

Nelson Gage, Zoning Board Chair
Dale Warner, Town Planner
Melissa Deffer, Clerk
Terresa Bakner, Attorney



Jonathan Lack, Vice Chair Member
Link Pettit, Board Member
Daniel Boggs, Board Member
Matthew Ganster, Board Member

**Town of Duanesburg
Zoning Board of Appeals
February 15th, 2022**

Town of Duanesburg is inviting you to a scheduled Zoom meeting.

Topic: Town of Duanesburg's ZBA Meeting

Time: This is a recurring meeting Meet anytime

Join Zoom Meeting

<https://us02web.zoom.us/j/86499746075>

Meeting ID: 864 9974 6075

Passcode: 130214

Dial in by Phone: 1-646-558-8656

Meeting ID: 864 9974 6075

Passcode: 130214

INTRODUCTION BY CHAIRPERSON NELSON GAGE:

OPEN FORUM

PUBLIC HEARINGS:

None

OLD BUSINESS:

None

NEW BUSINESS:

None

Other:

Interpretation of Primary Use and Accessory Use

ZONING BOARD MEETING MINUTES:

December 21st, 2021

&

January 18th, 2022

Approved: Yes _____ No: _____

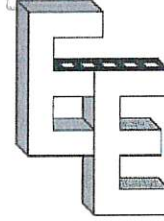
Comments: _____

ADJOURNMENT

AGENDA ITEMS MAY BE ADDED, DELETED, OR ORDER CHANGED WITHOUT NOTICE

Town Hall • 5853 Western Turnpike • Duanesburg, NY 12056 • (518) 895-8920

EMPIRE ENGINEERING, PLLC



January 26, 2022

Town of Duanesburg
Zoning Board of Appeals
5853 Western Turnpike
Duanesburg, NY 12056

Attn: Dale Warner, Planner
Via Email: dale@duanesburg.net

RE: Pine Grove Dairy Self-Storage

Dear Dale,

Empire Engineering, PLLC is in receipt of your comment dated January 10, 2022, regarding the Site Plan & Special Use Permit Application for the Pine Grove Dairy Self-Storage project. In response to your comment, we ask for placement on the February 15, 2021 Zoning Board of Appeals agenda to request their interpretation on the relative code requirements.

Comment dated 1/10/22

Use is permitted, however [may] need subdivision as it is not an accessory use.

Project Background

The subject project, located along Duanesburg Road in the Town of Duanesburg, is the construction of storage unit structures along with a driveway, gravel parking areas and associated storm water management system. The site includes approximately 14.4 Acres of buildings, driveway & gravel storage and 29.4 Acres of total disturbance. There are (11) 1-story storage buildings proposed with accessible units along the exterior. The proposed structures are intended for self-storage use and will not require any sanitary sewer or water supply fixtures. The subject property is zoned Manufacturing and Light Industrial (C-2). The total parcel is approximately 103.76± Acres. There is an existing barn structure with attached silos as well as an accessory single-family dwelling on the remainder of the property outside of the proposed project site

The original use disposition of the site was that the commercial barn structure was the predominant principal use and two single-family dwellings existed as accessory uses. One of the single-family structures has since been demolished and the commercial use within the barn has been discontinued for several years.

As part of the proposed project the owner is redeveloping the mostly vacant existing site into self-storage units which will become the predominant principal use on the property. The proposed project creates a new configuration of which the single-family residence will be an accessory use on the same parcel as the predominant self-storage commercial use.



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Code Interpretation

The code section which we are requesting interpretation of is the allowance for the remaining single-family structure to be considered an accessory use to the self-storage principal use.

For reference, we understand the following code sections to apply to this situation. Section 3.5.2.1.c. defining an accessory structure as "any structure or use located on the same lot as the principal structure or principal use served." And Section 5.2.2 stating that "Accessory parking and loading and accessory buildings or structures incidental to the principal use may be permitted in the business and industrial districts subject to Site Plan Review and within setbacks."

It is our opinion that it is permissible to designate the single-family structure as an accessory use to the proposed self-storage principal use. This accessory use is on the same parcel as the proposed use and is incidental to the principal use. Additionally, the residence is currently rented to a tenant, and it is the intention of the owner to eventually utilize the residence as a care taker's quarters for maintenance of the commercial property.

We would respectfully request the Board's concurrence with this interpretation. Should the board concur, the project will continue through the required Planning Board Site Plan Review process. If there are any questions prior to the meeting, feel free to reach out.

