

**Minutes of the Town of Perinton
Zoning Board of Appeals
Meeting of May 19, 2014**

Zoning Board Members present

Thomas Young, Chairman
Sam Space
Vincent Arcarese
Melissa L. Barrett
Seana Sartori
Robin Ward Ezell

Absent

John N. Moose

Conservation Board Members present

Chris Fredette

Town Officials present

Robert Place, Town Attorney
John Beck, Zoning Officer
Lori Stid, Zoning Board Clerk

Mr. Young called the meeting to order at 7:30 pm, introduced the Board and staff present, and explained the procedures.

Mr. Young states that the ZBA received memo's from the DPW and the Conservation Board that state that they have no concerns regarding tonight's applications.

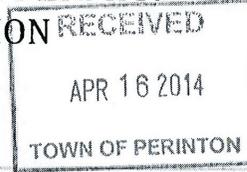
1. Amy and Kurt Utzman, as contract vendee of property located at 26 Neuchatel Lane, requesting a Special Permit of the Town of Perinton Zoning Ordinance Section 208- 36 B (3) "Customary Home Occupation", to allow a baked goods business in the basement of the home.
Said property being located in a Residential Transition 1-2-5 District.

Mr. & Mrs. Utzman presented the application to the Board as per letter of intent, which is a part of the record as shown below:

APPLICATION FOR A SPECIAL USE PERMIT:
CUSTOMARY HOME OCCUPATION

orig

Amy Utzman
4/15/2014



APPLICATION OVERVIEW

RT-1-2-5



Seeking approval of special use permit granted due to change of address when our family moves at the end of May, 2014. Original application approved by the Town of Perinton on April 1, 2011, and renewed on Augusts 28, 2012, with an expiration date of 9/1/2015.

Current Address: 148 Bent Oak Trl, Fairport, NY 14450

New Address: 26 Neuchatel Lane, Fairport, NY 14450

Type of Business: made to order baked goods (cookies, cupcakes, cakes, etc)

Hours / Days of Operation: non- retail space; any client interaction (which will be minimal for tastings and/or consultations) would be between the hours of 8AM to 6PM seven days a week but by appointment only

Amount of Space Used in Home: 400 ft² in basement

Employees: none

Signage and Advertising: no external signage or advertising; business advertising would include but not be limited to the Internet, social media (e.g. Facebook), newspaper, etc; any advertising would direct potential clients to the web page (anAffairWithCake.com) or telephone and there would be no unscheduled retail traffic

Deliveries to the Home: minimal; on average 2 per month from standard delivery carriers (USPS/UPS/FedEx)

Customers/Clients to Home: there will be no unscheduled client interaction; most products would be delivered to the client but there could be a need to have clients to the house on occasion for tastings and/or consultations; estimating less than 5 clients per week and by appointment only

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Mr. Utzman states that they have been operating this business out of their current home on Bent Oak Trail since 2011 and renewed it with the Board in 2012 and currently is under a three year approval with that. They are selling that home and moving to Neuchatel and wish to continue to operate the business out of the new home with the same terms as previous approval on Bent Oak Trail

Mr. Young inquired if the NOA sign was posted at the front property line and Mr. Beck states it is there; Town staff posted it. Mr. Young inquired if any of the immediate neighbors have objected to this proposal. Mrs. Utzman states that she spoke with immediate next door neighbor and they have no objection. Mr. Young inquired if the business would run on the same terms as the current business, and Mrs. Utzman states yes.

Ms. Ezell inquired if there were any concerns from the neighbors on Bent Oak Trail with how the business has been functioning. Mrs. Utzman states no.

Mr. Young asked for questions or comments from the Conservation Board and there were none.

Mr. Young asked for questions or comments from CED. Mr. Beck states that CED issued comments as follows:

- **This is a relocation of an existing approved business, The CED has no concerns with this application and recommends approval with the condition that a Building Permit and a Certificate of Occupancy to be issued for the business to operate out of the basement.**
- **The permit to valid for one year from the date of the Certificate of Occupancy.**

Mr. Young asked for questions or comments from Attorney Place. Mr. Place states that a SEQR determination is required; use Criteria from Section 208-54.

