

TOWN OF SAUGERTIES
ZONING BOARD OF APPEALS
4 HIGH STREET
SAUGERTIES, NY 12477

MINUTES

JANUARY 10, 2005

Present: Dan Ellsworth, Jeanne Goldberg, Bill Geick. Dick Conley absent (in Florida). Henry Rua absent (funeral). Tom Macarille

PUBLIC HEARING

1. 13-12-04

THOMAS O'BRYAN
701 CHURCHLAND ROAD
SAUGERTIES, NY 12477

PROPERTY 685 CHURCHLAND ROAD, (SENECA)
FOR THE PURPOSE OF PROTESTING THE ISSUANCE OF A BUILDING PERMIT TO
JULIE SENECA TO INSTALL A MOBILE HOME.

Mr. O'Bryan presented green cards.

Julie Senecal: Owner of property. Went to Building Department in July, told them there was an old mobile home on property she wanted to replace and they gave her a permit. Mobil home was for her mother who had sold her home. Invested \$12,000 in property. One week before delivery of mobile home Building Department withdrew permit. Said it was issued in error. Existing home is Mother / Daughter. She and her sister live there. Found an old leach field while cleaning up property. Talked to Board of Health and they gave her a name of an inspection company who required \$3000 to inspect with no guarantees. Mother closing on new piece of property. Not sure of what she wants to do. Has talked to lawyers. May sue town to recover expenses.

Tom O'Bryan: Trailer ordinance required 40,000 sq. ft. for mobile home and 60,000 if a second residence. Property has 2 residences (house and apartment) on it now. Mobile home would make third septic on an acre. His property is on two sides of lot. Property use to belong to his property. Trailer was used as a gun shop and did not have a leach field, had a leachate pond. Gun shop has been closed for 15 years. Trailer was never used as a residence.

Public Hearing Closed.

OLD BUSINESS

1. 04-05-04

RICHARD SYRACUSE.

No action from Planning Board at their December meeting.

Received a letter from Ulster County Treasurer in response to request: Property had not received an agricultural exemption for years 2000 through 2004.

2. 09-09-04

JAMES O'REILLY

No word from Mr. O'Reilly. Planning Board has a public hearing on a new site plan on December 21 and gave conditional final approval pending DOT curb cut approval on Rt 32 and receipt of engineer's report for access road including landscaping. Mr. O'Reilly was told the original site plan with the lot line changes was never filed and was superceded by this site plan. Since Mr. O'Reilly had given ZBA until February to make a decision, Board will wait.

3. 10-10-04

RONALD STENVURZEL

Mr. Steinvurzel and Mr. Frank Redl present. The Board announced that the 62 day time period for making a

decision had expired on 1.1.05. Under rules a non-vote is in effect a “no” vote by default. Board apologized to applicant. Board has received communications that Mr. Redl had gone to the Planning Board December 21 with an amended site plan which the Planning Board waived another public hearing and granted final approval to the amended site plan. Mr. Steinvurzel upset that there was no public hearing on the issue at the Planning Board. Mr. Steinvurzel very upset that the ZBA did not make a decision within the time frame. Requested a written notice of the outcome.

4. 11-10-04

THOMAS SPERL

Requesting a 10,000 square foot variance. Has water & sewer. Does not have curb cut. Motion by Jeanne to deny appeal as requested was too large, self created. No second. Decision deferred until February meeting.

5. 12-10-04

THERESE BRADFORD

Jeanne confused as to where property line is. There is land owned by Mrs. Bradford adjacent. Feels request is excessive if there is the ability to add more land. Decision deferred till February.

DISCUSSION

1. Minutes for December meeting received on Motion of Jeanne seconded by Bill. 3/0
Notes from joint public hearing no available at present.

2. Planning Board minutes from November received. Jeanne upset with working and would like to request Planning Board to change: in reference to Syracuse / lead agency. “ZBA... due to lack of ability.” Would prefer to have the work “resources” used in place of “ability. Jeanne to write letter and to thank them for the preliminary minutes for December.

