

Village of Geneseo
Zoning Board of Appeals
Public Hearing for
Byrne Dairy, Rep.: Christian Brunelle
39 & 41 E. South Street
Tax map #:81.13-2-13.2 & 81.13-2-14
July 07, 2007
Meeting # 1

Present:

Chair C. Meisel
G. Dorr
M. Hamilton
P. Schmied
T. Wilson

Applicant:

Byrne Dairy Representatives:
Mark Byrne
Guy Pitman

Public: none

The public hearing opened at 4:30 p.m. The minutes of the May 5, 2009 - Herzman public hearing were reviewed. M. Hamilton moved to accept the minutes as presented. T. Wilson seconded the motion. The vote was as follows: Chair C. Meisel- aye; M. Hamilton – aye; G. Dorr – aye; P. Schmied – aye; and T. Wilson- aye. The motion carried. The applicants apologetically called to say they were at the wrong office and would arrive shortly.

P. Schmied wondered what the legal status of the property was as the gas station has been closed for about a year. He wondered if this would affect the new business with regard to the new zoning code and if Byrne Dairy would be out of compliance with the new code. Chair C. Meisel had checked with Attorney Reynolds and Code Enforcement Officer R. Maxwell and they are looking into it.

4:37 p.m.: Byrne Dairy representatives M. Byrne and G. Pitman arrived at the hearing. The Board members were introduced and Chair C. Meisel stated proper notice had been published and ten certified notices were sent and eight responses were received. M. Byrne introduced G. Pitman and himself. He stated Byrne Dairy would like to place a three thousand nine-hundred (3900') square foot store with gas pumps on the property. Generally the store is a convenience shop selling dairy products such as ice-cream and milk, hot coffee and some basic groceries. He asked for the variance because the property is within three-hundred (300') feet of a church, the Church of the Latter Day Saints currently under construction; this is prohibited within Section 130-65(G) of the Village of Geneseo Zoning Code. C. Meisel noted the variance was presented as an area variance rather than a use one. M. Byrne said the Village Code Enforcement officer told him it was an area variance as the store could be used as is. Byrne Dairy would like to put up a new modern building- much work would need done on the existing structure and sale of gasoline would still require the three-hundred (300') foot variance.

P. Schmied asked if they had measured the distance. M. Byrne stated he thought his colleague, C. Brunelle had those figures; “Dude, that’s the first thing the Board is going to ask for”, he remarked. He however, did not have those figures with him. The

Church driveway is directly across from the property line with only the street separating them. C. Brunelle had tried to reach someone at the Church but had not had any success. Byrne Dairy prefers to sit down with potential neighbors and discuss their plans. M. Hamilton asked how wide East South Street is at that location. The consensus was about sixty (60') feet. P. Schmied noted the proposed Byrne Dairy site is then only sixty (60') feet from the church driveway entrance.

M. Hamilton wondered when the church contracted to build in relation to when Byrne Dairy contracted with property owner Phillip Saunders to purchase the property and build their dairy. C. Meisel stated she believed the church had purchased their land before the Saunders property was available.

M. Byrne noted the gas station could reopen right now as it exists but would not be profitable for them. If Byrne didn't buy it, the site would probably be sold to a small independent outfit. He feels the business they are proposing would benefit the community more. Byrne started out as a dairy only, eventually expanding to some groceries and finally to selling gasoline. They just opened a store in Trumansburg last Wednesday similar to what they are proposing for Geneseo.

G. Dorr asked if the home base was in Syracuse and T. Wilson wondered how many stores Byrne Dairy operated. M. Byrne stated they are a Syracuse based outfit with about twenty facilities which sell both groceries and gasoline. They still have few stores selling dairy only but have been closing them as they open new facilities. They have been forced into selling gasoline with their coffee by customer demand. If people can't get gas where they get their morning coffee, they will go elsewhere.

G. Dorr asked if the Church of Latter Day Saints had returned their receipt. It was noted they were one of the two who had not. C. Meisel remarked the Hill Cumorah Pageant is this upcoming weekend and most likely the church is busy with preparations for it.

T. Wilson inquired if a traffic study had been done. M. Byrne said he did not have it but thought C. Brunelle had one. He was sure traffic would have to be addressed with New York State Department of Transportation as Route 20A is a state route. P. Schmied would like an informal traffic study of the approximate traffic Byrne Dairy can expect when compared to another of their stores with a similar size and location.

M. Hamilton asked if the proposed store is farther back than the existing one. G. Pitman referred to the conceptual site plan presented which shows the store position shifted further to the west by approximately sixty (60') feet. The gas pumps will also shift towards the west.

Discussion followed concerning the reasoning behind the three-hundred (300') foot distance regulation. G. Dorr felt it was a fire safety issue. P. Schmied stated he had spoken with the Fire Superintendent as to why that distance was in the code. He was told to check with the State Fire Marshal. However, the Fire Superintendent thought the rationale had to do with places in which large groups of people congregate and what the estimated safe distance from those groups would be if an explosion were to occur. Fuel delivery trucks must be careful of vapors during delivery as they are highly explosive.

C. Meisel stated Livingston County Planning Board had not met yet and the Zoning Board ruling must be based on their decision because of the location of the property on State Route 20A. She suggested the public hearing be tabled and perhaps C. Brunelle would be available for the next meeting. It was suggested measurements from

the property to the church's front door and driveway be taken. It would be prudent to get a measurement to the Livingston Health Services facility as well (they are an affiliate of Noyes Hospital).

P. Schmied moved the public hearing be tabled until July 21, 2009 at 4:30 p.m.; meeting to reconvene in the Geneseo Building Board Room. G. Dorr seconded the motion. The vote was as follows: C. Meisel – aye; M. Hamilton – aye; T. Wilson – aye; G. Dorr – aye; and P. Schmied – aye. The motion carried.

Byrne Dairy representatives M. Byrne and G. Pitman thanked the Board for their time. G. Dorr moved to adjourn the meeting. M. Hamilton seconded the motion. All were in favor and the motion carried.

Debra L. Lund
Secretary