Sincerely,

Christopher Longo, PE
Owner, Empire Engineering, PLLC

Cc: Eric Dolan, Superior Housing/Valley Mobile Home Court, LLC

Encl: Applicable Code Sections



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SECTION 3

APPLICATION OF ORDINANCE REGULATIONS AND DEFINITIONS

3.1 WORD USAGE

The present tense shall include the "future". The singular shall include the "plural", and the plural the "singular". The word "shall" is always mandatory. The term "person" includes individuals, and any type of legal entity. The term "lot" includes the word "plot" or "parcel". The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied".

3.2 CONFORMITY WITH REGULATION REQUIRED

No building, structure, or land shall hereafter be used, and no building or structure or part thereof shall be erected, moved or altered, unless for a use expressly permitted by and in conformity with the regulations herein specified to the district in which it is located, except as hereinafter provided.

3.3 BUILDING PERMIT REQUIRED

No building or structure shall be excavated for, erected, added to, or structurally altered until a building permit has been issued, as specified in Section 14.3, signifying that the building or structure and proposed use thereof complies with the provisions of the ordinance. Building Permits shall also be required for other work as set forth in Section 14.3.

3.4 CERTIFICATE OF OCCUPANCY OR COMPLIANCE

No building or structure that was erected or added to or structurally altered in accordance with an issued Building Permit shall be occupied without the issuance of a Certificate of Occupancy or Certificate of Compliance by the Uniform Code Enforcement Officer, as specified in Section 14.4.

3.5 DEFINITIONS

The following definitions shall apply to this Ordinance:

3.5.1 Abandon. To voluntarily cease, for a period in excess of one (1) year, the use of land, buildings or structures which have been non-conforming.

3.5.2 Accessory Structure or Use.

A structure or use that meets any one of the following three requirements:

1. (a) is subordinate to and serves a principal building or a principal use; and
- (b) contributes to the comfort, convenience or necessity of the occupants, business or industry in the principal structure or principal use served; and
- (c) is located on the same lot as the principal structure or principal use served; or
2. a Home Occupation; or
3. a Temporary Transportable Storage Unit.



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- 3.5.113 Outside Storage of Material. The unenclosed placement or deposit of natural or man-made objects or materials for future use.**
- 3.5.114 Parking Space. An off-street space available for the parking of one motor vehicle. (See Section 13.2)**
- 3.5.115 Performance Standard. Conditions which may be deemed necessary by the Zoning Board of Appeals and/or Planning Board including, but not limited to, traffic control, noise control, dust control, buffering, and agreements concerning use and maintenance of common areas and shared or common driveways or passageways.**
- 3.5.116 Porch-Open. A porch open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either a permanent or detachable glass sash.**
- 3.5.117 Post Office. An office or station of a government postal system where mail is received and sorted from where it is dispatched and distributed, and at which stamps are sold and other services rendered.**
- 3.5.118 Principal Use. The use that is primary and dominant to the lot.**
- 3.5.119 Public Utility Use. A building, structure or lot used for or in connection with the generation, transmission, distribution or regulation of water, gas, electric, telephone or other public utility service. For the purpose of this definition, telecommunications towers or Wind Energy Facilities shall not be considered, or allowed as, a public utility use. (See Telecommunication Facility Law and/or Wind Energy Facilities Law).**
- 3.5.120 Recreational Center/Country Club. An area with provisions for sports, or other social or instructional activities including but not limited to tennis, swimming, cross-country skiing, entertainment and the incidental use of serving food and beverages.**
- 3.5.121 Restaurant. Any structure having as a principal use, the preparation and dispensing of foods and beverages, with or without seating available for on premises dining purposes.**
- 3.5.122 Religious Institution. A facility in which members congregate, for religion, faith, or worship.**
- 3.5.123 Retail Business. A use involving the sale of goods, merchandise and services to the public.**
- 3.5.124 Right of Way/ Easement. That portion of land or property reserved for present or future use by other than the legal fee owner(s) of the property.**
- 3.5.125 Roadside Stand. A stall or booth for the sale of agricultural products.**
- 3.5.126 Salvage Yard. A facility for the dismantling and sale of motor vehicles or machinery or parts therefrom, having a NYS Dismantler License.**



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Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been previously issued and building constructed according to plans approved, prior to the effective date of this Ordinance.