Mr. Young states that they received comments from the Perinton Fire Marshal, as shown below:



**CODE ENFORCEMENT
& DEVELOPMENT**

TOWN OF PERINTON

1350 TURK HILL ROAD ■ FAIRPORT, NEW YORK 14450-8796
(585) 223-0770 ■ Fax: (585) 223-3629 ■ www.perinton.org



Date: May 13, 2014

To: Zoning Board of Appeals

Re: 26 Neuchatel Lane
Fire Marshal Inspection

The above property has requested a special use permit for a customary home occupation to operate a baked goods business out of the basement of the residence. This space is currently unfinished and will require a building permit and certificate of occupancy prior to the business beginning to operate. All fire safety related items will be addressed prior to the issuance of a certificate of occupancy.

Please feel free to contact me with any questions.

Respectfully,

Greg Seigfred
Fire Marshal

Mr. Young asked for questions or comments from the audience, and there were none.

Ms. Ezell inquired if this is considered a new permit or a renewal. Mr. Place states that a permit like this runs with the property; this is a new permit. Ms. Ezell inquired if the term of approval can be longer than one year as this applicant has already proven that they can operate a business like this successfully out of their home. Mr. Place states that is up to the Board as this applicant has already shown they have a good track record.

Mr. Beck states this is a new location and that is why CED recommends for one year.

Ms. Ezell made a motion to grant a Negative Declaration of SEQR as this proposed use will not alter the view or reasonable use of adjacent property. There are no outside modifications to the property to be able to conduct this business out of the home. There will not be any negative impact to the environment due to this proposal. This use will neither improve nor take away from the neighborhood. This use will not alter the character of the neighborhood. There will not be an increase in traffic to the neighborhood by granting this use based on the terms of the proposal.

Mr. Space seconds the motion.

Motion carries 6 – 0.

There was discussion amongst the Board members and Town staff as to if the permit could be renewed administratively in the future or if it should go back to the ZBA for review, and it was determined that based on the history of this applicant and the use in the prior location that it could be reviewed administratively by Town staff for any future renewals, provided there were no changes to the terms of the business or any substantiated complaints regarding the business.

Ms. Ezell made a motion to grant a Special Permit of the Town of Perinton Zoning Ordinance Section 208- 36 B (3) “Customary Home Occupation”, to allow a baked goods business in the basement of the home, subject to the following conditions:

1. This is a non-retail business. Hours of operation to be from 8 AM to 6 PM, 7 days a week, by appointment only.
2. There are no other employees to the business; other than the applicant.
3. Any clients that come to the home must park in the driveway.
3. There will be no signage on the property.
4. Applicant to obtain a building permit for the basement remodel (kitchen) within one year from today, and no later than 5/21/15.
5. Special Use Permit to run for one year from the date the Certificate of Occupancy is issued, at which time it may be renewed administratively by the applicant through the Town Office of Code Enforcement & Development (Zoning Board of Appeals Clerk), provided there have been no changes to the terms of the business or any substantiated complaints regarding the business. If you do not renew your permit prior to the expiration date your permit will become null and void. If you no longer wish to have this permit on the property, please notify the Town in writing that you have discontinued the use, and we will mark it null & void.

The use will not prevent the orderly and reasonable use of adjacent properties. There will not be an adverse effect to the general health, safety and general welfare of the Town. The use will not interfere with the character of the neighborhood. There will not be any adverse physical or environmental effects caused by granting this use. Any clients that come will be required to park in the driveway and not in the road.

Mr. Space seconds the motion.

Motion carries 6 - 0

2. Elizabeth & Gregory Bogan, owners of property located at 4 Bown’s Hill Lane, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 C (2), to allow a fence to be 6 feet in height in the “front yard” instead of 3 feet in height.
Said property being located in a Residential Transition 2-5 District.

Mr. Bogan states that they have two front yards according to code. They wish to contain two large dogs and want safety for their children. He showed on the posted plans where he is proposing to put the fence.

Mr. Young states that this property is heavily wooded. He asks if any trees will be removed. The applicant states that they will run the fence along the top of the berm and weave through the trees.

Mr. Space states that the good side needs to face out. He inquires what color the fence will be, and the applicant states a natural color; brownish.

Mr. Young asked for questions or comments from the Conservation Board.

Ms. Fredette states that the Conservation Board is pleased that the trees are not proposed to be removed.

Mr. Young asked for questions or comments from CED. Mr. Beck states that CED issued comments as follows:

- **CED Dept. has no concerns with this application, a building permit to be issued within six months.**

Mr. Young asked for questions or comments from Attorney Place, and there were none.

