

**PLANNING BOARD
TOWN AND VILLAGE OF ARCADE
17 Church Street, Arcade, NY 14009
Village Office 585 492-1111
Town Office 585 492-4685**

At a meeting of the Planning Board of the Town and Village of Arcade held on Wednesday, October 12, 2011 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York:

MEMBERS PRESENT: Don Suttell, Aaron Felber, Paul Bijhouwer, Rich Kosmerl

MEMBERS ABSENT: Andy Schnitzler

OTHERS PRESENT: Brad and Wendy Mapes, Rose Lawrence, Charles Heslin, Kim and Glenn Capron

The meeting was called to order at 7:00 P.M. by Chairman Bijhouwer.

APPROVAL OF MINUTES:

MOTION by Rich Kosmerl, seconded by Aaron Felber and carried three yes votes to one abstention to accept the minutes of the meeting of May 11, 2011. Paul Bijhouwer abstained as he was not present at that meeting.

THE ZONING BOARD OF APPEALS REQUESTS RECOMMENDATION AND COMMENT ON THE APPLICATION FOR INTERPRETATION OF VILLAGE LOCAL LAW, CHAPTER 64, PARAGRAPH 71 – SERVICE ESTABLISHMENT; SUBMITTED BY CHARLES HESLIN, REGARDING PROPERTY AT 34 LIBERTY STREET, LOCATED IN A NEIGHBORHOOD COMMERCIAL DISTRICT. THE ZONING ENFORCEMENT OFFICER HAS DENIED CERTIFICATE OF ZONING COMPLIANCE, PERMIT NO. 2118, CITING A BOTTLE REDEMPTION CENTER IS NOT A LISTED PERMITTED USE IN THE NC DISTRICT:

The Board reviewed the application and letter from the applicant.

In discussion:

1. It was noted that a mistake was made in the applicant's letter. The applicant stated that bottles and cans are NOT washed at the facility.
2. The applicant stated that everything is stored inside and brought in by the general public. Two separate vendors pick up once a week using a box truck. Pick up takes approximately 45 minutes and is done during regular business hours, usually at 10:00 A.M. and will not disrupt the neighborhood.

3. The Board reviewed the definition of a service establish as per Webster’s Dictionary and Local Village Zoning Law and noted that this business is not producing or selling goods.
4. Although not a listed use permitted by right, Local Law does state “...but not limited to” and a bottle redemption center is not an excluded use.
5. The Board read a letter received in support from Vivian Mosher of Freedom who owns property within 250 feet of the business (see Exhibit 1).

MOTION by Rich Kosmerl, seconded by Don Suttell and unanimously carried to recommend to the Arcade Zoning Board of Appeals that the Planning Board is of the opinion that a Can/Bottle Redemption Center is a “Service Establishment” as per the definition of such on page 10 of Local Zoning Law and the definition contained in the Webster Dictionary. Also in support of this finding, although not a specific listed use permitted by right under Section 420 – Neighborhood Commercial District, the section does state...”and service establishments not more objectionable by reason of noise, fumes, vibration, or lights than any permitted use permitted by right in the NC district.”

APPLICATION FOR SPECIAL USE PERMIT NO. 2122, SUBMITTED BY KIMBERLY CAPRON, REQUESTING TO ESTABLISH A HOME OCCUPATION (BEAUTY SALON) IN HER RESIDENCE AT 169 EAST MAIN STREET:

The Board reviewed the application.

In discussion:

1. The applicant stated the home is located 4 houses up on the left, headed east, from the corner of Main and Water Streets and is the former home of Helen Forest. The Board determined that a beauty salon is a permitted home occupation in this district.
2. The existing room to be used is at the back of the house with a separate outdoor entrance and an inside door dividing it from the rest of the house. It is presently a laundry room. No changes will be made to the interior except the addition of equipment necessary to a beauty salon. All plumbing and electrical is existing. No changes will be made to the exterior.
3. The room is well suited for such and parking is adequate as there will be at most two customers at any given time. It is well suited for pedestrian traffic.
4. The Board completed the Site Plan/Special Use Permit checklist (see Attachment A).
5. SEQR was completed and determined to be a Type II Action under Section 617.5 (c) 15, determined not to have a significant impact on the environment and not subject to further review.
6. A public hearing will need to be held and the application forwarded to the Wyoming County Planning Board (WCPB) for recommendation and comment as this property is located on a State highway.

