks were installed in 1995.

Chairman Calarco asked about the lifespan of the new tanks

Mr. Marshall stated they have been installing them for 16 years and they expect to exceed the 30 years to about 40 years.

Chairman Calarco asked about the average size of a human error at the pump.

Mr. Marshall stated about a 1 1/2 gallons.

Chairman Calarco opened the hearing to the public.

The applicant (Stewarts Shops) brought a stenographer for this meeting, please see attached for resident's comments.

VARIANCE FROM 223 WATER QUALITY LAW

Maier moved, Spada seconded that the Zoning Board of Appeals be **LEAD AGENCY** on the Water quality control Law VARIACNE only.

4 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Maier, Spada

Oppose: None

Brewer moved, Calarco seconded a **NEGATIVE DECLARATION**.

4 Ayes. 0 Noes. Motion carried.

Ayes: Brewer, Calarco, Maier, Spada

Oppose: None

The Board members reviewed the Water quality control Law VARIANCE criteria.

Maier moved, Spada seconded that the area variance be **GRANTED**

Brewer	Calarco	Maier	Spada
Yes	Yes	Yes	Yes

ADJOURN

Spada moved, Calarco seconded that the meeting be adjourned. There being no objections, Chairman Calarco adjourned the meeting at 8:45 p.m.

Laberge Letter dated February 04, 2019

Denise Mayrer , Chairwoman

Town of Schodack Planning

Board Schodack Town Hall

265 Schuurman Road Castleton, New York 12033

Re: Stewart's – SunsetRoad

Update Water Quality Control Act Variance

SPB 2018-34 Town of Schodack Planning Board

We have reviewed the plans and information supplied by the applicant as it pertains to the possibility of a variance from the Town's Water Quality Control Act for the installation of underground fuel tanks. Based upon our review it is our recommendation that the Planning Board make a favorable recommendation to the Zoning Board of Appeals. Furthermore, we find that the applicant's proposed equipment will protect the health and safety of the public and will prevent violation of NYSDEC water quality standards.

MEMBER DISCUSSION February 4, 2019

Clarify Recommendation to the ZBA Site Plan /Special Permit

**Stewart's Shop
1540 - 1538 Columbia Tpke.
Proposed - New Stewarts Shop**

2018-34/HC/178.-14-5 / 178.-14-6

Mrs. Fuda Spoke about the letter from Rich Laberge dated February 4, 2019 (see below) regarding Stewart's recommendation to the ZBA that was voted on, on January 7, 2019 by the planning board. The planning board did a referral to the ZBA on the water quality law and the Laberge letter states that a "Favorable " recommendation to the ZBA should also be completed by the planning board, the letters were just handed to you as the letter came in very late today.

RECOMMENDATION TO THE ZBA (done at the January 7, 2019 meeting)

Shaughnessy moved, Aubin seconded a **referral** to the Zoning Board of Appeals for a waiver from the water quality law.

6 Ayes. 0 Noes. Motion carried.

Ayes: Aubin, D'Angelo, Johnson, LaVoie, Mayrer, Shaughnessy

Oppose None

RECOMMENDATIONS TO THE ZBA (done at the February 4, 2019 meeting.)

Aubin moved, Shaughnessy seconded a **"FAVORABLE"** recommendation to the Zoning Board of Appeals.

6 Ayes. 0 Noes. Motion carried.

Ayes: Aubin, D'Angelo, Johnson, LaVoie, Mayrer, Shaughnessy

Oppose: None

Laberge Letter dated February 04, 2019

Town of Schodack Zoning Board of Appeals

Schodack Town Hall

265 Schuurman Road

Castleton, New York 12033

Re: Stewart's – Sunset Road Update
SZPB # Z778-19
Town of Schodack Zoning Board

Dear Chairwoman Mayrer,

Subsequent to our letter of January 23rd, 2019, the applicant has submitted additional technical information regarding the equipment they have specified for this project. The two pieces of equipment are:

- 1.) Hydro International Downstream Defender (4' Diameter) Hydrodynamic Separator; and
 - 2.) Groundwater Resources, Inc. Eliminator Catch Basin Oil and Debris Trap.
- Under normal flow conditions, the Eliminator prevents oil and grease from leaving the catch basin by minimizing flow from the top portion of the stormwater volume, where oil and grease accumulate. The Downstream Defender is intended to capture the ordinary oil and grease contaminants from parking areas and has a storage volume to capture larger quantities up to 70 gallons. The applicant has designed these units into their plan.

Therefore, given the information in our letter of January 23, 2019 and the equipment described herein that has been specified by the applicant it is our recommendation that the Zoning Board of Appeals can grant approval of this variance request without jeopardizing the health and safety of the public or violating the NYSDEC water quality standards.

Laberge Letter Dated: January 23, 2019

RE: Stewarts - Sunset Road
SZBA # Z778-19
Town of Schodack Zoning Board.

Dear Chairman Calarco:

As part of our project review we have reviewed the information presented by the applicant as it pertains to a potential variance under the Town's Water Quality Control Act to allow petroleum sales. Specifically, we have reviewed the containment aspects of the proposed petroleum storage and fueling facilities with respect to whether the health and safety of the public will be protected and that NYSDEC water quality standards will not be violated by granting a variance.

The applicant proposes gasoline and diesel retail sales. Information regarding the

storage tanks and their containment, double walled piping and sumps has been provided which meets NYSDEC current standards. After review of the information submitted we believe that adequate spill protection and detection is provided for these facilities. The one area that still requires attention is the possibility of spills during the transfer of product from the dispensers during retail transactions.

In order to mitigate the potential contamination from possible spills during these transfers, the applicant will be required to design the fueling area to drain to an oil/water separator. Our office will be reviewing the site plan for this during preliminary and final site plan review.

Therefore, we believe the Zoning Board of Appeals can grant approval of this variance request conditioned upon the containment method above being incorporated into the site plan without jeopardizing the health and safety of the public without jeopardizing NYSDEC water quality standards.

Laberge Letter dated February 04, 2019

Denise Mayrer , Chairwoman
Town of Schodack Planning
Board Schodack Town Hall
265 Schuurman Road Castleton, New York 12033

Re: Stewart's – Sunset Road
Update Water Quality Control Act Variance
SPB 2018-34 Town of Schodack Planning Board

We have reviewed the plans and information supplied by the applicant as it pertains to the possibility of a variance from the Town's Water Quality Control Act for the installation of underground fuel tanks. Based upon our review it is our recommendation that the Planning Board make a favorable recommendation to the Zoning Board of Appeals. Furthermore, we find that the applicant's proposed equipment will protect the health and safety of the public and will prevent violation of NYSDEC water quality standards.