

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

REGULAR MEETING

October 5, 2009

Present: Joe Roberti, Jeanne Goldberg, Joe Mayone, Brian Sawchuk, Henry Rua and Samantha Dederick.
Also Nancy Campbell, Alvah Weeks and Jeremy Kane.

PUBLIC HEARINGS

1. 06-09-09 LINDA SASSO
P.O. BOX 623
GLASCO, NY 12432

PROPERTY LOCATED AT 20 PLENTY STREET
SECTION INVOLVED 5.1 REAR YARD SETBACK
FOR THE PURPOSE OF BUILDING A DECK 18' FROM PROPERTY LINE

Linda Sasso presented green cards.

No public comment

Public Hearing Closed

2. 08-09-09 CRAIG GARDNER
124 ABBOTT'S COURT
SAUGERTIES, NY 12477

SECTION INVOLVED 5.1 REAR YARD SETBACK
FOR THE PURPOSE OF EXTENDING A DECK 35' FROM PROPERTY LINE

Mr. and Mrs. Gardner presented green cards.

No public comment

Jeanne: Where is measurement taken from, top of railing or footing.
From footing.

Applicant gave board a copy of the site plan

Joe R. Is on a dead end street in a residential area of an industrial zone.

Public Hearing Closed

NEW APPEALS

1. 05-09-09 TADEUSZ & JOLANTA RUTKOWSKI
35 JEFFERSON ST.
BROOKLYN, NY 11206

PROPERTY LOCATED AT 129 KELLY ROAD
SECTION INVOLVED 5.1 FRONT YARD SETBACK
FOR THE PURPOSE OF CONSTRUCTING A STORAGE SHED 34' FROM CENTER OF ROAD

Mr. and Mrs. Rutkowski representing.

Has seven acres. Mostly wet lands. Shed is 12 x 12 two story. Does not need a building permit. Applicant was not told about setbacks. Building Inspector received complaints. Shed is 14 feet tall. Was built on site. Property has a well. Has no place for a septic system.

Public Hearing scheduled for November 2 at 7 pm.

Applicants given information.

2. 09-10-09 GEORGE PRINZ & INGRED SMITH
42 DOOLEY DRIVE
SAUGERTIES, NY 12477

PROPERTY LOCATED AT 73/75 RIVER ROAD, MALDEN

SECTION INVOLVED 5.1 FRONT YARD SET BACK
FOR THE PURPOSE OF EXTENDING STRUCTURE 33' FROM CENTER OF ROAD

Mr. Prinz representing

Wants to extend house toward road but would not go further than the neighbor's house. River Road is a narrow, dead end street. There is one house past his. Wants a 17' front set back variance.

Public Hearing scheduled for November 2, 2009

Applicant given information.

PUBLIC HEARING

Jeanne made a motion that the appeal 07-09-09 be divided into two appeals with no added paperwork required because it deals with two separate properties and two separate interpretations. We will have an appeal for the interpretation for DKB Builders and the Building Inspector's designation as a home occupation. And another appeal for Blue Mountain Paving and its designation as a non-conforming pre-existing business. There would be no additional fee because it is one application. It is an administrative decision and would be better to do two public hearings separately and two decisions separately.

Joe M. seconded

Discussion: Not intend to delay or postpone hearings. Want both tonight. Green cards were sent out for both properties. Proposing to divide into two hearings one immediately following the other. There are two issues.

Roberti- yes; Goldberg – yes; Mayone – yes; Sawchuk – yes; Rua – yes. Motion is passed. Appeal will be divided into 07-09-09-A and 07-09-09-B

3. 07-09-09-A ELISE MULLER AND PETITIONINC COMPLANTANTS
166 CHARLES HOMMEL ROAD
SAUGERTIES, NY 12477

FOR PROPERTY LOCATED AT 240 CHARLES HOMMEL ROAD
FOR THE PURPOSE OF PROTESTING THE OPERATION OF DKB BUILDERSAS A HOME
OCCUPATION.

