

Town of Duanesburg
Zoning Board of Appeals
Regular Meeting
May 19, 2009

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JUN 17 2009

TOWN OF DUANESBURG
TOWN CLERK

Members Present:

Alternates Present:

Pat Wall, Chairperson
Wendy Graves, Member
Kathleen Kosinski, Member
Nelson Gage, Member
John Gentile, Member
Pat Payst, Recording Secretary

Final Minutes

This meeting was called to order at 7:30 pm. The agenda for tonight will be as follows: an open forum, minutes of the previous regular meeting, an ongoing application submitted by Steven Perog, an application submitted by David Mix requesting a side yard variance, and any other business the Board wishes to discuss.

The public forum was open for any comments or questions that do not pertain to tonight's agenda. Jennifer DiCaprio of 453 Batter Street, Mariaville asked if her request to change the March meeting minutes would be discussed tonight even though it is not on the agenda. Their application motion in the March, 2009 regular meeting minutes state a six month building permit deadline and all other aspects of the Ordinance be followed, and the approved application show no such conditions. Her recollection from the meeting was that no conditions were added to that motion. The Board will discuss her request after tonight's business. The forum was closed.

The minutes of the April 21st, 2009 regular ZBA meeting were read. Nelson Gage made a motion to accept the minutes with the corrections noted. Kathleen Kosinski seconded. Member Gage, aye; Member Kosinski, aye; Member Gentile, aye; Member Graves, abstain; Member Payst, aye; Chairperson Wall, aye. The motion passed.

A representative for the Perog application has not arrived at this time, therefore the Board will continue with other business until he arrives.

The Board reviewed application 09-006 submitted by David Mix of 1528 McGuire School Road, Delanson, requesting a side yard variance to construct an enclosed one story pole barn on a preexisting undersized lot. There is no information as to the creation date of this lot. Mr. Mix has a survey of the property dated 1975 but not with him. Mr. Mix was asked to bring it with him to the next meeting. The property frontage is greater than 200 feet, therefore Section 13.2.1 does not apply. Kathleen Kosinski made a motion to declare the Board lead agency. John Gentile seconded. Member Kosinski, aye; Member Gentile, aye; Member Graves, aye; Member Gage, aye; Member Payst, aye; Chairperson Wall, aye. The motion passed. This is a Type II action and the requirement of SEQRA is satisfied. The steep topography and drainage problems preclude a different location on the property. Access to the proposed structure will be through an extension of the existing driveway. The proposed location has to be moved 2 foot closer to the property line to maintain a 10 foot distance to the dwelling per building code. Mr. Mix made the change to a 10 foot variance and initialed the application. Wendy Graves made a motion to set a public hearing on the application submitted by David Mix for June 16, 2009, at 7:30 pm in the Town Hall for a ten foot side yard variance to construct a 36 foot by 36 foot single story pole barn style garage. Nelson Gage seconded. Member Graves, aye; Member Gage, aye; Member Kosinski, aye; Member Gentile, aye; Member Payst, aye; Chairperson Wall, aye. The motion passed. Mr. Mix was asked to bring in the full survey sheet and distances to the shed and kennel from the property lines.

The Board discussed the request from Mr. and Mrs. DiCaprio. The spelling error of their name in the March ZBA minutes will be corrected and a new copy of the minutes will be submitted to the Town Clerk. The Board has historically added "a building permit (or Home Occupation Business Permit) be obtained within six months and all other aspects of the Ordinance be followed". This was added to ensure timely issuance of the permit. Should changes in the Ordinance or Building Codes happen in later years, this time period prevents the issuance of a permit for that now unlawful condition. Chairperson Wall admittedly made an error by not adding the conditions before signing it. Mrs. DiCaprio would like the minutes to be changed to eliminate "a building permit be obtained within six months and all other aspects of the Ordinance be followed". The new owners may not be able to apply for a building permit in that six month time frame and are concerned that they may have to reapply for the variance. The Board members here tonight do not remember exactly what was said. The tape recording of that meeting was inadvertently taped over. Ken Chrinian made that motion and he will be asked what he remembered when he has sufficiently recuperated from an illness. Kathleen Kosinski has notes from that meeting but not with her and will look at

them. The Board feels that Mr. Chrinian be consulted and see if he remembers what the motion was. The notes Dale Warner took at that meeting state no conditions. Also the Board agrees that the Town Attorney be consulted as to the correct way to amend the minutes. Wendy Graves made a motion to amend the March, 17th, 2009 ZBA minutes for the application 09-003 submitted by Angelo and Jennifer DiCaprio for an area variance for a preexisting undersized lot to remove the words "a building permit be obtained within six months" but leave in the words "and all other aspects of the Ordinance be followed". Nelson Gage seconded. The Board could not agree on the legality of difference between the two documents' wording – the approved minutes or the approved application. Wendy Graves amended her motion to add "contingent on approval by the Town Attorney". The question arises that since "and all other aspects of the Ordinance be followed" is not on the approved application, the Board does not know which document is binding – the minutes or the application. The Board agreed to ask for a legal opinion as soon as possible. Wendy Graves withdrew her motion. Chairperson Wall will consult with the Town Attorney tomorrow for his advice and let the members know his reply by email. The DiCaprios will also be informed.

The Town Board is asking the ZBA for their input concerning a zoning district change. Dave Pirrone wants to build a restaurant in the L1 district at Mariaville Lake. His property abuts the Hamlet district. The Board had an involved discussion. The L1 district is very restrictive of uses. The Hamlet district allows a much wider variety of uses compared to the Lake District – 9 versus 34. The Board looked at the variety of uses allowed in a hamlet which could conceivably replace the proposed restaurant in the future. This is not spot zoning, just an extension of the abutting district. The Board feels the L1 district was created to maintain a residential character around the Town's lakes. Also, this change might influence a future domino effect on the non-lake side of the road by allowing more uses. The majority of the Board agrees that the lake area should remain predominantly residential and is not in favor of the zone change.

Mr. Perog or his representative did not arrive therefore any action by the Board is postponed until the June meeting.

There is a workshop on Local Government Planning and Zoning on June 4, 2009, at Hudson Valley Community College for those interested in attending.

The meeting adjourned at 9:16 pm.