

AS ACTED UPON DURING A DULY NOTICED OPEN MEETING OF THE TOWN BOARD OF THE TOWN OF HENRIETTA, COUNTY OF MONROE, STATE OF NEW YORK, HELD AT THE HENRIETTA TOWN HALL AT 475 CALKINS ROAD, HENRIETTA, NEW YORK ON JANUARY 2, 2024 AT 6:00 P.M.

RESOLUTION #2-58/2024

To approve Special Use Permit No. 2023-046 under Town Code §295-14[B](10) for a proposed vehicle storage lot.

On Motion of
Supervisor Schultz

Seconded by
Councilmember Stafford

WHEREAS, RA Cenzi, located at 5896 West Henrietta Road (the "Applicant"), has applied for Special Use Permit Application No. 2023-046 pursuant to the Henrietta Town Code at Section 295-14[B](6) for a vehicle storage lot (the "Project") on property located between 915 Bailey Road and 4011 West Henrietta Road with a Tax Map No. 161.19-1-80.12 (the "Property"); and

WHEREAS, §295-14[B](6) specifically states that it is for "any other business or commercial uses not specifically enumerated herein and not herein specifically prohibited"; and

WHEREAS, §295-14[B](10) is for vehicles storage lots "Vehicle storage lots for dealerships/motor vehicle sales businesses," along with some specific restrictions; and

WHEREAS, a number of deficiencies have been identified in the Special Use Permit findings, as set forth in Town Code Section §295-54, that, if rectified, would allow this Project to be approved under §295-14[B](10), which requires adequate screening from the street and from adjacent properties, especially adjacent residential properties; and

WHEREAS, §295-14[B](10) also requires certain operational constraints, including the vehicles being stored must be new vehicles and must be vehicles from a Henrietta-based dealership or motor vehicle sales business and the means for the safe loading and unloading of vehicles be provided on-site.

THEREFORE, BE IT RESOLVED, that in assessing each of the criteria for granting of the requested Special Use Permit approval, all as set forth in Town Code Section §295-54, the Town Board makes the findings set forth at Exhibit "A" hereto, incorporated herein, and made a part hereof.

BE IT FURTHER RESOLVED, that Special Use Permit Application No. 2023-046 for a vehicle storage lot under §295-14[B](6) is denied.

BE IT FURTHER RESOLVED, that Special Use Permit Application No. 2023-046 for a vehicle storage lot under §295-14[B](10) is approved with the following conditions:

1. Only new vehicles may be stored on the Property.
2. No sales or customer activities may take place on the Property.
3. Only vehicles from a dealership or motor vehicle sales business with a business location in the Town of Henrietta may be stored on the Property.
4. The adjacent residence, 915 Bailey Road, also owned by the applicant, remain a residential use to act as a transition buffer between the commercial vehicle storage use and the adjacent residential properties.
5. Adequate vegetative screening must be installed on the Property behind the right-of-way so as to screen the vehicle storage lot from the surrounding residential area.
6. All vehicles stored on the Property must be parked on a paved surface and not on grass, dirt,

- or other non-paved surfaces.
7. The parking lot must meet all requirements with regards to drainage and the prevention of oils, fuels, and other automotive fluids leaching into the ground, at the discretion and direction of the Director of Engineering and Planning.
 8. Stormwater control measures must be in place as required by the Department of Engineering and Planning, at the discretion and direction of the Director of Engineering and Planning.

Duly put to a vote:

Councilmember Page	Aye
Councilmember Bellanca	Aye
Councilmember Barley	Aye
Councilmember Stafford	Aye
Supervisor Schultz	Aye

RESOLUTION ADOPTED

Exhibit "A"

RA Cenzi Special Use Permit Assessment by Henrietta Town Board

§ 295-54 **Granting or denial of special use permits.**

In considering an application for a special use permit, the Town Board shall make its decision based upon the following factors. The Town Board may impose conditions, including in order to resolve any issues identified via its assessment of said factors.

- A. Whether the proposed use is substantially consistent in its scale and character with those uses permitted and the existing built permitted uses in the subject zoning district and neighborhood or will otherwise impair such uses due to inconsistency.

