

TOWN OF SCHUYLER ZONING BOARD OF APPEALS
PUBLIC HEARING: SPECIAL USE PERMIT
VINCENT E. CARINO, JR.: TEMPORARY USED CAR SALES/DISPLAY IN C-H DISTRICT
MARCH 1, 2016 – 6:30 PM

Chairman Ronald J. Beach, Jr. called the meeting to order at 6:30 PM in the Board Room at the Schuyler Town Office, 2090 State Route 5, Utica, NY 13502. Other ZBA Members present were: Judy Parry, Christine Proulx and JoAnn Mammone. Absent was Vice Chairman Joseph V. Aiello, IV.

Also present were Codes Officer Philip Green; Vincent E. Carino, Jr., (the applicant); Town residents Ricky Proulx, Gene Snyder, Matteo Goico and Marianna Carino; and Bette Szesny, who served as Recording Secretary.

CODES OFFICER REPORTS:

Mr. Green stated the applicant is seeking a permit to operate a vehicle sales and display business at 2907 State Route 5, which is located in a C-H (Commercial Highway) zone in the Town of Schuyler at tax map #105.3-1-59. He said this is an allowed use, contingent upon the granting of a permit from the ZBA, as is referenced in Article 8, Section 8.03-D of the Town's Zoning Ordinance.

APPLICANT STATES CASE/BOARD DISCUSSION:

Chairman Beach asked Mr. Carino to step up to the podium and inform the Board his intended business plan. In answer to questions posed by each of the Board members, Mr. Carino stated his business plans include the temporary operation of a used car sales and display dealership at the 2907 State Route 5 location, which is the site of a former restaurant owned by a family member. He said he is a registered (NYS) car dealer. He said the property has only enough room for about 18 cars, and as his business grows, he will need to relocate in order to provide adequate space for the display of additional cars for sale. He said he will be repairing some necessary electrical and structural repairs to the building, but will not be undertaking any physical changes, as the future plans for the building are to reopen it as a restaurant.

HOCPP RECOMMENDATION:

It was noted that HOCPP issued a notification of "No Recommendation" upon their review of this case.

BOARD DECISION/RESOLUTION:

Mr. Beach asked if the Board had any further questions or concerns. There were none. He then asked for a motion.

Motion by JoAnn Mammone, seconded by Chairman Beach to grant the applicant a Special Use Permit to operate his vehicle display and sales business at the proposed 2907 State Route 5 location in the Town of Schuyler. All members present voted affirmatively when polled by voice vote, as follows: JoAnn Mammone: Aye; Christine Proulx: Aye; Judy Parry: Aye; and Ronald Beach: Aye. Motion Carried.

ADJOURNMENT:

Mr. Beach closed the Public Hearing at 6:43 PM.

– Bette Szesny, Recording Secretary

TOWN OF SCHUYLER ZONING BOARD OF APPEALS

**PUBLIC HEARING SEPTEMBER 22, 2016
APPLICATION BY SHIRLEY D. TRIPPLE, TRUSTEE
VARIANCE TO THE ZONING ORDINANCE**

Chairman Ronald J. Beach, Jr. called the Public Hearing to order at 6:42 PM at the Schuyler Town Office, 2090 State Route 5, Utica, NY 13502. Other ZBA members present were Vice Chairman Joseph Aiello, IV, Judy Parry and Christine Proulx. Absent was JoAnn Mammone. Other Town officials present were Codes Officer Philip Green and Bette Szesny, who serves as Recording Secretary.

Those present representing the applicant were Jim Buswell, Joe Tripple, Jr. and Steven Trpple, who was attending to represent the applicant. Also present was Town resident David Tripoli, Jr.

APPLICANT STATES CASE:

Mr. Beach asked Steven Tripple to step up to the Podium. It was then established that Steven is Shirley Tripple's son, and the proposal entails dividing a portion of the Tripple property, which is located at 110 Carder Lane (R-A District) into 2 parcels: 110.00 ft. and 150.00 ft., respectively. The proposed 110 ft. parcel is lacking 40.00 ft. The applicant is therefore seeking a Variance to the Zoning Ordinance. Applicable section of law is referenced under Article 14, Section 14.14-B.

CODES OFFICER REPORTS:

Mr. Green stated he sees no reason to object to this request for a variance.

BOARD DISCUSSION:

In response to questions from Ms. Proulx and Mr. Aiello, Mr. Steve Tripple stated the surrounding property belongs to the Tripple family.

