

TOWN OF NORTH EAST ZONING BOARD OF APPEALS
MINUTES
SPECIAL MEETING

December 16, 2014

A special meeting of the Town of North East Zoning Board of Appeals took place on Tuesday December 16, 2014 at 7:30 PM in the Salisbury Bank & Trust Conference Room, Millerton, NY. Board members present were Co-Chair Edith Greenwood, Julie Schroeder, Patti Lynch and Jon Arnason. Board member Carl Stahovec was absent. Also present were Warren Replansky, lawyer for the Town of North East; Ralph Fedele, Town of North East Town Board Member; Ken McLaughlin, Town of North East Building Inspector; Bob Stevens, Highway Department Supervisor for the Town of North East and Lynn Mordas.

Lynn Mordas

157 Indian Lake Road

Review of Documentation for an Interpretation of §98-48.14(C)

Tax Parcel #: 7269-00-187847

Pursuant to Section 267-a.4. of the Town Law and Section 98-62 A. of the Zoning Code of the Town of North East, Lynn Mordas is appealing an Order to Remedy Violation dated August 5, 2014, amended November 18, 2014 issued by Building Inspector Ken McLaughlin. The orders claim that Lynn Mordas is maintaining a manure pile less than 50 feet from the centerline of the road in violation of the Town of North East Local Law #1 of 2014 titled "Storage of Manure".

Julie Schroeder recused herself from the discussion of the application made by Lynn Mordas.

Warren Replansky, attorney for the Town of North East, stated that Ken McLaughlin, Zoning Code Enforcement Officer for the Town of North East needed to make a correction to the Order to Remedy Violation Notice served upon Lynn Mordas on September 9, 2014. The notice incorrectly referred to the violation as being of section §98-48.13 of the Town Zoning Code rather than §98-48.14.

Jon Arnason made a motion to amend the code section number on the Order to Remedy Violation served to Lynn Mordas from §98-48.13 to §98-48.14. The motion was seconded by Patti Lynch and passed unanimously.

Warren Replansky summarized the purpose of the meeting as follows. The ZBA was meeting to discuss an appeal made by Ms. Mordas, from a notice of an Order to Remedy Violation issued by the Zoning Enforcement Officer in regard to the set-back for the compost or manure pile on her property. Section 98-48.14 requires that manure be stored at least 100 feet from the centerline of the road. (The filing of an appeal stays enforcement until such time as the appeal is decided by the ZBA.) Tonight was the first appearance to ensure that the application was complete and to schedule a date for the public hearing on the appeal.

Mr. Replansky stated that the burden is on Ms. Mordas to prove her case. The applicant must advance arguments or bring forth evidence sufficient to overcome the presumption of validity of the claimed violation. Mr. Replansky added that he expects at the time of the public hearing, testimony will be taken from the town code enforcement officer, the town highway superintendent and possible additional witnesses.

Jon Arnason asked if Mr. Replansky believed that others would be called upon to testify and who would decide that. Warren Replansky replied that anyone who wanted to can speak at the public hearing.

The ZBA decision will be to either uphold the notice of violation or accept the applicant's appeal and nullify the violation.

Edith Greenwood noted that in the second paragraph of Ms. Mordas letter of August 20, 2014, Ms. Mordas asked for a determination from the ZBA that the farming activities she practices are in compliance with the zoning codes of North East. Co-Chair Greenwood asked Mr. Replansky if he thought this question was within the purview of the ZBA. Mr. Replansky stated that this question is beyond the scope of the ZBA. He went on to say that although the farming activities practiced by Ms. Mordas may be considered in the ZBA's determination, the ZBA's jurisdiction in this matter is that of making a determination on an order issued by the ZEO.

Patti Lynch made a motion to accept as complete the application for a notice of appeal from the Order to Remedy Violation. The motion was seconded by Jon Arnason and passed unanimously.

The Zoning Board of Appeals set the date for a Public Hearing for Thursday, January 29, 2015 at 7:30 pm to be held in the Town Hall of Town of North East.

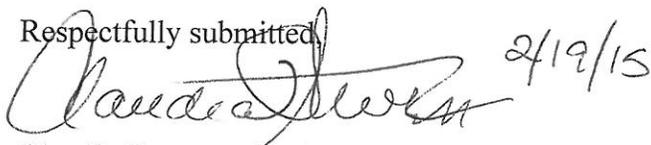
That concluded the hearing with respect to the Mordas appeal. Julie Schroeder then rejoined the board for the balance of the meeting.

Minutes

Julie Schroeder made a motion to accept the minutes of November 20, 2014, as presented. The motion was seconded by Patti Lynch and passed unanimously.

Jon Arnason made a motion to close the meeting at 8:05 pm. The motion was seconded by Julie Schroeder and passed unanimously.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Claudia Stevens', with the date '2/19/15' written to the right of the signature.

Claudia Stevens
Zoning Board of Appeals Secretary