

**TOWN OF NORTH EAST ZONING BOARD OF APPEALS
MINUTES
September 19, 2019**

A regular meeting of the Town of North East Zoning Board of Appeals (“ZBA”) took place on Thursday, September 19, 2019 in the North East Town Hall located at 19 North Maple Avenue, Millerton, New York at 7:30 PM. Board members present were Chairman Julie Schroeder, Vice Chairman Edie Greenwood, Jon Arnason, Karen Pitcher and Patti Lynch VandeBogart and Deb Phillips, Secretary to the Zoning Board. Also in attendance were Carl Pucci, Barbara Salovich, Hilarie Thomas, Tom Moore, Mike Segelken, Robert Jenks, Erik Breen, Al Andrews, Roger Carol, Sean Klay, Molly Jenks, Emma Jenks, Kieran Lalor, attorney for the Legion and other members of the public.

7:30 PM

Continuation of public hearing on the application of Carl Pucci, owner of tax parcel 7272-00-684879, for a variance of NYS Town Law, Section 280-a regarding frontage on a street or highway.

8:00 PM

Public hearing on the application of New York American Legion Post 178, owner of tax parcel #7271-00-682247-0000, for a use variance in order to erect an internally lit, electronic message display sign.

8:30 PM

Public hearing on the application of Thomas Moore, owner of tax parcel #7273-00-170932, for a special permit for a ground-mounted solar array. The parcel is located at 127 White House Crossing Road in the LC Zoning District of the Town of North East.

Continuation of public hearing on the application of Carl Pucci, owner of tax parcel 7272-00-684879, for a variance of NYS Town Law, Section 280-a regarding frontage on a street or highway.

Chair Schroeder opened the continuation of the Pucci public hearing begun on June 20, 2019.

Attorney Hilarie Thomas presented the Board with maps (Exhibit A), a letter from Pucci to Ray Jurkowski (Exhibit C) and an erosion map (Exhibit D).

Chair Schroeder read a letter (Exhibit B) from Attorney Warren Replansky regarding the 280-a application

Attorney Thomas said she sent an email to the Board and Replansky that provided the chain of title easement right of access and the letter she wrote to the ZBA regarding Jurkowski’s report. She noted that Pucci sent Jurkowski his storm water erosion plan. She also sent the road maintenance agreement to Replansky. She mentioned that in Replansky’s letter, he references “instead of” the International Fire Code (IFC). She said the correction should be that the exemption that she requested is part of the IFC. She said it was an amendment in 2015.

Pucci said he sent Jurkowski drawings that addressed the concerns with construction. He stated that the road is graveled, there are seven culverts on his section of the right-of-way that diverts rain water under the road, and that there are swales along the road and that all are maintained.

Mike Segelken, Deputy Code Enforcement Officer, said Jurkowski spoke about a 20-ft. wide commercial fire road. He said a width of 12 feet and clearance of 14 feet is suitable. He is awaiting a letter from the fire chief stating that. He said pull-offs every 500 feet are sufficient.

Chairman Schroeder asked Pucci for the drawing that showed contours and boundaries. Pucci will send the drawings to Jurkowski.

Attorney Thomas stated the road maintenance agreement goes as far as Pucci's property.

Arnason said Replansky is waiting for letters from Building Inspector McLaughlin and the fire department that state what they want in terms of the road.

Greenwood made a motion to adjourn the public hearing at 8:15 PM until October 17, 2019 at 7:30 PM. Motion seconded by Arnason; all were in favor and motion passed.

Public hearing on the application of New York American Legion Post 178, owner of tax parcel #7271-00-682247-0000, for a use variance in order to erect an internally lit, electronic message display sign.

Chair Schroeder opened the public hearing at 8:25 PM. She said the board looks at the property, not who owns it. She stated four standards that the applicant must prove: 1) restrictions have caused unnecessary hardship; 2) alleged hardship relating to the property is unique and does not apply to a substantial portion of district or neighborhood; 3) will not alter the essential character of the district or the neighborhood; and 4) alleged hardship has not been self created.