PUBLIC COMMENT:

In response to a question by Mr. Tripoli, it was clarified by Mr. Beach, Mr. Aiello and Mr. Green that the applicants and/or new owners of each property will need to abide by all Town codes regulations for all land uses. For instance, if the barn on the property were to burn down, they could rebuild it without having to apply for a permit, providing the new barn is exactly the same size and in the same location; otherwise, a new permit would be required.

In response to Mr. Tripoli's concerns, certain issues would become a civil matter, such as if the owners found it necessary to infringe on the neighbor's property in order to rebuild the barn.

Mr. Tripoli also asked whether there are any requirements or permits that need to be obtained from the Codes Officer for testing the water or septic; Mr. Green stated he has no authority with regard to these issues, adding that this area of the Town is not served by a public water supply system.

Mr. Buswell, who stated he is a representative of the Community Activates Association in Utica, stated he believes dividing the property into two parcels will be a positive for the Town in that it will generate more tax revenue; however, he asked what guidelines are in place to ensure the new owners' knowledge about their responsibility to obtain the necessary permits for building projects.

Mr. Green stated he oversees all building projects and is available to answer any questions; "just pick up the phone."

There was no additional comment elicited from the Board or the public; therefore, Chairman Beach asked for a motion to act on the application.

BOARD ACTION:

Motion by Christine Proulx, seconded by Judy Parry to approve the application submitted by Shirley Tripple, Trustee, for a Variance to the Zoning Ordinance, to allow for division of a portion of the Tripple property located at 110 Carder Lane (R-A District) into 2 parcels: 110.00 ft. and 150.00 ft., respectively. (The proposed 110' parcel was lacking 40.00 ft.) All members voted affirmatively, as polled by voice vote. Application approved.

HOCPP RECOMMENDATION

For the record, "No Recommendation as to Final Action" was issued by HOCPP.

ADJOURNMENT:

Mr. Beach adjourned the Public Hearing at 6:48 PM.

– Bette Szesny, Recording Secretary

TOWN OF SCHUYLER ZONING BOARD OF APPEALS

**PUBLIC HEARING SEPTEMBER 22, 2016
APPLICATION BY WADE WOLLABER
VARIANCE TO THE ZONING ORDINANCE**

Chairman Ronald J. Beach, Jr. called the Public Hearing to order at 7:00 PM at the Schuyler Town Office, 2090 State Route 5, Utica, NY 13502. Other ZBA members present were Vice Chairman Joseph Aiello, IV, Judy Parry and Christine Proulx. Absent was JoAnn Mammone. Other Town officials present were Codes Officer Philip Green and Bette Szesny, who serves as Recording Secretary.

Also present were Charlotte Dylis and John Dylis and the Applicant, Wade Wollaber.

APPLICANT STATES CASE:

Mr. Wollaber stated he is seeking a Variance to the Zoning Ordinance to allow him to sell and repair firearms in his home located in a R-1 District at 11245 Cosby Manor Road. It was noted that retail sales are not allowed in the R-1 District.

Mr. Beach asked Mr. Wollaber to explain his plans. Mr. Wollaber said he plans to operate this business for a supplemental income.

Mr. Aiello asked to further explain his business plans. Mr. Wollaber said he plans to work out of his home, using one existing room to sell and repair guns. He stated he anticipates having 2 or 3 customers a week, and he has a very large driveway that would well accommodate his customers for parking. He said he has to obtain approval of his application from the Town before he can pursue obtaining his FFS license.

In view of this description, Mr. Green questioned whether these business plans would constitute a "home occupation."

Mr. Aiello agreed, stating it would not be a full time job, and then asked about signage. Mr. Wollaber stated he does not plan to have a sign on his property, he will have no store front, and he will be not be advertising; he will only be recruiting his customers by "word of mouth." He said he will mostly be handling his business on the weekends; he will not be selling gun powders; and he has no intention of putting up a storage shed on his property for business purposes.

In answer to Ms. Parry's question, he stated he is employed at Remington Arms.

Mrs. Proulx asked how often his license must be renewed; Mr. Wollaber stated it is renewable annually, and random periodic inspections are performed, as well. In response to Mr. Beach's question, he stated the room in his home he will be using for his business is approximately 10' x 15'. He stated he will be keeping all the guns in locked storage, eliminating any danger to the public.

PUBLIC COMMENT:

Mr. John Dylis asked if he will be test firing the guns outside. Mr. Aiello said this is not allowed in the R-1 Zone as the requirement of 500' is not met.

Mr. Dylis said in view of the increase in crime in this day and age, he believes a gun shop in this heavily populated area will undoubtedly present a danger to the residents, with break-in's and theft of the guns, and he is totally against approval of this application. He said word that this man sells and repairs guns will soon get out and there will be trouble.