7. It was noted that the Village Clerk had not marked the application paid. The Secretary stated she would see that it was done.

MOTION by Paul Bijhouwer, seconded by Don Suttell and unanimously carried, to accept as complete contingent upon the application being marked paid, Application for Special Use Permit No. 2122, submitted by Kimberly Capron, requesting to establish a Home Occupation (Beauty Salon) at 169 East Main Street, and further, directed the Secretary to establish a Public Hearing to be held on Wednesday, November 16, 2011 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York and to forward the application to the WCPB for recommendation and comment.

SITE PLAN REVIEW, PERMIT NO. 2121, SUBMITTED BY BRAD AND WENDY MAPES, REQUESTING TO SITUATE A RAILROAD CABOOSE ICE CREAM STAND AT 571 MAIN STREET:

In discussion:

1. The applicants stated that they have purchased a railroad caboose that has been converted to an operating ice cream stand, complete with all equipment. It has been in operation near Erie, PA. since 1991. The purchase included the fully equipped caboose, a shed and deck.
2. The applicants will lease a portion of the property at 571 Main Street from Bob McKerrow and wish to place the caboose in front of the Fastenal business. Mr. McKerrow has signed the applications that have been submitted as property owner.
3. The caboose will be set on stationary railroad tracks in an area that is currently grass. Topsoil will be removed, railroad stone added and tamped, then the ties and rail will be laid. The stone will give proper drainage.
4. There will be no indoor seating. There will be 6 -8 picnic tables outside seating 4 people each. According to zoning the applicant will need one parking space for every 4 customers, thus 6-8 parking spots will be needed.
5. After comparing the aerial photo with the survey, the Board determined that the existing driveway is not 28 feet wide, but 33 feet wide, thus only 11 feet will have the grass removed and replaced with crushed stone to match existing driveway. See the "Proposed Site of Little Red Caboose Ice Cream Stand" information (Attachment B) prepared by the applicants regarding driveway, parking, walkway, electrical, sewer, water and lighting.
6. The concrete slab to the west will be removed and converted to grass (820 sq. feet). With the removal of some grass for parking the increase in hard surface area is negligible (80 sq. feet).
7. The caboose is 10' x 28' in size. Approximate square footage of the caboose, deck and shed is 900.
8. The Board reviewed setbacks in the HC district and all exceed the minimums. This project is a listed use permitted by right.

9. The property is adjacent to the A & A Railroad tracks which run behind the Fastenal building. The A & A Railroad is on the National Historic Registry. It was determined that this project is a Type II Action under SEQR, Section 617.5 (c) 7 and so Lead Agency does not need to be established.
10. The Site Plan Checklist was completed (see Attachment B).
11. The applicants were asked to submit additional information, including transferring plot diagram to an enlarged aerial view.

In further discussion:

1. The applicants explained that the caboose needs to be removed from the property in PA by the end of October when the lease on the site expires. They asked if they could set up just the caboose before the application procedure is complete. No other work would be done. Keeping it setting on a truck until the permitting process is complete is not feasible due to the extreme cost.
2. They have spoken to both the Wyoming County Building Dept. and the Wyoming County Planning Board as well as the ZEO with differing answers resulting.
3. The applicants stated they realize that if the site plan is not approved it would have to be removed. The cost of setup and possible removal would be less than if they had to pay the cost of keeping it on the truck.
4. The Chairman stated that he would speak with the ZEO and try to come to a conclusion and would notify the applicants of the decision as soon as possible.