3. Received copies of the SEQRA COOKBOOK from the DEC. Ordered enough for Planning Board also. it was suggested to have a training session on SEQRA. Dan to contact DEC. Will invite Planning Board, Town Board, Building Department and ZBA. Tom Macarille approved and suggested cost could be split from training budgets.

4. SEQRA for O’Bryan. Type 2 on Motion of Jeannie seconded by Dan. 3/0

5. Board reviewed copies of submission and meeting dates for 2005

6. Tom Macarille to get a copy of the Rural Water Resource Study maps and report for the ZBA.

7. Saugerties Post Star is the official newspaper for the Town with the Freeman and Saugerties Times as other venues.

8. 10-10-04

RONALD STEINVURZAL

ZBA upset with the non-decision. Discussion held. It was decided to make a decision anyway and to contact Attorney for the Town about legality.

Unable to find any information in Zoning Law, Short Course or Zoning Law for Town Officials U.C. Planning Board Non binding comments.

1. Role of ZBA is appellate in nature... The current petition does not specifically indicate what order or determination of the ZEO it is seeking. It should also be noted that Town Law provides for the ZBA to interpret provisions of the zoning law but this power is part of its appellate function and must be as a result of a determination/ decision of the ZEO.

2, ...(W)e have found nothing in the record to substantiate a claim that the ZEO has made a determination or order regarding the need or lack thereof for additional site plan approval(s) should revised drainage plans be submitted.

3. We have been unable to find in the zoning law reference to demolition permits and their relationship to building permits. It may be that demolition permits are more closely associated with the building code or other portions of the town code rather than the zoning statute. To that end the ZBA authority regarding this issue may be lacking.

4. Similarly, we are unconvinced that the ZBA has the authority to compel a planning board to conduct site plan review. Even if this was the case, it cannot compel the applicant to submit a site plan for review.

Dick Conley sent his opinion. "The actions of Guardian self-storage with regard to the engineering of the project are at best flawed. However the actions of the building inspector have been carried out in accordance with the zoning law. It would seem common knowledge the site chosen by Guardian has had a drainage problem and a high water table. The Town, through the Building Inspector's office have done everything to ensure the project will comply with all town laws. No certificate of occupancy or certificate of compliance will be issued by the building inspector until the project meets all Town of Saugerties zoning laws. The appeal should be denied.

Dan: The Guardian property is lower than R.I.C.H. FARMS. It appears some drainage swales have been filled in over the years. Can't find any reference to demolition permits in the Zoning Law.

Jeanne: Flooding problems caused by a number of different actions on a number of different properties in the area.

Board still unclear what is being appealed. Mr. Steinvurzel's letter makes three specific requests. "The Town must require that R&R Partnership / Guardian Self Storage

1. obtain a building permit for the demolition of the existing buildings
2. obtain a building permit for the construction of the proposed buildings
3. conduct a full and formal review of the site plan for the referenced site in light of recent and significant amendments to the site plan that the town previously reviewed. "

Regarding #1; Motion by Dan seconded by Jeanne to deny request for building permit for demolition. There is nothing in the Zoning Law regarding demolition permits, therefore the Zoning Board of Appeals cannot require one.

Ellsworth - yes; Goldberg - yes; Geick - yes; Conley - absent; Rua - absent.
Motion is passed, request is denied.

Regarding #2. There is an existing building permit. Motion by Jeanne seconded by Bill to uphold request for a new building permit be required because of significant changes in the project design.

Ellsworth - no; Goldberg - yes; Geick - no; Conley - absent; Rua - absent;
Motion is defeated due to lack of passing vote. Request is denied.

Regarding #3 Motion by Dan seconded by Jeanne to deny request because site plan is an action of the Planning Board and the Zoning Board of Appeals is not empowered to act on it.

Ellsworth - yes; Goldberg - yes; Geick - yes; Conley - absent; Rua - absent;

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Motion is passed and request is denied.

Therefore since all three requests were denied the appeal is denied.

Secretary to contact Mr. Redder to see which decision to file.

Next meeting February 7, 2005 7 pm at the Frank D. Greco Senior Center.

Meeting adjourned on motion of Jeanne seconded by Bill.

* NOTE

Conference with Mr. Redder resulted in the non-vote decision being the one officially filed.