SECTION 5

DISTRICT REGULATIONS IN GENERAL

5.1 USE REGULATIONS

5.1.1 Permitted Uses. Permitted uses of land and buildings in this chapter shall be permitted in the districts indicated under the conditions specified. No building or tract of land shall be devoted to any use other than any uses permitted within the zoning district in which such building or tract of land is located, with the exception of uses lawfully established prior to the effective date of this Amendment subject to the limitations herein provided.

5.1.2 Special Uses. Special uses, as herein listed, may be permitted in the zoning district indicated, subject to the issuance of special use permits and site plan approval. All uses requiring a Special Use Permit also require Site Plan review the Procedure is established in Section 14.6.2.

5.1.3 Non-conforming Uses. See Section 4.

5.1.4 Natural Production Uses. Natural Production Uses may be allowed upon Special Use Permit issued by the Planning Board and, subject to such Performance Standards, conditions and safeguards as deemed necessary by said board.
(May be subject to New York State DEC Mining and/or other regulations.)

5.1.5 Temporary Storage of Trailers/Recreational Vehicles. Nothing in this Ordinance shall prohibit the temporary storing or parking of an unoccupied RV or travel trailer. The temporary parking of an occupied travel trailer on any residential lot is permitted for a period not longer than 90 days in any 12 consecutive months.

5.1.6 Home Occupations. Traditional home occupations are permitted in all zoning districts, but subject to site plan review by the Zoning Board of Appeals. A Home Occupation Business Permit may be authorized by the Zoning Board of Appeals after said review. If approved, a traditional Home Occupation Permit is issued by the Uniform Code Enforcement Officer.

5.2 ACCESSORY BUILDING AND USES

5.2.1 Permitted Accessory Uses in Residential District. (Residential districts shall include R-1, R-2, H, L-1, L-2 and MP only.)

Accessory Uses in residential districts shall be limited to the following:



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- 1.) Private garages, swimming pools, tennis courts and other recreation facilities for the use of residents, not operated for gain, which shall not create noise, dust, vibration, odor, glare, fumes, or electrical interference's detectable by the senses of a normal person or generally accepted measuring procedures on surrounding properties.
- 2) Accessory parking and loading.
- 3) Buildings or structures accessory to permitted agricultural uses.
- 4) Buildings for lawn care or maintenance of residential property.
- 5) Buildings or structures designed to shelter school children awaiting school bus pickup.
- 6) Home gardening and non-commercial agriculture.
- 7) Home occupations. (Subject to site plan review by the Zoning Board of Appeals). (See 14.5.4)
- 8) Temporary Transportable Storage Unit not to exceed 90 days.

5.2.2 Business and Industrial Accessory Uses. Accessory parking and loading and accessory buildings or structures incidental to the principal use may be permitted in the business and industrial districts subject to Site Plan Review and within setbacks.

5.3 LOT REQUIREMENTS

5.3.1 Lot Size in General. Lot size requirements shall be as specified under each zoning district. No building or structure shall be constructed or converted so as to conflict with the lot size requirement of the district in which such building or structure is located.

5.3.2 Lot Coverage. Lot coverage shall not exceed the maximum specified in this Ordinance.

5.5 YARD REQUIREMENTS

5.5.1 Yard Requirements in General. Yard requirements shall be as set forth under each zoning district and use. Front, rear, and side yards shall be provided in accordance with the requirements of the principal building and accessory buildings.

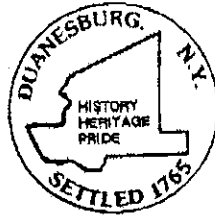
5.6 SIGN REQUIREMENTS (See Section 13.4).

5.6.1 Signs in all Districts. Signs shall be considered to be accessory to the principal use of the premises, and shall pertain only to activities or products available on the premises.

5.6.2 Pre-existing Nonconforming Signs. Nonconforming signs that existed prior to the adoption of this Ordinance or any amendments hereto may not be altered or relocated except in conformance with this Ordinance. Any change in the content of a nonconforming sign, including names, words, logos or similar information shall constitute an alteration requiring conformance with this section.

5.7 FENCES

Nelson Gage, Zoning Board Chair
Dale Warner, Town Planner
Melissa Deffer, Clerk
Teresa Bakner, Board Attorney



Jonathan Lack, Vice Chairperson
Dianne Grant, Board Member
Link Pettit, Board Member
Daniel Boggs, Board Member
Matthew Ganster, Board Member

TOWN OF DUANESBURG
SCHENECTADY COUNTY

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TOWN OF DUANESBURG
TOWN CLERK

Town of Duanesburg
Zoning Board Minutes
December 21, 2021
Draft Copy

MEMBERS PRESENT: Nelson Gage Chairman, Jonathan Lack Vice Chairman, Dianne Grant, Daniel Boggs, Matthew Ganster, Link Pettit. Also attending Clerk Melissa Deffer.