Mr. Aiello stated that NYS mandated safeguards, such as the fool-proof locked storage which the applicant has indicated he will have in place, are strictly enforced by the State and will prevent this situation from happening; in fact, a lot less likely than for "any of us who may own a gun."

Mrs. Charlotte Dylis stated she is absolutely against the approval, as she does not believe any business belongs in a R-1 District. She said this is the most restrictive district in the Town, it is a beautiful residential area, "and we would like to keep it that way." She stated if it is opened up to this business, it will open the door for other types of businesses, as well. She stated she also fears an increase in crime in the neighborhood will result if this project is approved, and protection for the residents is non-existent with only the State Police to answer calls.

Mr. Beach stated Mr. Edward Sergott called to provide his input, as he was unable to attend the hearing. Mr. Sergott stated he is totally against approval of the application.

BOARD DISCUSSION:

Mr. Beach stated he has noted there are already other businesses located in the R-1 District. Mr. Aiello stated if a business was in place prior to the adoption of the Town Zoning Ordinance, it was "grandfathered in," and if that business closes but another business occupies the premises within one year of the vacancy, the grandfather clause carries over to the next owner, which explains the presence of these businesses in the R-1 District, all of which have store fronts and are visible to the public.

There was no further comment or questions for the applicant entertained by the Board members; therefore Mr. Beach asked for the pleasure of the Board. Discussion ensued with regard to the possible tabling of any decision, pending further investigation.

CODES OFFICER REPORTS:

Mr. Green stated he believes this application constitutes a home occupation, as referenced in Section 14.18 of the Town's zoning ordinance. He cited all restrictions / definitions published in this section of the Zoning Ordinance, which he believes have been met, as referenced above in Mr. Wollaber's testimony.

Further scrutiny of this section of law was then entertained by all members, who unanimously agreed Mr. Green's theory is indeed correct.

Mr. Aiello then asked Mr. Dylis to state whether his main concerns involved increased traffic or the risk of crime. Mr. Dylis emphatically stated in view of the rising crime rates everywhere in this day and age, his concerns are focused mainly on the rise of crime in his neighborhood.

Mr. Green stated home occupations are allowed in every district of the Town; Mr. Aiello said this would relate to a hairdresser who operates out of her home and limits her clientele to 3 or 4 customers a week.

Mr. Aiello read the applicable section of law aloud for the benefit everyone. It states the application must meet specific restrictions and is renewable every 4 yrs upon re-inspection of the premises/business operation.

It was established that this application does not need approval by the ZBA; rather, it simply requires a permit to operate a home business to be issued by the Codes officer.

Mr. Green stated he would have the secretary make a copy of the ordinance, and he will require Mr. Wollaber's signature to establish that he has read and understands its content in its entirety; then he will issue Home Occupation Permit, which will be strictly enforced; and if, for any reason, a violation of any condition is established, the permit will be permanently revoked, and the State will be notified.

HOCPP RECOMMENDATION

For the record, "No Recommendation as to Final Action" was issued by HOCPP.

BOARD ACTION:

In view of the above, no Board action for this application was required.

ADJOURNMENT:

Mr. Beach adjourned the Public Hearing at 7:24 PM.

– Bette Szesny, Recording Secretary

TOWN OF SCHUYLER ZONING BOARD OF APPEALS

**PUBLIC HEARING SEPTEMBER 22, 2016
APPLICATION BY LARRY LEGOGRANDE
SPECIAL USE PERMIT**

Chairman Ronald J. Beach, Jr. called the Public Hearing to order at 7:30 PM at the Schuyler Town Office, 2090 State Route 5, Utica, NY 13502. Other ZBA members present were Vice Chairman Joseph Aiello, IV, Judy Parry and Christine Proulx. Absent was JoAnn Mammone. Other Town officials present were Codes Officer Philip Green and Bette Szesny, who serves as Recording Secretary.

Also present were Town resident Brian D'Aprix and the Applicant, Larry Leogrande.

APPLICANT STATES CASE:

Mr. Leogrande stated he is seeking a Special Use Permit to allow him to obtain a building permit to construct a pole barn on his property to house one horse on his property at 331 Bull Road, which is located in a R-A District. It was noted he has less than 2 acres on one parcel of his property, which is the requirement, in accordance with Article 14, Section 14.08-E of the Town's Zoning Ordinance.

Mr. Leogrande stated the combined acreage of his property is actually 7.0 acres which includes an adjacent parcel that is 5.2 acres.

In response to Mr. Aiello's question as to whether the 2 properties are deeded together, Mr. Leogrande stated that due to a condition set by "Niagara Mohawk" which would require him to put up and pay for a power pole, he has not yet combined the two properties into one parcel. If the 2 parcels are separate, then the power company will install and pay for the pole.