Mrs. Muller had sent in the green cards previously. Mrs. Muller and Mrs. Perks representing.

DAVID BRANNAN: Not in violation of any laws. Has a pick-up truck and a 16 foot trailer. Drives to and from work. Is a residential contractor. 90 % of work is finishing modulars for Supreme Builders. Has to drive his two children to the school bus. Works at different locations. Does not make anything at home. Has no employees. Has a one ton dump truck that is not on the road only used on own property. Has lived there about four years. Removed an old trailer to build his home. There isn't a check point at Elise's house. Not his fault her house is built on the road. Has friends that help occasionally. Could have a tractor trailer go up and down if that was his transportation for work. Could have a sign but does not. Doesn't manufacture anything site. Has name on pick-up truck. Employs casual labor from time to time. They meet at the job site. Does not do W-2's. Occasionally picks up materials at night to take to work the next day.

ELISE MULLER: Home sits on road. Feels traffic. One day Kirk came back and forth five times before noon. He doesn't go to work. Workers come in in the morning. It's not a home business. He doesn't get in a truck and go to work. Has photo's of pick up trucks leaving with lumber. Home occupation different than operating a business. Zoning Law page 7.2 Construction and Trade Use; Building Contractors or Special Trade Contractors not allowed. Page 9 Section 4.3.3.7 Home Occupation shall not result in traffic, noise, vibration, smoke, etc.. Can't go on his property to take pictures to see if he is making something. He hauls a lot of material which tells me he is operating a business. His type of business is not allowed in our zoning. I can't concentrate at my desk. Feel like the New York State Thruway. Changes in area in last three years is surreal. Can't think in house on a rural residential small country road. Now it is a large scale operation. How much is he going to grow? 90% of the traffic on Charles Hommel Road is

commercial. Complaint and appeal is not specifically on traffic. Is a dead end road. Traffic is being generated by businesses which we feel are being illegally operated.

MRS. PERKS: Amount of traffic on road has essentially changed neighborhood. Constant noise. It's dump trucks and other trucks going up and down the road at excessive speed. It's not a residential area any more. It's commercial. There is no posted speed limit. Was a dirt road when moved there 32 years ago. Starts pretty early and workers come for DKB. Has been growing steadily for past two years. It's a residential neighborhood. Why are there businesses. I feel there are people that come up the road for his business. Employed by him. His truck and others. Since Elise presented the appeal the amount of traffic has dwindled. It has picked up again but it did slow down for a while. I thought the dump truck went up and down the road.

JOE M: Changes in area – how many years, 30 or 2 or ? Does DKB have name on pick-up. Can the trucks going up and down be identified ?

BRIAN S.: What is posted speed limit. How many dump trucks in the business. What was your (DKB) property's use when you moved there ? You have no employees, one truck and one utility trailer ? Do you do income statements for casual labor?
(to Elise and Mrs. Perks) Why do you think the business is illegally operated?

JEANNE : (DKB) Do you consider yourself a home occupation ? You said you have no employees ? You do not work on the property. All the work that you do is off the premises.
(to Elise) This is a fact finding time. Board received the packet from Mr. Weeks tonight, also. Economy may have something to do with traffic.

ALVAH: Presented packet to Elise as a courtesy only. Henry Zeigler responded to complaint in 2007. Mr. Brannan could drive a tractor trailer to and from place of residence. Home inspection saw one pick up and one utility trailer. Feel the most extent the home occupation may be answering the phone and doing paper work. Not in violation of 1989 zoning law, nor the amended zoning law or any state law. Doesn't have employees and is allowed one. Is allowed to put a sign at the end of his driveway which he has not done. Police department would have to handle speed complaints.

TODD BRANNAN; Visits his brother. Brick house sits on steep hill, maybe that is why so noisy.

JOE R.: Basically you do renovations. A home occupation works from home. A person has the right to go to work. He has the right to keep tools at his home. I'm hearing complaints about traffic. We received a packet from the Building Inspector tonight. We will review that as well as the packet you (Elise) presented to us. We weigh all evidence to make our decision.
Public Hearing for DKB Builders is closed.

