

DECEMBER 13, 2012

A regular meeting of the Zoning Board of Appeals of the Village of Lakewood, NY, was held Thursday, December 13, 2012, 6:30 PM, in the Board Room of the Village Hall, 20 W. Summit Street, with Chairman William F. Chandler presiding. Board Members present were Myra V. Blasius, Louis S. Drago, Jr., Duane F. Anderson, and Willard Anderson. Also present were Village Clerk/Secretary Joseph M. Johnson and Building Inspector Charles L. Smith.

APPROVAL OF MINUTES

Motion by Duane F. Anderson, seconded by Louis S. Drago, Jr., to approve the minutes of the last regular meeting of the Zoning Board of Appeals held October 11, 2012.

Adopted: 5 ayes, no nays (Chandler, Drago, Blasius Anderson, Anderson)

USE VARIANCE FOOD VENDING TRUCK B-1 & B-2 ZONING DISTRICTS

Ms. Mary Beth Calzone, 3 East Third Street, has submitted an application for a Use Variance regarding a proposal to operate a food vending truck, specializing in Mexican fare, at various locations within the B-1, [Retail Business] and B-2 [Highway Business] zoning districts. NOTE: Although the Village of Lakewood Zoning Law does not specifically address the operation of food vending trucks, similar uses have been enforced under Section #25-41, [Temporary Retail Outlet], of the Village of Lakewood Zoning Law wherein the use shall not exceed a period of two weeks over the course of twelve months.

Chairman Chandler asked the applicant if she would briefly describe her proposal to operate a food vending truck within the Village of Lakewood.

Mrs. Mary Beth Calzone indicated she has lived in Lakewood for a number of years and when the idea of a food truck surfaced we thought it would be a nice option to offer to the local community. Mrs. Calzone said starting the business has been a huge learning curve especially tackling the various codes and regulations relative to food service. Mrs. Calzone said her son Marc, who graduated from the Orlando Culinary Academy is the chef on the vending truck. The purpose of the business isn't to compete with other established restaurants but to offer the community with a Mexican and southern style of food. Mrs. Calzone said she would someday love to open a Mexican Restaurant in the area with a permanent location.

Board member Myra V. Blasius referencing a recent article in the local newspaper asked Mrs. Calzone about a proposed vending site on East Fairmount Ave.

Mrs. Calzone indicated she has contacted the owners of the former Bagel Company property on East Fairmount Ave., and the property manager of the former Super Duper plaza on West Fairmount Ave. in the hopes of working out some agreeable lease terms allowing the food truck's operation at those locations. It was then that she was told she needed to talk to Building Inspector Smith to determine what she needed to do to go forward with her proposal.

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Chairman Chandler noted that the Village of Lakewood Zoning Law does not specifically address food vending trucks and asked Building Inspector Smith if he could clarify the particulars of this use variance.

Building Inspector Smith indicated any business such as the one Mrs. Calzone is proposing would fall under Section #25-41, [Temporary Retail Outlet], however with that particular permit it is only valid a maximum of fourteen days over the course of twelve months. The fees associated with this permit are \$ 50.00/day or a maximum of \$ 350.00.

Building Inspector Smith suggested that the next time the local zoning law is amended or updated rules and regulations pertaining to the operation of food vending trucks within the Village of Lakewood should be included. Regarding Mrs. Calzone's application for a Use Variance, the Zoning Board of Appeals may wish to entertain a temporary variance until specific rules and regulations pertaining to the operation of food vending trucks can be included in the Village of Lakewood Zoning Law. Mr. Smith said he is hopeful that amendments and revisions can be made to the zoning law by July of 2013.

Mr. Smith indicated to Chairman Chandler and members of the Zoning Board of Appeals that he has compiled and distributed a list of some possible food truck rules and regulations, some of which could be considered as conditions of any variance granted to Mrs. Calzone this evening.

Board member Louis S. Drago, Jr., asked Building Inspector Smith is there any way this board may limit the food truck's mobility.

Building Inspector Smith said the food truck's mobility would be restricted to some degree in that it would only be able to operate within a B-1, [Retail Business] or B-2, [Highway Business] zoning district. The other matter for the Zoning Board to consider is to set a reasonable fee for this temporary use variance until one is determined via the process to amend the zoning law.

Board member Myra V. Blasius said it makes perfect sense to limit the food truck's operation to business districts.

Mrs. Calzone said she and her son want to be part of the community and therefore participated in the "Christmas in the Village" activities Saturday, December 1st.

Chairman Chandler asked Building Inspector Smith if the list of food truck rules and regulations he compiled should be conditions in approving the use variance application.

Mr. Smith suggested that a few of the regulations could be made conditions of the use variance application under review this evening.

Board member Louis S. Drago, Jr. said he has no problem with where the food truck will be allowed to operate or its hours. He would like to see if the owner can find a way to muffle or reduce the noise that is emitted from the truck's auxiliary generator however. Mr. Drago said the applicant should also provide the Village of Lakewood with a Certificate of Insurance.

Board member Blasius asked Mrs. Calzone how is any waste generated in the truck handled.

Mrs. Calzone said the truck is equipped with a self-contained waste system.

DECEMBER 13, 2012 (CONTINUED)

Motion by Louis S. Drago, Jr., seconded by Duane F. Anderson to grant/approve the application for a Use Variance as submitted by Mrs. Mary Beth Calzone, 3 East Third Street, whereby she and her son Marc will be allowed to operate a food vending truck, dba Mexicali Burrito Co., L.L.C. under Section #25-41, [Temporary Retail Outlet], of the Village of Lakewood Zoning Law with the following conditions or stipulations:

- #1 – The food vending truck, (dba Mexicali Burrito, Co., L.L.C) will be allowed to operate in excess of the maximum of fourteen days within a given twelve month period.
 - #2 – Hours of operation are to be set at 6:00 AM – 10:00 PM.
 - #3 – The food vending truck shall only be permitted in a B-1, [Retail Business], B-2, [Highway Business] or I-1, [Light Industrial] zoning districts.
 - #4 – The applicant shall provide the Village of Lakewood with proof of insurance.
 - #5 – The applicant shall comply with Chautauqua Co. Health Dept. rules and regulations with respect to food service.
 - #6 – The temporary (six month) permit fee will be set at \$ 175.00.
 - #7 – The use variance will expire upon the adoption of a Local Law amending the Village of Lakewood Zoning Law which will then include a Section on Food Vending Trucks.
 - #8 – The food vending truck shall not be located within 200 ft. of any restaurants.
 - #9 – The applicant shall make a reasonable attempt to silence the food truck's auxiliary generator.
- Adopted: 5 ayes, no nays (Chandler, Drago, Blasius, D. Anderson, W. Anderson)

Meeting adjourned: 6:58 PM

Joseph M. Johnson
Village Clerk/Secretary