

TOWN OF STONY POINT
TOWN BOARD

SPECIAL USE PERMIT FOR USE OF TAX LOT 20.04-11-2.2
AS A LOCAL CONVENIENCE COMMERCIAL USE

WHEREAS, Crossroads Company, LLC, has submitted an application to this Board for approval of a special use permit for property located on the northerly side of Kay Fries (Holt) Drive, approximately 826 feet easterly of South Liberty Drive (U.S. Route 9W), designated on the tax map of the Town as Section 20.04, Block 11, Lot 2.2 ("Premises"); and

WHEREAS, the Premises consists of approximately 9.4 acres of land in an LI zoning district; and

WHEREAS, among the permitted uses in the LI zoning district is "Local Convenience Commercial Use", which is allowed by special use permit from this Board, and which is proposed for the Premises; and

WHEREAS, "Local Convenience Commercial Use" is defined in section 215-5 of the Zoning Code as,

Establishments that deal in the retail sales of convenience goods (food, drugs and sundries) and such personal services as laundry and dry cleaning (pick-up and delivery), hair styling and shoe repair. The maximum permitted aggregate gross floor area on any site shall not exceed 100,000 square feet. The floor area of any single store shall not exceed 8,000 square feet, except that food stores or combined sales stores may not exceed 45,000 square feet. Other commercial uses of any kind elsewhere specified in this chapter shall not be deemed "local convenience commercial."

; and

WHEREAS, the proposed use will include a supermarket and ancillary satellite retail stores, bank, pharmacy, and/or food purveyors; and

WHEREAS, pursuant to the provisions of section 274-b of the Town Law of the State of New York, as put into effect in the Town of Stony Point by Article XVIII of the Zoning Code, this Board is empowered to grant special use permits to certain properties which meet the criteria set forth in the Zoning Code; and

WHEREAS, section 215-127 of the Zoning Code provides:

A. Pursuant to the provisions of the Municipal Home Rule Law, the Town Board reserves the approval authority for special permits for uses identified as such in Column D of the Use Table. Such uses represent such diverse benefits and impacts on local land uses as to preclude specific descriptions and standards for

their approval. The Town Board, in considering any application for a special permit hereunder, shall exercise such discretion reserved for legislative matters so as to ensure that the public health, welfare and safety are protected and that the environmental and land resources of the Town are most efficiently utilized.

; and

WHEREAS, pursuant to Column D of the Use Table for the LI zoning district, local convenience commercial uses are permitted as special uses in the LI zoning district (section 215-11, LI District, Col. D, item 9, as amended by Local Law no. 4 of 2006); and

WHEREAS, said special use does not have a specific set of bulk regulations attached thereto; and

WHEREAS, said use is a permitted use in the BU district, which abuts the subject LI district and the Premises; and

WHEREAS, if this Premises was in the BU district, then Use Group B would apply to the proposed use; and

WHEREAS, this Board may use Use Group B as a guide to establishing bulk requirements for this application, but may also vary from the requirements of Use Group B as it deems appropriate; and

WHEREAS, this Board has held a public hearing with respect to this application on February 12, March 11, April 8, May 12, June 10, July 8, and August 12, 2008, September 9, 2008 at which the concerns of members of the public and various consultants and referral agencies have been heard and considered; and

WHEREAS, this Board is Lead Agency for purposes of environmental review pursuant to the New York State Environmental Quality Review Act ("SEQRA") and the regulations of the Commissioner of Environmental Conservation implemented pursuant thereto; and

WHEREAS, this Board caused the applicant to submit a Full Environmental Assessment Form ("FEAF"), with an extended Part 3 to such Form; and

WHEREAS, after due consideration of the FEAF, including the extended Part 3, and the comments of the public, consultants, and referral agencies, this Board, at its meeting of September 9, 2008, granted a negative declaration pursuant to SEQRA and the Commissioner's regulations; and

WHEREAS, having completed the environmental review required by SEQRA; evaluating the request of the applicant, as amended; hearing and considering the concerns of the public and various public agencies; reviewing the requirements of the Zoning Code with respect to the proposed special use; and having had due deliberation thereon.