In response to a question posed by Judy Parry, Mr. Leogrande clarified the boundaries and stated there is wire fencing that separates the property.

Mr. Beach offered that it appears by the illustrated map submitted, Mr. Leogrande will be constructing the pole barn on the 7 acre portion of his property; Mr. Leogrande responded affirmatively.

Mrs. Proulx asked about fencing for the horse as well as some other issues concerns, as addressed in this paragraph. Mr. Leogrande stated he will be installing electric fencing. Regarding whether the barn would be insulated, Mr. Leogrande said it would not, as a horse does not need insulation even in the wintertime. He said he will also eventually install running water, and the floor will have a concrete strip with stone and a "mask" for the horse. Mr. Leogrande's friend who accompanied him (no name was entered on the sign in sheet) stated they will keep the horse for riding, adding that it is a special horse, it had cancer and has some eye problems for which it is being treated with medicine so they want to keep her close to home now.

CODES OFFICER REPORTS:

Mr. Green stated this is an allowed use with permission from the ZBA. The public hearing provides an opportunity for the ZBA to verify all criteria with a check list of items that need to be in place.

PUBLIC COMMENT:

Mr. Brian D'Aprix stated he is not in favor of approval of this application as the horse will bring rats, flies and "bad smells" to the neighborhood. He generally expressed much disfavor about having this horse for a neighbor and said he believes in the end it will turn out to be a horse boarding facility. He also had complaints about dump trucks constantly going up and down the road, adding that an ongoing feud between the two of them has existed for many years over a number of issues.

Mr. Green stated the issue here is whether the application meets with all the required criteria. He said if it turns into "something else" (other than the allowed use) then he is sure he will hear about it, and it will be appropriately addressed in a court of law.

Mr. Aiello offered that there are checks and balances, and if it turns out to be a boarding place, the codes officer will deal with it then.

BOARD DISCUSSION:

Mr. Beach asked if there was any further board discussion.

Mr. Aiello asked Mr. Leogrande if he harbors any other animals (such as chickens or goats) on his property. Mr. Leogrande stated that he has none.

BOARD ACTION:

There was no further comment or questions for the applicant entertained by the Board members; therefore Mrs. Parry offered a motion to approve the application by Larry Leogrande for a Special Use Permit to allow him to obtain a building permit to construct a pole barn on his property to house one horse. The motion was seconded by Mr. Beach. All members voted affirmatively when polled by voice vote; motion carried.

Mr. Green informed Mr. Leogrande he would be receiving a letter confirming the approval, and that the building permit for the pole barn can now be issued.

ADJOURNMENT:

Mr. Beach adjourned the Public Hearing at 7:48 PM.

– Bette Szesny, Recording Secretary

TOWN OF SCHUYLER
ZONING BOARD OF APPEALS
PUBLIC HEARING – OCTOBER 27, 2015, 6:30 PM
DRAFT MINUTES

CALL TO ORDER

Chairman Ronald J. Beach, Jr. called the meeting to order at 6:33 PM at the Schuyler Town Office Building, 2090 State Route 5, Utica, NY. ZBA members present were Judy Parry, Christine V. Proulx and JoAnn Mammone; absent was Vice Chairman Joseph Aiello, IV. Other Town officials present were Codes Officer Philip Green and Bette Szesny, who served as Recording Secretary.

Members of the public in attendance included the following: James Lange, Theodore S. Lange, Harry Robbins, Joanne & Joseph Nuccio, Joseph G. Stanley II, David Haman, Ricky Proulx and Billy Leary, as well as the applicant, Steve Mancuso. Other members of the public in attendance who did not sign the registry in a legible manner and/or speak during public comment were not otherwise identified and therefore could not be recorded in the minutes.

APPROVAL MINUTES – JULY 16, 2015 GENERAL MEETING & PUBLIC HEARING – SPECIAL USE PERMIT TO OPERATE A BANQUET HALL IN A R-A DISTRICT

Judy Parry referred to the minutes of the July 16th Public Hearing, which stated approval of the application for a Special Use Permit to operate a Banquet Hall in a R-A (Residential-Agricultural Zone) required obtaining a Building Permit. She asked Mr. Green if this was obtained.

Mr. Green stated the plans were submitted, but no checks have been received; therefore the permit has not yet been issued. Mr. Green stated he will be having a meeting Thursday or Friday with the operator of the Banquet Hall to discuss this situation.

Mrs. Parry stated she drove by the establishment last weekend and noticed the deck has been totally completed.