INTRODUCTION:

Nelson Gage opened the meeting at 7:00 pm. Gage welcomed everyone to tonight's meeting.

OPEN FORUM:

Nelson Gage opened the open forum at 7:01 pm.
Lynne Bruning located at 13388 Duanesburg Rd would like the ZBA to look into the state mandated Scotch Ridge Solar project and what we can do to prevent it as a Town.

(Please see attachment)

Nelson Gage closed the open forum at 7:10pm.

PUBLIC HEARINGS:

#21-09 Kirker, Richard: SBL#65.300-1-31.131, (R-2) located on 696 Gage Rd is seeking a 16.54 variance to meet the requirements for a flag lot under section 3.5.93(B); section 14.5.2(B) of the Town of Duanesburg Zoning Ordinance. Joseph J. Bianchine, P.E from ABD Engineering represented Mr. Kirker.

Mr. Bianchine gave his presentation to the public

Gage/Boggs made a motion to open the public hearing for the **#21-09 Kirker, Richard** application.

Gage aye, Boggs aye, Pettit aye, Ganster aye, Lack aye, Grant aye. **Approved.**

NO PUBLIC COMMENT WAS MADE.

Gage/Grant made a motion to close the public hearing for the **#21-09 Kirker, Richard** application.

Gage aye, Grant aye, Boggs aye, Pettit aye, Ganster aye, Lack aye. **Approved.**

Grant/Lack made a motion to grant **#21-09 Kirker, Richard**, 6 Independence Trail Ballston Spa NY for his flag lot road frontage at 696 Gage Rd SBL#65.00-1-31.131 a road frontage variance of 17 feet as described in 3.5.93(B) and per findings of section 14.5.2(B) of the Town of Duanesburg Zoning Ordinance.

Grant aye, Lack aye, Gage aye, Boggs aye, Pettit aye, Ganster aye. **Approved.**

#21-10 Patterson, Geoffrey: SBL# 34.00-2-8.2, (R-2) located on 951 Batter St is seeking a 20-foot side yard variance under section 14.5.2(8); 8.6(2); 3.5.2 of the Town of Duanesburg Zoning Ordinance.

Geoffrey gave his presentation to the public.

Gage/Grant made a motion to open the public hearing for the **#21-10 Patterson, Geoffrey** application.

Gage aye, Grant aye, Boggs aye, Pettit aye, Ganster aye, Lack Aye. **Approved.**

NO PUBLIC COMMENT WAS MADE

Gage/Ganster made a motion to close the public hearing for the **#21-10 Patterson, Geoffrey** application.

Gage aye, Ganster aye, Lack aye, Grant aye, Boggs aye, Pettit aye. **Approved.**

Lack/Grant made a motion to grant **#21-10 Patterson, Geoffrey**, SBL#34.00-2-8.2, (R-2) Located at 951 Batter St A 20 feet west side yard variance to construct a 64X56 two-story pole barn per findings of section 14.5.2(B) providing a building permit be obtained within 6 months and all other aspects of the ordinance be followed.

Lack aye, Grant aye, Boggs aye, Pettit aye, Ganster aye, Gage aye. **Approved.**

OLD BUSINESS:

None

New Business:

None

OTHER:

Chairman Gage informed the Board Members of the Sexual Harassment training that needs to be completed along with the yearly training by the end of December,

MINUTES APPROVAL:

Grant/Pettit made a motion to approve the October 19th, 2021, Zoning Board minutes with one minor spelling correction.

Grant aye, Pettit aye, Ganster aye, Lack aye, Gage aye, Boggs aye. **Approved.**

ADJOURNMENT:

Pettit/Ganster made a motion to adjourn at 7:35 pm.

Pettit aye, Ganster aye, Lack aye, Gage aye, Grant aye, Boggs aye. **Approved**

Nelson Gage, Zoning Board Chair
Dale Warner, Town Planner
Melissa Deffer, Clerk
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Jonathan Lack, Vice Chairperson
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TOWN OF DUANESBURG
SCHENECTADY COUNTY

Town of Duanesburg
Zoning Board Minutes
January 18th, 2022
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There was no meeting held due to nothing on the agenda.