MOTION by Paul Bijhouwer, seconded by Rich Kosmerl and unanimously carried, to accept as complete Site Plan Review Application, Permit No. 2121, submitted by Brad and Wendy Mapes, requesting to situate a Railroad Caboose Ice Cream Stand at 571 Main Street, contingent upon receipt of the additional information requested by the Board, and further, directed the Secretary to forward the application to the Wyoming County Planning Board for recommendation and comment.

IN OTHER BUSINESS:

Two members of the Board stated they would not be able to attend the regularly scheduled meeting in November. Because of the nature of agenda items for next month, the Board directed the Secretary to inquire if the Boardroom will be available Wednesday, November 16, 2011. If it is available, the Secretary was directed to notify all involved parties and to publish the change of date.

ADJOURNMENT:

There being no further business brought before the Board, the meeting adjourned at 9:22 P.M. upon **motion** by Rich Kosmerl, seconded by Aaron Felber and unanimously carried.

The Secretary was able to reschedule the meeting and as a result the next meeting of the Planning Board of the Town and Village of Arcade will be held on Wednesday, November 16, 2011 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

Respectfully submitted,

Holly L. Almeter
Secretary

Jennifer

Exhibit 1
Planning Board
Minutes
Oct. 12, 2011

**NOTICE OF PUBLIC HEARING
ZONING BOARD OF APPEALS
TOWN AND VILLAGE OF ARCADE**

The Zoning Board of Appeals of the Town and Village of Arcade has scheduled a Public Hearing to be held on Monday, October 17, 2011, at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York. Subject of said hearing: Application for Interpretation of Village Local Law, Chapter 64, Paragraph 71 - "Service Establishment", submitted by Charles Heslin, regarding a Can/Bottle Redemption Business at 34 Liberty Street. Such business is not a listed permitted use in a Neighborhood Commercial District.

All interested persons are invited to attend.

Holly L. Almeter
Secretary

I think this letter was un-necessary and "a waste of money to mail "Certified - Return Receipt" at a cost of \$5.59 when a regular mailing would have been just as good & received in plenty of time (10 days) before the meeting. I don't expect to be in town on the 17th so I'm writing my thoughts now. Every Business in town is a "Service Establishment" so as far as I'm concerned, the can + bottle service is no different if the parking + storage is worked out so as not to cause a problem with traffic. I thought Arcade encouraged Business. At least its better than another Hotel.

Sincerely,
Niven Mosher

Jennifer

Revised 10/13/11

Attachment B

Planning Board
Minutes Oct. 12,
2011

PROPOSED SITE OF LITTLE RED CABOOSE ICE CREAM STAND

Site owned by Bob McKerrrow and Sons 571 Main St. Arcade, NY 14009

To be leased by Brad and Wendy Mapes 36 Allen St. Arcade, NY 14009

716-560-8393 or 716-353-1234

KEY SHEET WITH SPECIFIC INFORMATION:

* Driveway is crushed limestone to run along far right side of island. Parking spaces are angled and are 9'x19' with a parking bumper in front of each which includes an area 18' x 19' for handicap parking, the driveway that runs along the parking area is 24' wide. There will be 2 handicap parking spaces and 8 regular parking spaces for a total of 10 spaces. Additional parking if ever needed could be used on opposite side of caboose in large blacktop driveway or at far rear side of caboose in the other open parking area. (see drawing)

* Walkway is crushed limestone and runs from parking area at 12' wide over to deck and alongside deck at 5' wide to end in front of ramp at 6'6" x 5' wide (see drawing)

* Per info. From Don King electric will run from front left side of island in front of caboose (see drawing)

* Per info. From Al Noble water and septic will "T" off existing line to far left side of island and come to back side of caboose (see drawing)- also see enclosed sheet with acceptance from Dale McKerrrow

* Outside lighting will run along driveway with two lights placed along driveway - deck also has two exterior lights in either outside corner (see drawing)