Motion by Judy Parry, seconded by Christine Proulx to approve the minutes; all in favor.

PUBLIC HEARING – APPLICATION BY STEVEN MANCUSO, CONTROLLED WASTE SYSTEMS, INC. TO OPERATE A WASTE HAULING BUSINESS IN A C-H (COMMERCIAL HIGHWAY) ZONE AT 2485 STATE ROUTE 5, SCHUYLER

Chairman Beach asked the Applicant to step up to the podium and state his case.

APPLICANT STATES HIS CASE:

Mr. Mancuso identified himself as vice president of his company, and stated his proposal entails relocating his waste hauling business to the above location in Schuyler, which will provide identical services to that of Fehrer (a waste hauling business which is located directly across from the Town Hall). He stated he plans to purchase the now vacant property owned by Billy Leary (Estate Homes), and the hauling activities will

entail trash pickup for his customers with drop-off at the Oneida-Herkimer Solid Waste Authority; therefore, the trucks will return to the business location empty.

He said he will continue to wash the empty trucks at the Solid Waste Authority's washing facility before returning them to the business location.

Mr. Mancuso stated his plans are to use the building located in the front of the property for his office space, and the large building in the back of the property to house the trucks.

He stated the business has been in operation for 9 years, and he has had many problems with municipalities' denial of his applications and/or disallowing him to operate his business in his proposed location, in some cases after he had already purchased the property, with an array of various reasons given for their denial, and this has resulted in financial losses to his business as well as much personal frustration. He said his current business location in another municipality has not proven to work out very well, for many different reasons. However, upon discovering that other identical waste hauling businesses are located in the C-H District of Schuyler within a mile of his proposed location, he has concluded this venue would be a good match for his business. He said his business operates on a 4-day work week and there is no business activity on weekends. He said he plans to perform all work on his vehicles inside the garage, with the exception of a breakdown that may happen to occur when any said vehicle is parked outside; then it will be necessary to perform any needed repairs outside the garage in order to regain use of the vehicle. He stated he currently has 1000 customers throughout Herkimer & Oneida Counties, including the Utica City School System, and he can provide financial & sales tax revenue information if needed.

BOARD ADDRESSES APPLICANT:

Mr. Beach asked how many trucks he owns; Mr. Mancuso stated he has 2 roll off trucks, 2 residential trucks and a residential delivery truck to deliver & pick up residential containers, as well as some pickup trucks & personal vehicles that will be located on the property. The extra roll off and residential trucks provide for backup in the event another truck is needed.

Mrs. Proulx asked how many days a week his business is operation. Mr. Mancuso said he only operates during the weekdays, and is closed on weekends.

Ms. Mammone then asked the hours of operation, and whether he would be operating 24/7 during his days of operation. Mr. Mancuso stated one truck goes out at midnight and returns at 4 PM daily on weekdays, in order to accommodate the Utica School District's needs for waste disposal. His mechanics regular work hours are from 7:00 AM to 3:00 PM daily, weekdays only, and he operates 4 days a week.

Mrs. Parry asked how long the diesels idle, noting it is unlawful to idle past 15 minutes. Mr. Mancuso responded his vehicles idle no longer than 5 minutes, which is more economical due to the cost of diesel fuel. He stated his vehicles will be kept inside the garage in the winter to keep them warmer.

Mrs. Proulx asked how many employees Mr. Mancuso would plan to locate at the Schuyler facility. Mr. Mancuso stated he has a total of 7, which includes 3 drivers, 2 pickers and 2 office staff.

Mrs. Proulx asked whether a gated fence is planned. She stated 6' fencing is a requirement and asked the applicant to confirm (if the application is approved) that he plans to install 6' fencing, and to provide a date when he plans to install it. Mr Mancuso stated if the application is approved, he plans on just moving all the equipment there and utilizing the outside area for the equipment (trucks & containers). Then after the closing he plans to install the fence.

Mr. Beach stated he would be very concerned about not having the fence in place at the time he takes occupancy of the property. Mr. Mancuso stated he had planned to house his equipment inside the garage until required fencing is installed, as otherwise he would be concerned about security issues.

Mrs. Parry asked whether the existing structure is sufficient enough to hold all the equipment; Mr. Mancuso stated he is confident that it is adequate.

Mr. Green asked when the office staff would be moved to the Schuyler location. Mr. Mancuso stated it would likely be in the Spring (2016).

Mr. Green noted the sales tax issue, expressing his concern that the sales tax revenue would likely be sent to Oneida County if the billing aspect is performed in Oneida County (City of Utica, at the company's current business location); Mr. Mancuso stated his customers are from Herkimer Co. as well as Oneida Co., and it is his belief the customer's address would reflect the sales tax venue. Mr. Mancuso referred to a NYS Sales Tax publication that he said proves his theory.