Mr. Young asked for questions or comments from the audience, and there were none.

Mr. Space made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-14 C (2), to allow a fence to be 6 feet in height in the “front yard” instead of 3 feet in height, subject to the following conditions:

1. Applicant to obtain a fence permit within 6 months from meeting date. If you do not obtain your permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.
2. Fence to be a natural color; brownish.
3. Good side of fence to face out.

There will not be a negative impact to the neighborhood. There will be no adverse physical or environmental effects to the neighborhood by granting this request. This fence is needed for safety and privacy of the children and dogs. The applicant is impeded by Code as they have two front yards. The applicant is proposing to leave the trees in place and weave the fence in and out of the trees.

Ms. Ezell seconds the motion.

Motion carries 6 – 0.

3. Erin Buermann, owner of property located at 9 Dunmow Crescent, requesting a Special Permit of the Town of Perinton Zoning Ordinance Section 208-31 A (3) “Customary Home Occupation” , to allow a hair salon business from the home.
Said property located in a Residential A District.

Mr. Buermann presented the application to the Board on behalf of his wife as per letter of intent as shown below:

Application Form – Special Use Permit

Name: Erin Buermann
Address: 9 Dunmow Crescent, Perinton, NY
Request: Zoning approval for an in-home hair salon

Question 9: Describe specifically the nature of your request:

Type of business: An in-home hair salon. I am proposing to install a salon as shown in the attached diagram. If the customary home occupation is approved, I would like to request that the customary home occupation permit not start to run for one year until the date the Certificate of Compliance (Building Permit) is issued by the Town for the proposed salon.

Possible hours of operation: 8 AM – 8 PM

Possible days of operation: Every day.

Expected weekly usage: Approximately 20 hours per week, not to exceed 32 hours per week.

Home square footage occupied by salon: 200 square feet

Total square footage of home (excludes basement, porch, garage, and deck): 1824 square feet

Percentage of home used for business: 11%

Number of Employees: Just the owner (Erin Buermann); no additional employees.

Signage – do you plan to have signage? No signage will be used.

Advertising - how will you advertise? Word of mouth and social media (i.e. Facebook).

Will you have UPS/Fed Ex. deliveries to home in relation to the business? No.

Will you have 18-wheeler delivery to home in relation to the business? No.

What is the proposed maximum # of customers/clients to home daily? 10

Are appointments scheduled? Yes.

Will there be a break in between appointments so that there is never more than one client at a time parked in the driveway? Yes.

Where will customers/clients park? In the driveway. The property can conveniently support 2 cars in the garage and 2 in the driveway with no cars being blocked. FYI, the property owners own 2 cars.

Mr. Young states that that they received comments from the Perinton Fire Marshal, as shown below:



**CODE ENFORCEMENT
& DEVELOPMENT**

TOWN OF PERINTON

1350 TURK HILL ROAD ■ FAIRPORT, NEW YORK 14450-8796
(585) 223-0770 ■ Fax: (585) 223-3629 ■ www.perinton.org



Date: May 13, 2014

To: Zoning Board of Appeals

Re: 9 Dunmow Crescent
Fire Marshal Inspection

The above property has requested a special use permit for a customary home occupation to operate a hair salon business from the residence. This space is planned to be remodeled and will require a building permit and certificate of occupancy prior to the business beginning to operate. All fire safety related items will be addressed prior to the issuance of a certificate of occupancy.

Please feel free to contact me with any questions.

Respectfully,

Greg Seigfred
Fire Marshal

Ms. Ezell notes that the driveway is steep. The applicant indicates that they will have a plow service with salting and customers will park at the top of the driveway; they can put two cars in the garage and two cars in the driveway and no one will be blocked in. They will only have one customer at a time

Mr. Young asked for questions or comments from the Conservation Board. Ms. Fredette inquired if the neighbors have offered any objections. The applicant states that they have notified immediate neighbors and the only concern they had was they wanted to make sure parking would be in the driveway and not in the street. Mr. Place states that a NOA sign was posted at the property line.

Mr. Young asked for questions or comments from CED. Mr. Beck states that CED issued comments as follows:

- **CED has no concerns with this application and recommends approval with the condition that a Building Permit and a Certificate of Occupancy to be issued for the business to operate.**
- **The permit to valid for one year from the date of the Certificate of Occupancy.**

Mr. Young asked for questions or comments from Attorney Place. Mr. Place states that a SEQR determination is required.

