



City of Saratoga Springs

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ZONING DETERMINATION

August 30, 2018

This determination is in response to the Planning Board's inquiry during the meeting of 7/19/18 while considering a Special Use Permit application, regarding the definition of "Convenience Sales".

The question posed is whether offering food delivery service is consistent with the Convenience Sales use.

"Convenience Sales" as currently defined by the City of Saratoga Springs Zoning Ordinance is as follows: **A small retail establishment providing a limited line of groceries and household items, and catering primarily to nearby residential areas. The use may have up to twenty seats for customers consuming food sold or prepared on-premise. Gasoline pumps shall not be permitted unless separately authorized.**

Delivery as a function is not specifically allowed or precluded within the definition of "Convenience Sales", nor is it allowed or precluded within the definition of any particular use in the Zoning Ordinance. The definition of "Eating and Drinking Establishments" makes no mention of delivery service, while the function of food delivery is a common and expected practice amongst Eating and Drinking Establishments.

It is my determination that food delivery as a function can reasonably be allowed within the Convenience Sales use, as long as food delivery is ancillary to the primary use as described. The Planning Board has the authority to place reasonable restrictions on the food delivery services offered to ensure that the function remains ancillary to the primary use, and to impose conditions necessary to minimize the impact to the surrounding neighborhood under § 240-7.1.10 (E).

The portion of the definition: "catering primarily to nearby residential areas" would apply to the main use. I do not believe that "nearby" necessitates any geographical restrictions on the area of the food delivery service as an ancillary function.

Respectfully,

Patrick Cogan
Assistant Building Inspector, Zoning Officer