Mr. Green stated his position that it would be more advantageous to the Town if the entire operation were run from Schuyler from the beginning. Mr. Mancuso stated it would be difficult to move office personnel to the Schuyler facility immediately, due to setup of the fax machines and other equipment.

Referring to the survey map, **Mrs. Parry** asked when the "trees" would be planted. Mr. Mancuso stated the "trees" (as illustrated on the map) are on the outside of the property line, and are only facsimiles intended to define the borders around the property.

Mrs. Parry asked Mr. Mancuso to confirm whether he does indeed plan to place fencing all around the perimeters of the property, and his response was yes. Mrs. Parry asked Mr. Mancuso to verify that in the event fencing is currently not in place, he will install it; his response was again yes.

Mrs. Proulix stated 6' fencing is a requirement per the Town's Zoning Ordinance, and asked the applicant to confirm that he plans to install 6' fencing, and to provide a date when he plans to install it.

Mrs. Parry then asked the Mr. Green to confirm whether the fencing has to be installed around the entire property.

Ms. Mammone interjected that the applicant would most likely want to have the entire property enclosed in fencing.

Mr. Mancuso asked Mr. Billy Leary (current owner of the property) to confirm the current status of the existing fencing on the property as he was uncertain about the back portion. Mr. Leary stated he was not certain.

Mr. Green stated 6' fencing around the entire property is mandated.

In response to comments offered by attending members of the public, **Mr. Mancuso** stated he has never had any codes violations, although there have been many accusations which he then clarified.

Mrs. Parry asked about the 12-midnight to 5 AM schedule. Mr. Mancuso stated this is to accommodate the Utica City School District and creates very little commotion. He said most of the times, trucks are stored in the garage, but in the event a truck parked outside does not start, mechanical work would need to be performed. He said he should not be expected to be forced to keep all of his vehicles inside the garage all the time, as there are instances (for convenience's sake) when they are parked outside temporarily.

Mrs. Parry asked whether a 'berm' should be installed on the property. Mr. Green said he would need to check this out and will make a decision.

PUBLIC COMMENT: Mr. Beach then opened the meeting to Public Comment.

Mr. Joseph Stanley stated there is a creek running alongside the proposed project area. Mrs. Parry asked the applicant for confirmation that the refuse collection trucks would be washed at Solid Waste, and suggested that this restriction be included in the approval.

Mr. Jim Lange directed his question to Mr. Billy Leary, asking who currently owns the property; Mr. Leary stated it was owned by his mother.

Mr. Joe Stanley and Mr. & Mrs. Nuccio joined in the conversation along with with several other members of the public in attendance who live close-by to the proposed waste hauling facility, stating they do not want the application to be approved, as they do not want to live side of or near a refuse removal company, citing environmental as well as aesthetic concerns. Many members of the public in attendance soon became engrossed in conversations with each other relating to their concerns about the impact on the neighborhood and diminished property value, among other worries created by a waste hauling business locating in close proximity to their homes and properties. It therefore became necessary on several occasions for Mr. Beach, Mr. Green and eventually, all of the ZBA members to make efforts to bring the meeting to order.

Conversations between members of the public in attendance and the ZBA members ensued, with public comment directed at the ZBA membership expressing their objections to the application. Concerns with regard to excessive noise connected to operation and/or maintenance of the trucks during the night time hours disturbing neighbors' sleep in addition to environmental, health and aesthetic concerns, were expressed by many residents in attendance. With regard to the noise issue, Mr. Green stated there is no longer a "noise ordinance" in the Town.

Mr. David Haman asked whether the Town Board could over-ride the ZBA's decision; he was informed the ZBA has the final say; the Town Board has no power over the ZBA's final decision.

Mr. Beach, Mr. Green and Mrs. Parry informed the public in attendance that the application meets with the guidelines for approval, as is documented in the Town's Zoning Ordinance, but that certain restrictions can -- and in this instance, must -- be imposed in order to assure the safety, health and welfare of the neighborhood and the community will be protected.

Chairman Beach closed the Public Comment session, and asked the pleasure of the board regarding this application.

ZBA ADDRESSES APPLICATION:

Mrs. Parry stated the property should have 6' of privacy fencing all around; Mrs. Proulx agreed.

Due to concerns expressed about the possibility of oil tanks buried in the ground, **Mr. Beach** asked Mr. Green whether a DEC inspection could be arranged; Mr. Green stated that is not the Town's responsibility.

