

MINUTES OF THE ZONING BOARD 11-7-13

Members Present: Dan O'Shea, Al Socha, Jay Currie. Nancy Dalley arrived at 7:50 PM. Absent was Bob Lieber. Also present: Wayne Davis, Dean Potter, Ken Brock, and town attorney, Don Armstrong. The meeting was called to order at 7:30 PM.

The first order of business is the application of Dean and Tamara Potter for an area and use variance and site plan review. Dan O'Shea noted that the Board had heard from County Planning and they recommended denial of the application. It was noted the applicants do have another avenue of remedy which is to apply for a minor subdivision, so there is no hardship. The property is zoned agricultural. Dan noted a super majority would be needed to approve. Al Socha stated that under Section 521, the purpose of the Agricultural District is to protect agricultural lands from incompatible uses and to limit non-farm residential, commercial and industrial uses. Al noted his opinion that this variance is an incompatible use. Further, under the Town's Comprehensive Plan B, it does not support random, chaotic and incompatible development. Al went on to note that the proposed location of the modular home was not in compliance with the setback requirements of the property lot line for one side. And in discussing the use variance, Al noted this is a non-conforming configuration and there is no condition causing a hardship making it too difficult to comply with the code. Jay Currie has also read the comprehensive plan and stated his agreement. **Motion** to deny the variance application made by Al Socha, seconded by Jay Currie, all in favor, the motion carried. Dean Potter spoke and inquired what would be the difference if he is granted a variance or a subdivision as the modular would still be sited in the same location. Don Armstrong said there could be a problem as the Town has a 2.0 acre minimum lot size and the County 2.44 acres. The County was recommending that the applicant drill a new well. The board noted their understanding that a subdivision would require more work from the applicant, however cannot approve the variance request.

The next order of business is the application of Mirabito Energy Products for an area variance. Mirabito has applied to install two decals on its 30,000 gallon propane tank. Wayne Davis from Mirabito noted that the trees have been planted and the lights, located on either end of the tank, are only lit from 5:00-7:00 PM. A motion sensor was installed and if someone needs to access the tank outside of those hours, the lights will turn on. Don Armstrong reported that County Planning had referred it back to the Town as a local issue. Al Socha noted that the property is located within the light industrial zone. Section 540 Light Industrial Zone Section 543 A states: Signs shall be permitted for advertising industrial activities on the premises, not to exceed, in aggregate, 15% of the area of the front facade. Al further reviewed word terms and definitions under Section 200, noting the differences between a building and a structure. Under Section 600, one site sign is permitted, not to exceed twenty square feet. Al further read from the Town's Comprehensive Plan Objective, stating that the purpose of the Plan is to adequately provide for changes and growth while retaining the overall rural character of the Town. Al stated he was not in favor of the variance application noting that Section 540 does not apply as the tank is a structure, not a building. He further said that the size of the proposed sign, which is 6 times larger than permitted, does not conform to the rural character and aesthetics of the Town. Al also stated that the tank is right behind the large sign for the Mirabito gas station so it is not hard to identify the tank as belonging to Mirabito. Wayne Davis again brought up the size of the Farrell Gas tank located further

down Route 281 North. Don Armstrong stated that what the statute provides for, is discretionary. Mr. Davis again expressed his frustration with the Farrell Gas sign and was advised that his complaint should be directed to the code enforcement officer. Nancy Dalley arrived at 7:50 and was brought up to date. Nancy said she would like the sign to be what is allowed by code, and she is not in favor of the larger decal, noting there is already one large sign for the gas station. Dan O'Shea said there is already more signs than what was originally asked for and allowed. Both Dan O'Shea and Jay Currie then said they were in favor of a 20 square foot sign. **Motion to deny** as the applicant has the ability to have a sign within the existing zoning code ordinance as a structure and not a building, and because a larger sign would impact the integrity of the Town's rural character, made by Nancy Dalley, seconded by Al Socha, all in favor the motion carried and the variance was denied.

Motion to approve the minutes of the October 3, 2013 meeting made by Al Socha, seconded by Nancy Dalley, all in favor, the motion carried.

Nancy Dalley inquired about the proposed Propane Facility and asked if the Board has to follow the recommendations of County Planning. Don Armstrong said any application would have to be referred to them but it would require a super majority to grant a zoning variance. Al noted, and Don Armstrong agrees, that the applicant would need to demonstrate undue hardship and it is very difficult to get a use variance absent that showing.

Al Socha asked if the Board would be taking any action on the new variance intake form he has been working on. Al said he had spent a couple of hours with code enforcement officer, Rick Fritz. The new form will be a better form and will not allow the submission of an incomplete application. Further it should not be difficult for an applicant to complete. **Motion** to adopt the revised variance intake form prepared by Al Socha, made by Jay Currie, seconded by Nancy Dalley, all in favor, the motion carried. Dan O'Shea noted it should also be referred to the Town Board for approval.

Motion to adjourn, at 8:25 PM, made by Al Socha, seconded by Jay Currie, all in favor, the motion carried and the meeting adjourned.

Respectfully submitted,

Mary Anne McCloskey, Secretary