NOW, THEREFORE, BE IT RESOLVED, that this Board, pursuant to its powers under Article XVIII of the Zoning Code, makes the following findings:

1. The applicant, Crossroads Company, LLC, is the contract vendee of Dynamic Fitness, the owner of the Premises, which has authorized the applicant to make the subject application;
2. The Premises are located in an LI zoning district;
3. The LI zoning district authorizes, as a special use to be permitted by this Board, Local Commercial Convenience Uses;
4. The LI zoning district does not set forth bulk requirements for such use;
5. The BU zoning district permits such use, and assigns such use to Use Group B for purposes of bulk requirements;
6. The applicant has proposed bulk requirements based upon general bulk requirements applicable to uses in the LI zoning district and upon Use Group B, as modified to accommodate the project it wishes to build, as set forth in Schedule A, annexed hereto and made a part hereof;
7. The Town of Stony Point has recently seen the departure of a Stop and Shop supermarket on a parcel adjacent to the Premises, leaving a void within the Town for grocery, food and sundries purchasing;
8. As a result, residents of the Town of Stony Point, and of the northern portions of the Town of Haverstraw and of the Village of West Haverstraw, must travel to a different location to obtain such goods;
9. The loss of the Stop and Shop supermarket has rendered the space formerly occupied by that store vacant, which may reduce the assessed value of the real property on which it is located, thereby increasing the real property tax burden on the remaining property owners within the Town;
10. The loss of the Stop and Shop supermarket will reduce the amount of sales tax revenues produced by the Town of Stony Point, which will therefore reduce the amount of sales tax revenues received back from the County of Rockland;
11. The loss of the Stop and Shop supermarket may negatively impact the remaining stores in its shopping center, further exacerbating the tax impact and potentially resulting in a vacant or mostly vacant shopping center on an important commercial road within the Town of Stony Point;

12. The opening of a new supermarket on a different, currently vacant, parcel will replace the lost sales tax and real property tax revenues, and, eventually, will provide greater tax revenues than those provided by the Stop and Shop;
13. The opening of the proposed supermarket will restore to residents of the Town of Stony Point, northern Town of Haverstraw, and Village of West Haverstraw, an opportunity to shop locally for food, groceries and sundries, and will restore competition to the market;
14. The applicant has agreed to provide a fifty foot wide buffer along the northerly lot line of the Premises, on which will be located a built-up berm with landscape screening, to protect the residents of homes along Hoke Drive from viewing the proposed project;
15. Such buffer will also help to reduce noise from the proposed project;
16. The applicant has designed the proposed building to further minimize noise therefrom;
17. The applicant has proposed sufficient parking within the site to accommodate its anticipated parking needs;
18. Such parking is consistent with, and meets, the general parking requirements of the BU zoning district for similar uses;
19. The applicant has provided for appropriate internal traffic circulation within the Premises, allowing for separation between truck loading/unloading zones and parking for the general public;
20. The applicant has provided two means of vehicular egress from the Premises onto Kay Fries (Holt) Drive, and an emergency access from South Liberty Drive (U.S. Route 9W);
21. Kay Fries (Holt) Drive is a public road with a paved surface of approximately thirty-six (36) feet, which width is sufficient to accommodate a dedicated turn lane in addition to one travel lane in each direction;
22. To enhance safety and vehicular access into the Premises from Kay Fries (Holt) Drive, the applicant has agreed to re-stripe said road to provide for a left turn lane into the Premises from east-bound Kay Fries (Holt) Drive;
23. To enhance safety and vehicular and pedestrian movements at the intersection of Kay Fries (Holt) Drive and South Liberty Drive (U.S. Route 9W), the applicant has agreed to apply to the New York State Department of Transportation for permission to install a traffic signal at said intersection, and to coordinate the timing of the lights of said signal with those of the signal at the intersection of South Liberty Drive (U.S. Route 9W) and Filors Lane;

24. The proposed supermarket will contain less than 67,800 square feet of floor area, of which 45,000 square feet will be sales floor area and the remainder will be used for store offices, storage, preparation and other non-sales activities;
25. The proposed supermarket therefore complies with the gross floor area requirement of the Zoning Code;
26. No satellite store exceeds 8,000 square feet in gross floor area, as required by the Zoning Code;
27. The overall gross floor area of the project will not exceed 93,500 square feet, which is consistent with the requirement of the Zoning Code that such uses not exceed 100,000 square feet;
28. The proposals of the applicant, set forth above, are contained within a proposed site plan entitled, "Crossroads Companies" prepared by Atzl, Scatassa, & Zigler, P.C., dated July 2, 2008, last revised September 1, 2008, and within the expanded Part 3 to the FEAF, upon which the negative declaration pursuant to SEQRA was granted;
29. Based on the foregoing, this Board hereby finds that the proposed Local Commercial Convenience Use conforms to the requirements of the Zoning Code, adequately protects the health, welfare and safety of the public, and most efficiently utilizes the environmental and land resources of the Town of Stony Point;

and be it further

RESOLVED, that this Board hereby grants a special use permit for the Premises to be used as a Local Commercial Convenience Use, subject to the following conditions:

1. Such use shall conform to the site plan entitled, "Crossroads Companies" prepared by Atzl, Scatassa, & Zigler, P.C., dated July 2, 2008 last revised September 1, 2008, except to the extent it may be modified by the Planning Board as part of its site plan approval;
2. Under no circumstances may the Planning Board reduce the width of the buffer/screening area along the northerly lot line of the Premises to less than fifty (50) feet;
3. The applicant shall provide the traffic and street improvements described in findings 22 and 23, above, as more specifically described in Recommendations 2, 3, and 4, only, in Section G of the traffic study prepared by John Collins Engineers, P.C., dated December 19, 2007, last revised June 23, 2008, which study was included in the expanded Part 3 to the FEAF of applicant. The timing for construction and/or installation of such improvements shall be determined by the Planning Board as part of its site plan approval;
4. The bulk requirements for this use shall be those set forth in Column 3 ("Proposed Zone") of Schedule A, annexed hereto, which requirements shall be endorsed upon the approved site plan;

5. An easement shall be provided to the satisfaction of the Town Attorney, permitting access to this parcel from the parcel to the west at such time as such access is desirable to the Town;
6. The applicant warrants and represents that the access road along Hoke Drive will never be opened up for any reason;

and be it further

RESOLVED, that this Board hereby overrides the disapproval memorandum of the Rockland County Planning Department dated June 27, 2008, for the following reasons:

1. The memorandum is based solely upon written materials, and does not take into account oral testimony received at the public hearing;
2. The memorandum sets forth recommendations which can be implemented, but which are more properly a part of site plan review;
3. Items (1) and (4) of the memorandum appear to have been written prior to the Department's receipt of the traffic study prepared for the project, which addresses the concerns raised in said items;
4. Items (2) and (5) of the memorandum appear to have been written prior to the Department's receipt of the storm water management plan for the project, which was included in the expanded Part 3 to the FEAF, and which addresses the concerns raised in said items, and which provides that the project will comply with all rules and regulations for storm water quality and control;
5. Item (3) of the memorandum does not take into account applicant's commitment to provide for landscape screening and a berm, which will be more fully developed during site plan review, which addresses the concern raised in said item;
6. Item (5) of the memorandum is based upon a concept plan which is different from that which is hereby approved, and which different plan shows a satellite store larger than 8,000 square feet in gross floor area;
7. Item (5) of the memorandum does not take into account the interpretation of the Zoning Code by the Building Inspector with respect to the measurement of gross floor area for food stores and "combined use stores". To the extent that there is a conflict in interpretation of the Zoning Code between the County Planning Department and the Building Inspector, the interpretation of the Building Inspector must, by law, prevail.

SCHEDULE A

SPECIAL USE PERMIT FOR USE OF TAX LOT 20.04-11-2.2
 AS A LOCAL CONVENIENCE COMMERCIAL USE

Bulk Tables

1	2	3	4
Dimension	BU Zone	Proposed Zone	Proposed Site
Minimum Lot Area	10,000 sq. ft.	10,000 sq. ft.	9,5717 acres
Minimum Lot Width	50 ft.	50 ft.	452 ft.
Minimum Front Yard Depth	15 ft.	15 ft.	20 ft.
Minimum Front Yard Setback	40 ft.	40 ft.	41 ft.
Minimum Side Yard	25 ft.	25 ft.	52 ft.
Minimum Total Side Yard	50 ft.	50 ft.	460 ft.
Minimum Rear Yard Setback	25 ft.	25 ft.	34 ft.
Minimum Rear Yard Depth	10 ft.	50 ft.*	50 ft.*
Minimum Street Frontage	50 ft.	50 ft.	452 ft.
Maximum Building Height	30 ft.	40 ft.	35 ft.
Development Coverage	75%	90%	86%
Floor Area Ratio	0.35	0.35	0.25

* Buffer of 50 ft.