ZONING BOARD OF APPEALS

This hearing on Tuesday September 1, 2026, called to order by chairman, Harry Kwiek at 7:00 PM with the pledge of allegiance.

Members Present:
Harry Kwiek
John Jimenez
Greg Kalinowski
Shawn Pralow
Ron Carey
Also Present:
Ray Balcerzak, Assistant Building Inspector
Robert Schaefer, Alternate
James Lembke, Alternate
Phyllis Todoro, Town Attorney
Rosemary Bapst, Deputy Town Attorney

Appeals case #1507 for FIDC 204 LLC, a Cocca Development entity (Tractor Supply) for the property located at 1000 Maple Court, Elma, NY who are requesting a use variance to have an above ground propane tanks for retail sales Section 144-152A C-3.

Anthony Cocca, CEO of Cocca Development LTD, discussed the plans for the property. He indicated that they are national builders based in Youngstown, Ohio. They purchase the buildings, renovate them and lease them to Tractor Supply. They have approximately 50 Tractor Supply stores at present. They are locally operated. Mr. Cocca indicated that Tractor Supply stores rarely close short of something devastating happening to the store building itself.

Mr. Cocca indicated that propane sales are the number one skew item based on activity. The propane brings customers into the store and while at the store, they purchase the rest of their items. Most customers prefer a one-stop shopping experience. Propane is not just for your residential grills but for farmers and ranchers for flame throwers, drying grain, generators, heaters and the like. Farmers, hobby farms and ranchers would be their target customers as well as grill owners.

They are proposing 1,000 gallon above ground tank to be installed. It would be a fill and go situation. They would have fully trained staff working on the refilling process for customers.

Mr. Cocca indicated that the property is not conducive to retail and would probably lower the value of the property. Mr. Cocca indicated that they plan to make 2 additions to the property to better suit Tractor Supply's needs. Tractor Supply has 6.5 million sales per year. They have a family-oriented store. They hire local people for the stores. Mr. Cocca indicated that they would hire approximately 15-20 people.

The CEO of Tractor Supply reads all letters sent to him and says that 96% of them are positive unlike many other companies. Mr. Cocca indicated that one letter thanked them for opening and providing assistance after a hurricane. He indicated that they want to be good neighbors.

Mr. Cocca indicated that they plan to make additional upgrades to the existing building, including a building with approximately 2000 square feet in the back and approximately 1,000 square feet on the side of the building. The existing building is smaller than the typical store and the ceiling heights are less than what they usually have. In addition, they need to run an additional water line to install a sprinkler system in the building.

When asked by the Board, Mr. Cocca indicates that they are presently under contract for the property. Mr. Cocca indicates that they purchase the property and lease it back to Tractor

Supply who maintains the property. When asked, Mr. Cocca indicated that they probably would not purchase the property given the importance of the propane tank to their sales if the variance was denied. Mr. Cocca indicated that no new Tractor Supply stores were opening without propane being sold.

When asked by the Board, Mr. Cocca indicated that Tractor Supply aims to target people from 15-20 miles to the store.

Mr. Cocca shows the Board what they presently have for the propane tank areas in other stores, pictures placed in file. They have a concrete pad area under the tank with a covering over it. The area is fenced in with barriers surrounding the propane tank area.

Lee Thomas, of W.R. Neuman & Associates, Inc., the contractors indicated that they normally place cement under the propane tank and that the pictures illustrate what they do for the propane tanks. He indicated when questioned that the Clarence Tractor Supply store was done a little differently and was "spiced" up with a fake facade.

When asked since they are so close to an industrial district if they would want to move to an industrial area or in the alternative ask the board for a change in zoning, Mr. Cocca indicated that they did not want to do that and that their business was more suited for a C-2 district.

Mr. Cocca was asked by Mr. Kalinowski that it's possible that they might put other uses to the 8 acres property, but that Tractor Supply would have to approve of any use.

The Board had indicated that the prior owner wanted to put a Vietnam Memorial in the front and had previously placed flags in the front area.

Mr. Kwiek asked if anyone wished to speak in favor of the variance:

Robert Gross of 11 Northrup indicated that he likes Tractor Supply and had bought a golf cart there. Mr. Gross indicated that these people have come before you with everything including hardship and other people in the past have not provided hardship and you have approved it. You guys have written the code and failed to look at the welfare of the neighborhood.

When Mr. Kwiek attempts to redirect him, Mr. Gross indicates that it was a 5 family and that was granted. Mr. Kwiek indicated that he believes the one Mr. Gross is referring to be an area variance and not a use variance. Mr. Kwiek again tried to direct Mr. Gross to this specific matter.

Mr. Gross indicated that this guy is coming in for legitimate use and that the Board is breaking the law.

Mr. Gross indicated that "You are a bunch of crooks" (referring to the Board). He goes on to say that Mr. Carey is the only one that asks intelligent questions and that he tries to follow the law.

Mr. Gross indicates that his attorney, " Barclay Damon", gave him information about what the Board is supposed to do and how they make their decisions.

Mr. Gross ends with "the devil works for you people" (again referring to the Board).

No one spoke against the project.

Mr. Kalinowski made the motion to approve the use variance on Appeals case #1507 for FIDC 204 LLC, a Cocca Development entity (Tractor Supply) for the property located at 1000 Maple Court, Elma, NY who are requesting a use variance to have an above ground propane tanks for retail sales Section 144-152A C-3 based upon the following:

1. **On the question of earning a reasonable return: If the variance is denied, although it would not make it unable to make a reasonable return, the ability to**

sell propane onsite would most likely impact possible sales of related products and other consumers who would come for that and other products as well. Mr. Kalinowski believes that this is the critical consideration. The property is affected by uniqueness of propane and lack of approval would impact its ability to earn a reasonable return.

2. **Property is not unique and would not essentially change the character of Maple Road since there are businesses up and down the road.**
3. **It is not self-created because it is zoned to what it is and they are trying to work within what they need for the project.**

Mr. Pralow seconded the motion

5 Yays

0 nays

The motion carried unanimously.

Mr. Cocca indicated that they needed further approval and handed plans to Ray Balcerzak

Mr. Kalinowski made the motion to approve the minutes from August 4, 2026.

Mr. Jimenez seconded the motion

5 Yays

0 nays

Mr. Kwiek asked if they wanted to discuss the matter from November 12, 2024 involving Peter Martin involving a shed being left on vacant property. Mr. Balcerzak asked for direction from the Board on this matter. Discussion was had about this matter. In the minutes from November 12, 2024, it indicates that the Board denied the variance and that the shed must be removed or taken down.

Mr. Jimenez made the motion to adjourn the meeting. Mr. Carey seconded the motion.

5 Yays

0 nays

Meeting was adjourned at 7:46 p.m.

Respectfully submitted,

Rosemary Bapst, Deputy Town Attorney

Drafted but not approved by board.