

**TOWN OF NORTHEAST
ZONING BOARD OF APPEALS
MINUTES OF AUGUST 19, 2021**

The regularly scheduled monthly meeting of the Town of North East Zoning Board of Appeals; ("ZBA") took place August 19, 2021 at 7:30PM in the Town of North East Town Hall, 19 N Maple Ave, Millerton, NY. ZBA members present were Chairman Julie Schroeder, Edith Greenwood, Jon Arnason, Patti Lynch-Vandebogart and Judy Carlson, secretary to the Zoning Board. Also in attendance were Lisa Cope, attorney Robert Trotta representing Kevin and Mark Taylor, and Peter Sander of Rennia Engineering representing Kosen Gregory Snyder and The Brooklyn Zen Center.

Taylor Oil – Owner of Property
6073 Route 22
Zoning District: HB-III
Interpretation
Tax parcel#: 7171-12-980713

At 7:30PM, Chair Schroeder opened the public hearing regarding an interpretation on the application of Taylor Oil that had been recessed on July 15, 2021.

Attorney Trotta informed the board that he had worked up some statistics of what they are doing in other towns regarding this type of operation. He introduced into the record an Affidavit **[In the Matter of Thomas Taylor Application for Interpretation of the term Wholesale in Zoning Law as applied to Highway Business III]**. Trotta read the Affidavit into the record:

I, Kevin Taylor, residing at 422 Poplar Hill Rd., Dover Plains, NY 12522 am a principal in Taylor Oil Inc. and being duly sworn do depose and say:

1. That I am over the age of 18 years; and
2. That our company's operation at Route 22, Town of North East shall mirror our operations in Pine Plains, Dover and shall be conducted as follows:
 - a. Wholesale sale of vehicle diesel fuel and gasoline is priced below gas station, with diesel 10 to 15 cents below and gasoline 05 to 07 cents below gas station prices.
 - b. Sales are made at the pump by use of a plastic company card inserted into the pump. Billing is monthly.
 - c. Only Taylor company customers will be issued the card after safety training and use of same.
 - d. Eligibility for card is based on credit worthiness and number of vehicles in customer fleet.

- e. Review of their other operations mentioned above reflects approximately 95% of card holders are vehicle fleet owners and the number of individual card holders is the same to fleet owners or former fleet customers; and
- f. Under certain circumstances we might release the names of the fleet owners but would rather not since it creates ethical issues and not lists we would voluntarily give our competitors.

I make this affidavit the express purpose of presenting good evidence of the nature of our proposed wholesale operation at Route 22, Town of North East, New York.

Taylor Oil Inc.
Kevin Taylor, Principal

Arnason asked what other businesses did the Taylor's plan to use this property for. Will you use this property as a place for your own trucks to go and fill up with fuel to deliver to customers? Taylor replied yes, that is correct.

Attorney Trotta replied that right now those trucks are being housed at Stateline Road. Taylor explained that since Stateline Road is in a residential area they were getting complaints. He made the point that the Town of North East has two gas stations. If the Zoning Board would allow them to come in they would get the traffic of landscapers and bigger trucks out of the gas stations in town so residents would have more access to the pumps at the regular gas station and this would make it safer for the taxpayers.

Chair Schroeder asked if they were still using the site on Beilke Road. Taylor replied that only company vehicles are being stored there. Taylor also addressed the fact the property on Route 22 is a secure area with cameras and lighting which provides a safe and secure atmosphere for law enforcement personnel.

Arnason asked if Taylor had an idea of the ratio of the use of fuel by his own trucks that deliver to his customers versus those people just going to fill up their vehicles. Taylor replied 4 or 5:1. Taylor replied that 80 to 90 percent of the use of the tanks would be for their customers. Their own vehicles would fill up at the tank.

Chair Schroeder stated that would fall under bulk storage. Taylor explained that there are two systems here: Number one being the Bulk Storage System: our 80% goes to farms and customers...not people doing fleet fueling. They will only take twenty gallons at a time.

Taylor added that each station will be equipped with a generator. In emergencies their place will always be open. They will always have access for safety and emergency personnel. The site will be open 24 hours, seven days a week.

Attorney Trotta stated it is a state policy now to have more fuel storage for emergency vehicles in all the towns.

Arnason asked "Why is this not a motor vehicle service station?" Attorney Trotta responded if you look at the definition it states that a motor vehicle service station handles the sale of gasoline and other things. Chair Schroeder replied that a motor vehicle service station does not always have to sell other things besides fuel.

Chair Schroeder stated: It is up to us to figure if this is really a wholesale business. What they are proposing is that bulk storage and credit card sales are a wholesale use.