The proposed use is substantially consistent in its scale and character with those uses permitted and the existing uses in surrounding properties. Immediately across the street, on the north side of Bailey Road, is a large vehicle storage lot that is associated with car dealerships. That lot is screened from the street through a vegetative buffer and, as can be seen in the images at the end of this analysis, cannot be seen from the road. Creating a similar vegetative screening here could create a use that is essentially similar, with one notable exception: there is no immediately adjacent car dealership associated with the lot.

Permitted use § 295-14 B(10) under the Commercial B-1 Zoning Districts does allow for a separate vehicle storage lot as long as certain conditions are met: that the vehicles are new, that they are associated with a Henrietta-based automotive business, and that there is sufficient screening both to the street and to adjacent properties, especially residential properties. If all of those conditions are met, this use would be consistent with the scale, character, and intent of the zoning district.

- B. Whether the proposed use aligns with the vision, goals and recommendations of the Comprehensive Plan and other applicable plans and studies conducted by or on behalf of the Town.

The Comprehensive Plan envisions that the commercial properties in this area are largely off of West Henrietta Road and that when you turn onto a residential connector street, like Bailey Road, Lehigh Station Road, and Brooks Road, the uses immediately switch to residential. That is consistent with the existing properties.

However, the majority of this property does exist with the Commercial B-1 Zoning District located along West Henrietta Road. The issue is that it does not have connectivity to West Henrietta Road.

- C. Whether the proposed use aligns with the purpose, intent, and applicable design and development standards of the zoning district(s) in which the use is proposed to be located.

In reviewing the proposed use, although the applicant is applying under § 295-14 B(6), which is a catch-all for “any other business or commercial use not specifically enumerated herein,” the use described more closely aligns with § 295-14 B(10), which is for vehicle storage lots. Under that section of code, the storage is supposed to be for new vehicles only, which these do appear to be. But it is also supposed to be storage for Henrietta-based businesses, which it is our understanding, the company associated with the stored fleet is not Henrietta-based.

In addition, the plan is supposed to minimize the visual impact from any public street – the plans as presented does not do that. The plan is also supposed to minimize the visual impact on surrounding properties, especially residential properties – the plan as presented largely does that if the immediately adjacent property, which is owned by the same entity as the subject property, is considered transition buffer. It should be noted that, to continue to meet this requirement, none of the land that wraps around the south of the adjacent residences, could be used for vehicle storage and that furthermore, none of the existing vegetative screening between the lot and the adjacent properties is removed.

Due to being located in an area that makes the transition from commercial to residential, the proposed use must include a design that is compatible with both. Providing a vegetative screening along the road, maintaining the transition buffers around the adjacent residential properties, and maintaining the easternmost adjacent property as a residence would accomplish this.

- D. Whether the proposed use will be a nuisance in law or in fact due to its being materially noxious, offensive or injurious by reason of the production of or emission of dust, smoke, refuse, poisonous substances, odors, fumes, noise, radiation, vibration, unsightliness or similar conditions, or will contaminate waters.

The proposed use presents a nuisance if the owner continues to park the vehicles on unpaved surfaces.

- E. Whether the proposed use will create material hazards or dangers to the public or to persons in the vicinity from fire, explosion, electricity, radiation, traffic congestion, crowds, parking of vehicles, or other causes.

The proposed use presents no material hazards or dangers to the public or persons in the vicinity from any of the listed conditions or other causes.

- F. Whether the proposed use will create materially adverse impacts that cannot be adequately mitigated, such as to adversely impact natural resources or the environment, agriculture, community services or other areas required to be addressed by the State Environmental Quality Review Act (SEQRA).

The proposed use presents a materially adverse impacts under SEQR if the vehicles are parked on unpaved surfaces and oils, fuels, or other motor vehicle fluids are allowed to leach into the ground. This can be mitigated by only parking vehicles on properly paved surfaces.

- G. Whether the physical conditions and characteristics of the site are suitable for the proposed use considering site size, configuration, location, access, topography, vegetation, soils, and hydrology for effective stormwater management and, if necessary, the ability to be screened from neighboring properties and public roads.

