

MINUTES OF THE ZONING BOARD: December 1, 2011

Members Present: Daniel O'Shea, Linda Riehlman, Kay Vossler, Robert Lieber, Amy Bertini and Town Attorney, Katie Sullivan.

NEW BUSINESS: Application of Cortland County for a minor subdivision on a non-conforming lot, for the purpose of erecting an emergency radio communication tower. The Planning Board has asked the ZBA to review the application. Planning has signed off conditioned upon ZBA approval as technically, it would require a variance. Katie Sullivan discussed the law and the Monroe County case involving a municipal airport which developed (9) criteria to be examined in coming to a decision if the County is immune, since it involves two governmental entities.

Discussion ensued and Robert Lieber questioned if the Board could condition the approval on single use. Katie Sullivan's opinion is that we could not regulate the use of the tower. She stated that the board would only be giving immunity from the need for a variance, not the project per say. The grant of immunity would mean the County does not need a variance and does not have to apply for a conditional permit, but would still need to go through the SEQR process.

The Board then reviewed the criteria and made the following findings:

1. The nature and scope of the agency seeking immunity: Cortland County
2. The encroaching agency's legislative grant of authority: Not disputed
3. The kind of land use involved: The use of the land would not be significant
4. The effect local land use regulation would have on the enterprise concerned: Does not appear to be significantly compromised.
5. Alternative locations for the facility in less restrictive zoning areas: None
6. The impact upon legitimate local interests: Not demonstrated.
7. Alternative methods of providing the proposed improvement: None that are apparent
8. The extent of the public interest to be served by the improvement: Yes, public will be served
9. Intergovernmental participation in the project development: Preble Town Board and the Fire Department have endorsed the project.

Whereas, after considering the above criteria, the ZBA on motion by Linda Riehlman, seconded by Robert Lieber, approves the grant of immunity to Cortland County so long as the substandard lot is mitigated at the end of the use.

OLD BUSINESS: In attendance at the meeting are Randy and Cyndy Moreland concerning the grant of a variance at the November meeting to their neighbor Thomas Kile. Mrs. Moreland read from a prepared letter expressing many concerns about the size of the building and the proximity to their property line.

They were unaware that a Public Hearing had been scheduled on the application and would have been present to voice concerns if they knew. The variance procedure was reviewed with the Moreland's and it was explained that the Town has no provision in its regulations that neighbors be contacted. Mrs. Moreland said they had contacted the Code Enforcement officer who has been at the site to determine if there has been any violations. The Moreland's were advised that their legal recourse would be an Article 78 proceeding and it must be made within (30) days of the grant of the variance. The Moreland's thanked the Board for listening to their concerns.

The board then reviewed the minutes of the previous meeting. Motion to approve made by Robert Lieber, seconded by Linda Riehlman, all in favor, the motion carried. Motion to adjourn at 8:30 made by Linda Riehlman, seconded by Amy Bertini, all in favor, the meeting adjourned.

Respectfully submitted,

Mary Anne McCloskey, Secretary