

ZONING BOARD OF APPEALS

September 13, 2010

MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, September 13, 2010, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

PRESENT:	Vincent Cestone	-	Chairman
	Lenny Lim	-	Member
	Bill Flaherty	-	Member
	Robert Dee	-	Member
	Paula Clair	-	Member
	Adam Rodd	-	Counsel

ABSENT:

AnnMarie Reeve has asked for a postponement and we have granted this to her. And we are going to meet at our next, continue this on to our next meeting. Which is, Adam, do you have a problem meeting with us on October 4th? Because the 11th, which would be the second Monday is Columbus Day.

Adam Rodd - Yeah. The only week I am spoken for is the third Monday. So the first Monday will be fine.

Vincent Cestone – And as far as this application, we will review it for completeness and have a public hearing on the same night if it is complete.

Kim Shewmaker - So you don't lose any time

Rodney Dow's representative - Okay. Thanks

Glennon Watson - Is that the one we turned in?

Kim Shewmaker - Which one? This is the only new one I've got.

Glennon Watson - I turned one in today downstairs.

Kim Shewmaker - There is nothing in either mailbox. I'll look around again but the box in the Building Department and in the Clerk's office, there is nothing the ZBA box at all. Not even a note to pick it up some place else. I'll check with Tina



tomorrow and I will pick it up tomorrow so I can get it on the agenda then too.

Glennon Watson - I know the deadline is two weeks and I turned it in today

Kim Shewmaker - I'll get it and get it on the agenda

Vincent Cestone – If you find it we can do the same thing and have a public hearing the same night

Kim Shewmaker - While you start I am going to go search around on top of desks and see if it is there

Glennon Watson - Try Marianne's desk. That's where Michelle put it this afternoon.

Kim Shewmaker - Okay

Vincent Cestone – Our next meeting will be October 4th. So first thing we are going to deal with tonight is 20 Nazareth Way LLC. First item of business would be the resolution to adopt a negative declaration. I make a motion to adopt the negative declaration

Bill Flaherty - I'll second.

Vincent Cestone – All those in favor

All Board Members - Aye

Vincent Cestone – Opposed?

(silent)

Vincent Cestone – Okay.

Adam Rodd - I would just do a roll call vote

Vincent Cestone – You want a roll call vote

Yeah

Vincent Cestone – Okay. Bob?

Robert Dee - I vote in favor

Lenny Lim - I'll vote in favor

Vincent Cestone – Paula

Paula Clair - I vote in favor

Bill Flaherty - I vote in favor

Vincent Cestone – And so do I. Unanimous.

Adam Rodd - And the next document to vote on is the resolution granting special use permit approval for the applicant.

Vincent Cestone – Okay

Adam Rodd - Yes Paula

Paula Clair - I have something I would like added to the resolution if possible. The applicant has said that he will not be using this for residential usage with the exception of the caretaker. I would like to have that in the resolution that this special use permit is not for residential usage.

Adam Rodd - Well the applicant doesn't purpose use of the property for residential

Paula Clair - (Cannot hear her comment)

Adam Rodd - The only thing that we are granting is what they asked for

Paula Clair - So he cannot use it for residential usage at a later date

Adam Rodd - I would have to, my recommendation is in accordance with what they asked for and in accordance with what was approved to go by the language in the resolution which was prepared by the Engineer.

Paula Clair - Okay. Well

Lenny Lim - I don't understand, if another board member wants another condition put in, we can't put it in?

Paula Clair - My concern is like some time in the future when the land gets sold and it could be used for a residential center for you know drug abusers or whatever you know if we don't say that it can't.

Vincent Cestone – Like a half way house or something like that

Paula Clair - Yes

Glennon Watson - May I speak

Adam Rodd - Glenn?

Glennon Watson - The, anything like you suggested, a residential use for a home or something like that would require specifically another special use permit. It does happen to be something you can do, but you may not do it without a special use permit to that specific purpose. The other section of the law says that you may only have one residential dwelling unit per piece of property. The whole town is that way. There is no place in the town other than in the Village and the Quarry Pond development where you can have multi-family dwellings, where you can establish multi-family dwellings. There are some legally non-conforming ones. So, and we have one residential dwelling unit for the caretaker, so we are precluded from a second single family residential dwelling unit by law. And we are precluded from doing some other special use permit simply because we don't have a permit to do it. So I don't have, frankly I don't see there is an objection to say, to noting that the law says that this land with regard to residential units is restricted to one single family dwelling unit. I don't see that that is a big problem with that.

Vincent Cestone – The only thing that I mention _____ first when we are reviewing an application for something else, we would say oh it says right here we can't do this. It is not as well versed in the law as you are.

Glennon Watson - Well I don't want to preclude somebody from making an application for another special use permit, for instance if they needed to make it bigger for some reason. If they were wildly successful and they wanted to put a bigger building, they would have to come back to you. I will correct myself. There is a very limited circumstances like some minor addition to a garage or something under 1,000 square feet can be done without coming back but as far as any other use, any other special use permit has to be, has to come back to you. It must.

Adam Rodd - If I can just add to it, the resolution specifically indicates that the grant of the special use permit is for the approval of the improvement depicted on the plans listed above which is what was submitted subject to the following conditions which is the payment of the fees. So the only thing that we are approving is the special use permit that was proposed by the applicant on this. With respect to changes or additional uses, they are going to have to come back for either additional approval or variances or whatever the case may be. But we are only granting what was asked for. So I think that the resolution protects what you are concerned about.

Paula Clair - If everyone else is comfortable with it, then I guess I can be.

Vincent Cestone – Do you feel comfortable

Bill Flaherty - Yeah I do. I have no problem with that whatsoever.

Robert Dee - The way it was explained the way the resolution reads, the single family dwelling to be used as a caretakers is the only person living on the property.

Glennon Watson - Yes that would constitute a single family dwelling unit and the only one allowable

Robert Dee - Right

Glennon Watson - On the land

Robert Dee - Like Phoenix House or something like that wanted to come in, they would have to come back

Glennon Watson - Absolutely

Robert Dee - Okay.

Vincent Cestone – In that instance I make a motion to accept the resolution as submitted. Do I have a second

Bill Flaherty - I'll second.

Vincent Cestone – All those in favor?

All Board Members - Aye

Vincent Cestone – Roll call vote. Bill?

Bill Flaherty - I vote in favor

Vincent Cestone – Paula

Paula Clair - I vote to approve

Lenny Lim - I vote to approve

Robert Dee - In favor

Vincent Cestone – And so do I

Glennon Watson - Thank you very much

Vincent Cestone – Okay. Review of minutes of July 12th? Do we have any changes or corrections? I make a motion to accept the minutes as submitted

Bill Flaherty - I'll second

Vincent Cestone – All those in favor

All Board Members - Aye

Vincent Cestone – Review of minutes of July 26th. Any corrections? I make a motion to accept the minutes as submitted

Bill Flaherty - I'll second

Vincent Cestone – All those in favor

All Board Members - Aye

Vincent Cestone – Any old business? New business? Do you have anything Adam?

Adam Rodd - Nope.

Vincent Cestone – I make a motion to adjourn

Lenny Lim – Second

Vincent Cestone – All those in favor

All Board Members - aye

NOTE: These Minutes were prepared for the Zoning Board of Appeals and are subject to review, comment, emendation and approval thereupon.

DATE APPROVED: 10/4/10

Respectfully submitted,



Kim Shewmaker
Secretary