The property associated with the application is located in between a commercial district and a residential neighborhood with the majority lying within a Commercial B-1 Zone but with all of the frontage being in the residential area and with the property wrapping around behind residences.

Directly across the street is a similar property that is a commercial vehicle lot associated with the adjacent car dealerships located along West Henrietta Road. The primary difference between the property to the north and the subject property is vegetative screening. The property to the north is well screened from the residential properties and its access is through the adjacent dealerships, including out to West Henrietta Road. It also has significant separation buffering it to any adjacent residential property.

The subject property on the other hand has no vegetative screening and it immediately abuts residential properties. Under Town Code § 295-60 E, minimum transition buffers are required between the subject property and the adjacent residential properties. The owner of the subject property also owns the easternmost residential property, so that property, if maintained as a residential property, can count as the required transition buffer east-to-west from the main portion of the subject property. But for the portion of the subject property that wraps around the southern side of the other residential property, a minimum distance of 100' is required, which makes that area ill-suited towards storing cars.

The lot itself should be paved in a manner that either sheets stormwater into the storm sewer systems or that collects the stormwater through catch basins and carries it to the storm sewer systems. Proper stormwater facilities should be installed as needed.

- H. Whether there are adequate utilities, public infrastructure, community facilities and emergency services, either existing or to be provided by the applicant or others, to effectively serve the proposed use. A proposed use shall not create or contribute to an existing inadequacy.

The proposed use represents minimal impact on any of the listed items.

- I. Whether the proposed use will provide, maintain, or enhance, as necessary, safe and efficient vehicular traffic patterns, nonmotorized travel, and pedestrian circulation as well as, where feasible, access to public spaces, parks, recreation, and open space resources.

As long as the sidewalks and shoulders are maintained, the proposed use maintains the above traffic, travel, pedestrian, and access considerations. As long as the vegetative buffers are maintained, the proposed use maintains open space resources.

The following images provide additional clarity to the above points.



Subject property (cyan) showing overlay of the Commercial B-1 Zoning District (red) on the western side of West Henrietta Road as well as the approximate location of the 100' transition buffer (yellow dotted line) – note that the easternmost of the three residential properties surrounded by the subject property is owned by the owner of the subject property and as long as that property is maintained as a residential property, it would count as the transition buffer along that edge.



View of Bailey Road, looking westward, with the residences in front of the subject property visible on the left and the vegetative screening in front of the similar vehicle storage lot visible on the right.



View of the subject property from Bailey Road showing the high density of vehicles stored on the property, including encroachment onto the grass. In the foreground is the sidewalk that should be maintained. Vegetative screening could be installed directly behind this sidewalk to screen the vehicles from the road, as necessitated under § 295-14 B(10).



View of the nearby vehicle storage lot located on the north side of Bailey Road but with adequate vegetative screening such that the lot is not easily visible from the street.

November 26, 2023

Town of Henrietta
475 Calkins Road
Henrietta, NY

Attention: Town of Henrietta Planning Board

I, Richard Cenzi, owner of parcel 263200161.19-1-80.12, on Bailey Road, vacant commercial lot 2.22 acres hereby ask for the approval of a Special Use Permit to park new vehicles on a portion of my property (approximately .75 acre).

I have owned this lot for the past 25 years and have parked my trucks and equipment there as far back as 1980 until retiring in 2015. In 2018 Garber Automotive asked if they could park their overload of cars in the lot from time-to-time, which lasted until Covid. The lot then became vacant again except for my few pieces of equipment.

When the opportunity came a few months ago with Alliance Fleet, which is a company that revamps vehicles into emergency and service vehicles as ordered to park their overload of new vehicles, I took it not knowing I was in violation of any sort. I received a violation in the mail a day before leaving on vacation. I went immediately to the Town Hall Code Department and was told things have changed in the last two years and I now needed to have a permit to do anything on the property. The vehicles will remain on the lot until needed or until I tell them to vacate. My lot is a commercial lot with all boundaries being commercial, along with a car lot across the street from me.

Please note that I take pride in my properties, which have always been well kept and groomed. I have never had a complaint in the last 45 years.

Sincerely,



Richard Cenzi