Mr. Young asked for questions or comments from the audience, and there were none.

Mr. Arcarese made a motion to grant a Negative Declaration of SEQR. Granting this use will not prevent the orderly and reasonable use of adjacent properties or properties in adjacent use districts. The public health, safety, and general welfare of the Town will not be adversely affected by the proposed use in this location. The use will not interfere with the preservation of the character of the neighborhood.

Ms. Sartori seconds the motion.

Motion carries 6 – 0.

Mr. Arcarese made a motion to grant a Special Permit of the Town of Perinton Zoning Ordinance Section 208-31 A (3) "Customary Home Occupation" , to allow a hair salon business from the home, subject to the following conditions:

1. Potential hours of operation – 7 days a week from 8 AM – 8 PM; with use not to exceed 32 hours per week and maximum number of clients on a day being 10.
2. There are no additional employees other than Erin Buermann.
3. There will be no signage at the property.
4. Advertising will be by word of mouth and social media.
5. There will be no deliveries to the home in relation to the business.
6. Clients are seen by appointment only, and there will be one customer at a time.
7. Clients are to park in the driveway and not in the road.
8. Applicant to obtain a building permit for the remodel (salon) within one year from today, and no later than 5/21/15.
9. Special Use Permit to run for one year from the date the Certificate of Occupancy is issued, at which time it may be renewed by the applicant (same process as this year) through the Zoning Board of Appeals, provided there have been no changes to the terms of the business or any substantiated complaints regarding the business. If you do not renew your permit prior to the expiration date your permit will become null and void. If you no longer wish to have this permit on the property, please notify the Town in writing that you have discontinued the use, and we will mark it null & void.

Granting this use will not prevent the orderly and reasonable use of adjacent properties or properties in adjacent use districts. The public health, safety, and general welfare of the Town will not be adversely affected by the proposed use in this location. The use will not interfere with the preservation of the character of the neighborhood.

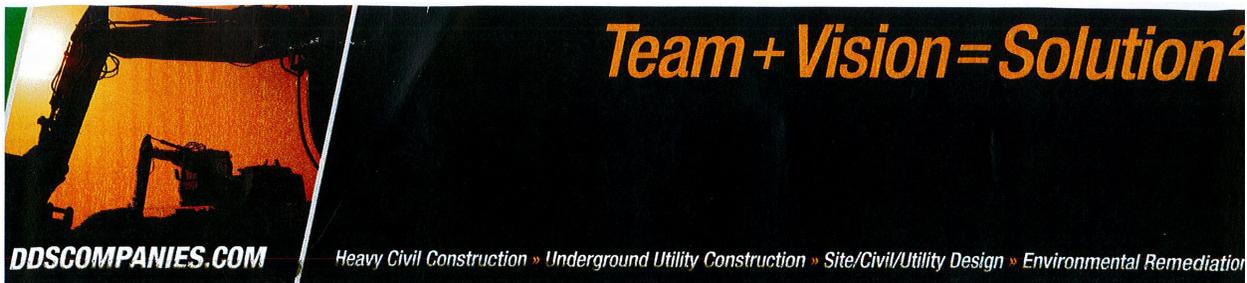
Ms. Sartori seconds the motion.

Motion carries 6 – 0.

The applicant says that he wishes to state for the record that Lori Stid has been very helpful with this application process.

4. DDS Companies as agent for Arctic Glacier U.S.A. Inc. , owner of property located at 900 Turk Hill Road, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-42 D, to allow the existing building # 1 to set 5 feet from the front property line instead of 85 feet and further to allow existing building #1 to set 2 feet from the side property line and building # 2 to set 10 feet from the side property line instead of 30 feet. Said property being located in an Industrial District.