Mrs. Parry stated the Town's Zoning Ordinance contains requirements for drainage patterns, and questioned whether this would apply to Mr. Mancuso's application, in order to avoid drainage into the creek that may create a negative impact on the environment.

Mr. Beach said this would involve a berm to be placed around the property, and asked the applicant whether there are any working septic systems on the premises; Mr. Mancuso responded affirmatively.

Mr. Beach stated this is a legitimate concern due to the creek running through the property, and it is imperative not to permit any runoff (when washing trucks, etc.) to get into the creek.

Ms. Mammone said the ZBA can impose stipulations on the application's approval, and offered that no trucks be washed at the business site.

Members of the public continued to offer comments, expressing concerns regarding the applicant's adherence to stipulations/restrictions imposed on the approval of this application.

Mr. Green stated any violations will be dealt with by terminating all business activities and operations at the facility until remediation is accomplished. He stated periodic inspections might be in order to ensure compliance.

Mrs. Proulix asked the applicant about lighting. Mr. Mancuso stated outside lighting will need to be installed for security purposes. Mr. Green interjected that all lighting on the property must be installed to reflect the light from the outside in, so as not to create a problem for neighbors.

In response to another question from the attending public regarding the possibility of additional activity at the location as the business grows, **Mr. Beach** stated the Town has no control over this situation; it is not within the Town's rights to limit the number of customers a business can take on.

In response to a question posed by **Mr. Beach**, Mr. Mancuso confirmed his business operates on a 4-day-per-week basis, with no business activities on weekends.

Once again, it became necessary to bring the meeting to order, due to continuing comments and suggestions/opinions directed at the board and discussions with each other from some members of the public in attendance long after the public comment period had been closed, impacting the ZBA's ability to carry on with the meeting.

Mr. Beach then asked the applicant to return to the podium.

Following further discussion among the Board and the Codes officer, a motion was offered by **Mrs. Parry** to approve the application with the following instructions:

1. 6' privacy fencing shall be installed around the entire parameters of the property and it shall be in place on or before the business is allowed to operate at the Schuyler location.
2. All vehicles must be washed at Oneida-Herkimer Solid Waste Authority's washing station
3. Requirements to install a berm will be placed on hold pending periodic inspections by the Codes Officer; if, at any time, it is discovered that a berm is needed (due to water drainage problems that may pose a danger to wildlife and/or the environment), this will become a requirement in order for the applicant to maintain operation of his business at the Schuyler location. The applicant will be given a set period of time to install the berm, and the process will be overseen by the Codes Officer.
4. The business will be in full operation at the Schuyler location by April 1, 2016. This shall include all office staff and office operations, as well as all waste hauling business activities and maintenance on the business' vehicles.
5. All lighting shall be installed so as to reflect from the outside in, so as not to create an annoyance to the neighbors. (Mr. Green stated this is already included in Codes Enforcement policy).

6. There shall be no excessive noise created as a result of any of the applicant's business activities between the hours of 5:00 PM and 7:00 AM.

Motion by **Judy Parry**, seconded by **Christine Proulx** to approve the application for the Special Use Permit submitted by Steven Mancuso, Controlled Waste Systems, Inc., to operate a waste hauling facility at 2458 State Route 5, Schuylers, which is located in a C-H (Commercial-Highway) Zone, with the above listed restrictions. A roll call vote followed:

JoAnn Mammone	Aye:
Judy Parry	Aye
Christine Proulx:	Aye
Ronald J. Beach, Jr.:	Aye
Joseph Aiello IV	Absent

Motion carried by unanimous voice vote of all members present.

Chairman Ronald J. Beach, Jr. closed the public hearing at 8:11 PM on a motion by Judy Parry, seconded by Chairman Beach. All in favor; motion carried.

– Bette I. Szesny, Recording Secretary

TOWN OF SCHUYLER ZONING BOARD OF APPEALS

**PUBLIC HEARING NOVEMBER 30, 2016
APPLICATION BY CHARLES HAYES
VARIANCE TO THE ZONING ORDINANCE**

Chairman Ronald J. Beach, Jr. called the Public Hearing to order at 6:30 PM at the Schuyler Town Office, 2090 State Route 5, Utica, NY 13502. Other ZBA members present were Judy Parry, Christine Proulx and Jo Ann Mammone. Absent was Vice Chairman Joseph Aiello, IV. Other Town officials present were Codes Officer Philip Green and Bette Szesny, who serves as Recording Secretary.

Also present was Charles Hayes (the applicant), who was accompanied by his young daughter, and the following Town residents: Robert & Rosalie Glenski; Anthony J. Klimek, Gerald & Kathleen Waterman; and Ricky Proulx.