3. 07-09-09-B ELISE MULLER & PETITIONING APPLICANTS
166 CHARLES HOMMEL ROAD
SAUGERTIES, NY 12477

PROPERTY LOCATED AT 221 CHARLES HOMMEL ROAD
FOR THE PURPOSE OF PROTESTING OPERATIONS OF BLUE MOUNTAIN PAVING.

ELISE MULLER (EM): Received the most detailed information but upset about getting it tonight. Sees things in it she can't agree with and is not prepared to discuss the Lydecker case. She needs to meet with

an attorney. Family purchased property in 1962. Was family home. Inherited it five years ago. Has always been on the land. Under S.I.C. does industry fall under the umbrella first by group and then by industry? Has the Board read my submission? Under Zoning Law had to submit a letter to be considered pre-existing. Beiter did not. Everyone keeps focusing on traffic. It's not so much about traffic. When she received copies of town ordinances and laws, realized there were other violations. Most of the community think zoning in Saugerties is a joke. All of a sudden all this information about who owns what on Lydecker appears. One question people have is expansion of use. Mr. Lydecker's business has in past couple years, as far as employees. Business like DKB come into an area, set up a business and then plead hardship.

NAOMI ROTHBERG (NR): Lives at the bottom. Don't have first hand knowledge of traffic coming up and down the road. Is Lydecker's business treated as a non-conforming or pre-existing? A non-conforming business is suppose to be substantially the same as the business that was in existence. Knows Mr. Beiter was there. Change took place under new zoning. What about the expansion of storage of materials?

MARYANNE PERKS: (MP): The barn was not here in 1977 when she moved there. It could have been built in 1989 but definitely not in 1975. Assessor's records are incorrect. How large can he expand? He has a huge garage, a big tractor trailer, a mobile home and there is Mr. Lydecker's mobile home. That was not all there when Mr. Beiter was there. I thought it was all on that property. His garage, that tractor trailer and a trailer that someone is in. What about the big white ____ The whole spirit of zoning is to protect our land. Please think about that when you make your decision. It seems like loop holes - conforming, non-conforming. I thought zoning was to protect our land and the people that live there. If we have a vision of this is how the land should be then I don't understand why we don't try so hard to keep that. Businesses should not be in our neighborhoods.

JEANNE GOLDBERG (JG): This is a quasi judicial body. We are a court which means there are two sides. The Town of Saugerties represented by Mr. Weeks as one side and you and your fellow complantants are the other side. Mr. Weeks prepared this for us. It is his evidence. As a courtesy, he gave you a copy tonight. You need to know that most of the Board did not get theirs until tonight either. They haven't had a chance to look at it. It is evidence we will take into consideration when we make our decision within 62 days. Business has a choice in 1989 to register or not. Being on the list gave more benefits. There are two trailers. Mr. Lydecker lives in one by a beautiful pond and there is one on the property with the garage. There is a mobile home and a truck trailer. Mr. Lydecker, would you like to respond but address comments to the Board. Has the number of your employees changed? The work that you do, obviously, is not on your own property. You pave and you use asphalt and don't bring asphalt home. You do to outside sources and take directly to the job. What kind of jobs do you do, private or public. Give example of commercial. Have been up that road three times. It is a narrow, twisty road to have a 55 mile speed limit, unmarked. To get speed limit changed need to go to the Town Board.