Chair Schroeder's advice was to recess the public hearing and contact the Attorney for the Town for his suggestions.

Chair Schroeder asked for a motion to recess the hearing until September 16th, 2021 at 7:30 PM. Arnason so moved; Vandebogart seconded; all voted in favor and the motion passed.

Brooklyn Zen Center - Owner of property
87 Kaye Road
Zoning District: A5A
Special Permit Tax parcel: 7272-00-479805

8:00 PM - Chair Schroeder read the public hearing notice into the record. Peter Sander of Rennia Engineering representing the Brooklyn Zen Center and Kosen Gregory Snyder gave an overview of the project. The Brooklyn Zen Center is a 5013C religious corporation - a Buddhist Temple.

The site is located at 87 Kaye Road. It is a 13.73 acre parcel and located in the agricultural 5 acre district in the Town of North East. The applicant is proposing to develop the site into two phases.

Phase I: The conversion of the existing residence into a monastery. This includes an addition of a 3 season dining area and a conversion of the interior of the garage structure into a kitchen to support the three 10-person bunkhouses which is also included. The three 10-person bunkhouses will be temporary lodging facilities. The proposed workshop will serve as rest room facilities for the bunkhouse. In both Phases I and II parking will be constructed.

In Phase II: The Northern portion of the site will be the construction of a zendo (meditation hall) which will be two-stories. Religious worship on the second floor and sleeping quarters on the ground level. A covered walkway and a meditation space and the construction of an abbot's residence are included.

Sanders explained that they are here because this is considered a religious use requiring a special permit. The buildings are very minimalistic and will be built into the hillside. The point of the project is for one to enjoy the space. The property is surrounded by NYS parklands and wetlands.

SEQRA was discussed and it was decided that the approach both the Planning and Zoning Boards would take would be decided in the near future.

Greenwood asked if they would be able to utilize the existing septic. Sanders stated the existing septic will stay. However, they are proposing two new septic's (one for Phase I and one for Phase II).

Chair Schroeder asked if they had Board of Health approval. Sanders replied that they did not and explained that once they get feedback from both boards, they will continue with the perk tests.

Arnason asked the question of whether or not this is considered a church. The definition in the zoning code states that a church is (a building for public worship).

Chair Schroeder added that what Arnason was referring to is the fact that people are living there. Arnason added that a monastery is different than a church. He also added that there is an issue under Federal Law of whether or not we have any ability to regulate a religious organization. This should be directed to the attorney for the town to see if this is a reasonable interpretation or definition of a church or place of worship under our code or is otherwise permitted under State or Federal law.

Chair Schroeder was concerned about the moving of so much earth for the parking lot. Sanders explained that he would be using a series of retaining walls.

Arnason asked when they expect construction to start. Kosen Gregory Snyder explained that they are still raising funds, but expect to start in twelve or eighteen months.

Greenwood made a motion to recess the hearing until September 16th at 8:00pm. Arnason seconded; all voted in favor and the motion passed.

Chair Schroeder made a motion to open the meeting. Greenwood seconded; all voted in favor and the motion passed.

The minutes of the July 15, 2021 meeting were reviewed and accepted. Chair Schroeder called for a motion to accept the minutes; Arnason so moved; Vandebogart seconded; all voted in favor and the motion passed.

Regarding the application of Taylor Oil, Chair Schroeder asked Arnason to read the definition of a Motor Vehicle Service Station in the zoning code. Arnason read the definition as follows:

MOTOR VEHICLE SERVICE STATION - Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle accessories and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not

including the painting thereof by any means, body and fender work or the dismantling or replacing of engines.

Arnason stated what attorney Trotta's argument is: That in order to qualify as a motor vehicle service station, other lubrication substances including any sale of motor vehicle accessories is required .

Chair Schroeder stated that she did not agree with attorney Trotta's argument.

Chair Schroeder believes that it is not up to the Zoning Board to be determining what is wholesale and what is retail. People are going there and they are buying fuel. It may be a limited amount, but anybody can say it is the wholesale price.

The Board came to the tentative conclusion that they can use the tanks for storage for their own use but they cannot sell to other people. It was decided to ask the Town Attorney for his opinion. In the HB-III Zoning District motor vehicle service station is not a permitted use.

9:10pm – Motion made to adjourn the meeting by Chair Schroeder; Greenwood seconded; all voted in favor and the motion passed.

Respectfully Submitted,



Judith A. Carlson
Zoning Board Secretary

APPROVED: September 16, 2021

RECEIVED
OCT 27 2021
TOWN OF NORTH EAST
TOWN CLERK