APPLICANT STATES CASE:

Mr. Beach asked Charles Hayes to step up to the Podium to state his case.

Mr. Hayes stated he is seeking an 8' area variance for his carport that has already been placed on the west side of his residence at 11234 Cosby Manor Rd., Utica, NY 13502, Tax Map #104.2-1-12.6, which is located in the R-1 District of the Town of Schuyler.

Mr. Hayes stated he was told by the codes officer that a 15' setback is required on either side of his property; however, the placement of the carport provides only a 7' setback on the west side of his property.

It was established that Mr. Hayes owns "Just Bounce Around" (a bounce house business). Mr. Hayes stated the carport serves as a storage area for his bounce houses and related items.

CODES OFFICER REPORTS:

Mr. Green stated he acted on a complaint and discovered Mr. Hayes needs the above described area variance in order to legally accommodate his carport at this location. The applicable section of law for this case is referenced in Article 14, Section 14.05-D.

Mr. Green also stated Mr. Hayes would need to obtain a building permit for the carport, as well as a permit to operate a home based business; however, first-off, he would need ZBA approval of this application for an area variance.

BOARD DISCUSSION:

In response to Board questions posed to the applicant by Mr. Beach, Mr. Hayes stated he did not seek Town approval before erecting the carport, nor did he obtain a building permit or a permit to operate a home based business.

Ms. Parry asked if the carport was erected with concrete; Mr. Hayes said it is not.

Ms. Proulx & Ms. Mammone asked Mr. Hayes why he did not obtain a variance or any other Town approvals for his carport and bounce house business; Mr. Hayes stated he did not realize he needed any Town approval.

PUBLIC COMMENT:

Mr. Glenski stated ZBA approval of this application may well result in a shortage of 4' of setback on the east side of his property adjacent to Mr. Hayes' property, in the event he decides to embark on any building plans at that location in the future. He said he currently has no specific building plans in mind, but he wants some assurance in case he decides to embark on a project sometime in the future. He said he would not object to the variance if the ZBA would include a "grandfathered-in" clause added to Mr. Hayes' approved application, that will allow him to avoid going through the application process in the event his future building plans might require a variance. He said he would like the same courtesy extended to him, as may be about to be extended to Mr. Hayes at the conclusion of this hearing.

The Board members unanimously stated this would not be within the realm of their jurisdiction because each project is unique and must meet certain criteria required under the zoning law.

Mr. Glenski said this is unfair.

Mr. Beach responded that the Board has not yet given any approval, and the decision on this case will not be made until the conclusion of public comment, followed by Board discussion and a vote.

Mr. & Mrs. Waterman and Mr. Klimek also expressed their concerns regarding the applicant's failure to follow Town zoning regulations. Mr. Klimek stated business operations in R-1 sections of the Town are not permitted in R-1 zones of the Town.

In response to the applicant's and some residents' concerns that the zoning ordinance is not posted on the Town's website in its entirety, Mrs. Szesny stated that the Town's zoning ordinance can be accessed from the Home, and the applicable section of zoning law relating to this case (Article 14, Section 14.05-D) is posted in its entirety and can be downloaded and printed, if desired.

There was no additional comment elicited from the Board or the public; therefore, Chairman Beach asked for a motion to act on the application.

HOCPP RECOMMENDATION

For the record, "No Recommendation as to Final Action" was issued by HOCPP.

BOARD ACTION:

The Board recognizes this case as a self-created hardship on the part of Mr. Hayes.

Motion by Chairman Beach, seconded by Judy Parry to deny the application submitted by Charles Hayes for a 8' Variance on the West side of his property for his carport, with the stipulation that the carport be removed within thirty (30) days from the date of this Public Hearing; all in favor. Motion carried.

The Codes Officer will follow up on Mr. Hayes' obligation to remove the carport within the above allotted time frame.

ADJOURNMENT:

Mr. Beach adjourned the Public Hearing at 6:52 PM.

– Bette Szesny, Recording Secretary

GENERAL MEETING

APPROVAL: MINUTES OF SEPTEMBER 22, 2016 PUBLIC HEARINGS:

- SHIRLEY TRIPPLE, TRUSTEE: Variance to the Zoning Ordinance (divide/sell parcels)
- WADE WOLLABER: (Sales/Repair-Firearms - No Hearing Required - Defined as Home Based Business)
- LARRY LEOGRANDE: Variance for pole barn for one horse

Motion by Christine Proulx, seconded by Judy Parry to approve the minutes of the above referenced public hearings; all in favor. Motion carried.

Chairman Beach adjourned the meeting at 7 PM.

– Bette Szesny, Recording Secretary