ALVAH WEEKS (AW): Old zoning law used the Standard Industrial Classification major group two digit code. Specific businesses got a four digit code. Mr. Beiter and Mr. Lydecker fell under the major group 17, which covered a multitude of businesses. So there was no change of occupancy. The property Mr. Lydecker operates out of is owned by Mr. Gran. When Mr. Beiter moved out in 2005, Mr. Lydecker moved in. The new zoning law came out in 2008. In 1989 the Town gave a one year window for businesses to get on the pre-existing business list. This list gave businesses a little leeway. It took the most restrictive district that original business was able to operate by right and it theoretically became that zone. Any future business that was permitted in that zone could move there without a problem. Pre-existing statue also gave the business an opportunity to expand 100% or 2,000 square feet whichever was

greater. Mr. Beiter did not get on the list so his business was a non-conforming use. The assessor's inventory shows that particular garage that Mr. Lydecker is occupying was built in 1975, long before zoning. Mr. Beiter filed a certificate with the county in 1986 that R.E.A.D. Electric was operating from that location. I have a letter from Mr. & Mrs. Beiter stating the years of operation there. In response to Mrs. Muller's complaint about contamination to the village watershed, I had Mr. Bisignano investigate and he found no violations. Mr. Lydecker lives in a manufactured home on a different piece of property. Since Mr. Beiter has gone, it looks like one mobile home may have gone. The garage Mr. Lydecker is operating from hasn't grown one foot. The tractor trailer is mobile storage and could be gone tomorrow and doesn't need a permit. Mr. Beiter had a lot more equipment. He had large spools of wire. He had telephone poles with creosote on them. Mr. Lydecker has some blacktop which the DEC considers clean fill. Had an Ulster County Health Department engineer inspect and he found no violations. Building Department is not concerned with speed on the road. That is a police matter.

BRUCE LYDECKER (BL): Has papers from residents on road that have no complaints. Has the same two dump trucks he started with 5 years ago. Same paver. Same beat up trailer. Same two black top rollers. Did buy his wife a new pick up truck. Has two full time employees and one part time who also has a garbage route on the road and hires others when jobs call for it. Does 80% residential and 20% commercial such as small parking lots. Does not do road jobs. Brings home extra stone from jobs. Has dumped it in a spot he hopes to pave next year to create a cul-de-sac for three properties. And create a place where the town plow can turn around safely. Has not expanded and doesn't have any intentions of getting larger. Speed limit in Town of Saugerties, if unmarked, is 30 mph.

BRIAN SAWCHUK: Zoning is put in in response to a comprehensive plan. That is a vision of what the Town should look like. Planners knew that there were businesses that could not comply with zoning so they put in a grandfather clause to protect people's investments. Zoning is a sort of a balance of the neighborhood and the person's investment.

HENRY RUA: Zoning protects both sides.

Public Hearing Closed

DISCUSSION

1. Minutes for September approved on Motion of Jeanne seconded by Joe R. 5/0
2. Board received draft copy of Planning Board Minutes for September
3. SEQR for Prinz. Type 2 on Motion of Henry seconded by Jeanne. 6.17.5(c) (13) 5/0
SEQR for Rutkowski Type 2 on Motion of Joe R. seconded by Jeanne 6.17.5(c) (13) 5/0
4. Received copy of proposed zoning amendments on animals and invitation to attend Town Board pre-board workshop at 6 pm 10/7

DECISIONS

1. 06-09-09 LINDA SASSO

Motion by Joe M. seconded by Brian to approve appeal. No change in character of neighborhood. No adverse effects. Request minimal. No other feasible method.

Roberti - yes; Goldberg - yes; Mayone - yes; Sawchuk - yes; Rua - yes.

Motion is passed to approve

2. 08-09-09 CRAIG GARDNER

Motion by Jeanne seconded by Joe R. to approve appeal. No change in character of neighborhood. No adverse effects. Request minimal. No other feasible method

Roberti - yes; Goldberg - yes; Mayone - yes; Sawchuk - yes; Rua - yes

Motion to grant appeal is passed

3. 03-08-09 KOSCO

Motion by Brian seconded by Jeanne to deny appeal. The county disapproved. There is room on existing sign for more business. However applicant can chose which sign to remove.

Roberti - no; Goldberg - yes; Mayone - no; Sawchuk - yes; Rua - yes.

Motion is passed to deny

Next meeting November 2, 2009 at 7 pm at Frank D. Greco Senior Center

Meeting adjourned on Motion of Jeanne seconded by Brian