Attorney Kieran Lalor said to not the grant the variance would create a hardship to the Post and the community. He said the sign would provide information about Legion events, information to the community on behalf of the school system, other events, i.e. blood drive, notify the community that the Post provides emergency shelter and is a cooling/warming location.

Chair Schroeder stated that a few years ago, all signs were supposed to be registered and there is no record of the Legion complying with that regulation.

Lalor said the building was exempt from zoning until a recent addition put it under the zoning code. Chair Schroeder said the building was never exempt from zoning.

Arnason said signs of this nature are clearly prohibited under the Code of the Town of North East and that the hardship, if any, has been self-created which automatically defeats the application. He further explained that hardship under the law is a financial one. Lalor said the hardship relates to the Post's mission.

Chair Schroeder recommended that the Legion approach the Town Board and let the Board determine if they want that type of sign in that district.

Chair Schroeder read a letter dated September 11, 2019 from Howard Babbitt of New England Cleaners that he has no objections to the sign and that messages to the community are helpful.

Mike Segelken said LED signs are less intrusive.

Legion member Rob Jenks said when the Legion was putting on an addition, they were stopped by the zoning officer because there was no permit. He said they were told they were exempt from zoning. Chair Schroeder said the Legion came before the board and was then issued a permit. Jenks said then the Legion was put in the zoning and the signs that were there have been there for 35 years. Schroeder told Jenks that he was misinformed and that the property had always been subject to the Zoning Law.

Chair Schroeder explained that the ZBA is bound by the laws of New York State and the Town of North East.

Legion member Eric Breen asked why there is a problem with upgrading the signs. Arnason said it has to be in compliance with zoning.

Legion member Sean Klay said he perceives that the hardship issue is directed at businesses; it doesn't take into consideration anyone else. He said a strict interpretation of the law in the financial aspect would be a disservice.

Chair Schroeder explained to Klay that the board looks at the piece of property, not who owns it.

Arnason made a motion to affirm the decision of the zoning enforcement office denying the application for a sign by the American Legion. Motion seconded by Pitcher, all were in favor and motion passed.

Motion was tabled until the board reviewed SEQR.

After reviewing the Short Form EAF and Part II, Greenwood made a motion that denying the application will not have a negative or significant impact on the environment. Motion seconded by VandeBogart; all were in favor and motion passed.

Arnason called for a vote on the tabled motion to affirm the decision of the Code Enforcement Officer denying the application for a sign by the American Legion. Motion seconded by Pitcher, all were in favor and motion passed.

Arnason made a motion to close the public hearing at 9:05 PM. Motion seconded by VandeBogart; all were in favor and motion passed.

Public hearing on the application of Thomas Moore, owner of tax parcel #7273-00-170932, for a special permit for a ground-mounted solar array. The parcel is located at 127 White House Crossing Road in the LC Zoning District of the Town of North East.

Chair Schroeder opened the public hearing at 9:10 PM. She stated that she was not certain if the parcel was in the LC Zoning District or the A5A Zoning District.

The Board reviewed the parcel access photos submitted with the application. Greenwood said there shouldn't be two houses since the 5-acre per residence zoning requirement applies to the parcel. Moore said it's a seasonal cottage. Chair Schroeder asked if it had a bathroom and a kitchen and, if so, it's considered an accessory apartment or residence. She recommended that Moore get a special permit for an accessory apartment.

Arnason said there should be a solar energy system building permit; he will speak to the building inspector McLaughlin to get one. He said a blueprint signed by an engineer is required as are equipment specification sheets. He recommended Moore get a copy of the solar law for the installer.

The Board's concern is screening of the solar equipment. Moore said a hedgerow has been planted.

Arnason made a motion to continue the public hearing on October 17, 2019 at 8:00 PM. Motion seconded by VandeBogart; all were in favor and motion passed.

Minutes

Greenwood made a motion to accept the August 27, 2019 minutes as presented. Motion was seconded by VandeBogart; all were in favor and motion passed.

Close of Meeting

Arnason made a motion to adjourn the meeting at 9:50 PM. Motion seconded by VandeBogart; all were in favor and motion passed.

Respectfully Submitted,

Deb Phillips
Zoning Board Secretary