John Clarke, DDS Companies presented the application to the Board as per letter of intent as shown below:



April 21, 2014

Town of Perinton
Zoning Board of Appeals
1350 Turk Hill Road
Fairport, NY 14450



25-14
orig

Re: **Arctic Glacier U.S.A., Inc.**
Building Improvements
Area Variance

The subject property is located at 900 Turk Hill Road and is approximately 6.05 acres in size and resides within the Industrial District (IND) as described in the Town of Perinton Code. The site currently contains two (2) existing buildings. The first (Bldg. #1) is located on the western portion of the lot and is approximately 11,680sf and the second (Bldg. #2) is to the east and is approximately 52,500sf. These buildings are primarily used as offices, production areas and storage areas for the industrial business conducted by Arctic Glacier U.S.A., Inc. The owner is interested in improving a portion of the production space located within existing 52,500sf building (Bldg. #2). Approximately 15,000sf of this building is a "cold production" area. This portion of the building is in need of desperate repair as the structural stability of the walls and roof are failing. As the production in this area is vital to the overall business it must remain operational at all times. In order to satisfy this requirement the intent of this project is to construct a new, roof and structural wall support system around the portion of the existing building that needs repair. Once the new support system and roof are in place, the existing portion of roof will be removed from within. This will allow production in this area to operate seamlessly through the building improvements. There are no other improvements proposed for this project. All existing utilities are currently in place and will sufficiently serve the new area and no new site improvements are proposed.

It is our understanding that the existing 11,680sf building (Bldg. #1) to the west is in need of both front and side setback variances for the pre-existing non-conforming location of the building. Likewise, the existing 52,500sf building (Bldg. #2) will require a side setback for the pre-existing non-conforming location of the building. The existing building improvements are located approximately 10' off of the southern property line where 30' side setback is required. We are requesting an area variance for this situation.

We would like to respectfully request placement on the agenda at the regularly scheduled Zoning Board of Appeals meeting on May 19, 2014, for the purpose of presenting this project and requesting the necessary area variance.

Included in this submission:

- This Letter of Intent (1 original and 11 copies)
- Area Variance Application (1 original and 11 copies)
- Application Fee - \$100 (two checks, one for preliminary and one for final)
- Short Environmental Assessment Form (1 original and 14 copies)
- Site Plan (12 copies)
- Architectural Elevations (12 copies)

Please feel free to contact me with any questions or comments.

Very Truly Yours,

Project Manager
The DDS Companies

With him is Harvey Fleming & John Ritz, Arctic Glacier. The Planning Board granted site plan approval on 5/7/14.

Mr. Young states that the Planning Board issued comments as follows:

The Board recommends approval of all the aforementioned requested variances because they are pre-existing non-conforming "housekeeping" variances. This is a good plan because it refurbishes the existing aging buildings.

Mr. Young asked for questions or comments from the Conservation Board.

Ms. Fredette states that at the time of Planning Board approval there was question as to the height of the proposed building and if a variance would be required. The applicant states that they have revised the plan and will meet code as to height.

Mr. Young asked for questions or comments from CED.

Mr. Beck states that CED issued comments as follows:

- **This application received preliminary and final site plan approval on May 7, 2014**

- **CED Dept. has no concerns with this application and recommends approval with the condition that a building permit to be issued with one year.**

Mr. Young asked for questions or comments from Attorney Place, and there were none.

Mr. Young asked for questions or comments from the audience, and there were none.

Ms. Barrett inquired how long it would take to complete this process and the applicant states approximately 5 months.

Mr. Space had question regarding the roof and Mr. Fleming states it is a steel gabled roof.

Mr. Young made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-42 D, to allow the existing building # 1 to set 5 feet from the front property line instead of 85 feet and further to allow existing building #1 to set 2 feet from the side property line and building # 2 to set 10 feet from the side property line instead of 30 feet, subject to the following conditions:

1. Applicant to obtain a building permit within one year from meeting date. If you do not obtain your permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.

The first two variances (involving building #1) are pre-existing, non-conforming conditions and the new variance is to building #2 and it adds an additional 3' to the setback. They are proposing to build a shell over the existing building and constructing it first. The Planning Board recommends approval of these variance and have granted final site plan approval. Granting these variances will not create an undesirable change to the character of the neighborhood or be a detriment to nearby properties. The applicant cannot achieve the benefit being sought in any other manner. There will not be an adverse effect to the physical or environmental conditions of the neighborhood.

Mr. Space seconds the motion.

Motion carries 6 – 0.

Discussion: - Minutes – 4-28-14

Mr. Young made a motion to approve the minutes of 4/28/14 as submitted.

Ms. Sartori seconds the motion.

Motion carries 5 – 0, with one abstention of Mr. Space, due to absence.

There being no further business before the Board, the meeting adjourned at 8:20 PM.

Respectfully Submitted,

Lori L. Stid, Clerk