

TOWN OF NORTH EAST ZONING BOARD OF APPEALS MINUTES

February 19, 2015

A meeting of the Town of North East Zoning Board of Appeals (“ZBA”) took place on Thursday January 29, 2015 at 7:30 PM in the Town Hall, Millerton, NY. Board members present were Co-Chair Edith Greenwood, Jon Arnason, Patti Lynch and Carl Stahovec. Julie Schroeder recused herself from the scheduled matter but attended in the audience. Also present were Lynn Mordas, the appellant with respect to the matter described below and members of the general public.

Lynn Mordas

157 Indian Lake Road

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

Tax Parcel #: 7269-00-187847

Co-Chair Greenwood continued the Public Hearing regarding Lynn Mordas’s request for an interpretation of the notices of violation she has been served. The Board was informed that Mordas has not received the memorandum prepared by Replansky. Greenwood stated that additional information received today included a letter from Robert Kuhbach, an email from Diane Engleke and a request from Replansky that all new material presented this evening be forwarded to him.

The first to speak was Mark Liebergall, a resident of North East. He has known Mordas for 20 years and stressed what a well-cared for and clean farm Mordas runs. He also highlighted the importance of small businesses in Millerton.

Mark Doyle of Amenia, Vice President of the Dutchess, Putnam and Westchester Farm Bureau and a board member of the Hudson Valley Agra Business Corporation spoke next. He stressed the importance of agriculture in the Hudson Valley and the importance of the NYS Ag and Markets Law which he stated addresses how municipalities interact with farming activities. He ended by stressing how essential it was for towns to view agriculture as a key component of economic development in our area

Mordas requested that she be allowed to rebut in writing, the additional information (specifically the Replansky memorandum she has not reviewed yet) put into the record rather than attend another public hearing. The Board had no objection to her doing so. Mordas then read her written rebuttal (dated February 19, 2015) with regard to the information submitted at the January 29, 2015 Public Hearing. She ended by requesting that the ZBA issue her a Certificate of Compliance stating that her farming operation was compliant. Arnason replied that request is beyond the ZBA’s authority.

Arnason questioned the relevance of the previous court documents submitted by Mordas as the case has been dismissed. Mordas pointed out that one of the counts in the litigation was that she had caused the drainage problem at the intersection. She went on to explain she feels her composting activities are grandfathered and are not subject to the current law. Nothing has changed on the property since 2013. Mordas stated there was no pile from June 2013 through February 2014. She went on to explain why she had chosen the site on her property and how, on the advice of her DCS&W lawyer, the site had been prepared for composting.

Lynch asked how many animals were on the farm and was told the current numbers of hens (100-150), breeding ewes (26), lambs (32) and meat lambs (12). Mordas also told the ZBA that she leases 5 acres across the rail trail and is in negotiations to purchase 7.5 acres of adjacent land.

Greenwood asked if Mordas has difficulties crossing the road with her tractor. Mordas said she was more concerned about moving livestock as machinery is much easier to see. She told of several incidents involving cars that happened in front of her property. She stated she has asked the Town repeated to replace the current Y intersection with a T stop. Mordas feels this would help with both the traffic problems and drainage issue.

Greenwood acknowledged the receipt of a letter from Robert Kuhbach who arrived late and asked if he wanted to speak. He did not make any additional comments.

Greenwood asked for a motion to recess the Public Hearing. It was decided the ZBA would schedule a Special Meeting to continue the Public Hearing on the Mordas matter on Tuesday March 31st at 7:30 pm to take place at the Library Annex if it is available. The Board requested all papers relating to this appeal be received no later than March 24th.

A motion was made to recess the Public Hearing until March 31, 2015 at 7:30 pm at the Library Annex (venue to be confirmed) by Arnason, seconded by Lynch and passed unanimously.

Motion to convene a regular meeting of the ZBA was made by Stahovec, seconded by Arnason and passed unanimously.

The first order of business was to review the minutes of the December 16, 2014. A motion to approve the minutes was made by Arnason, seconded by Stahovec and passed unanimously.

Arnason raised the question of whether or not the ZBA should retain counsel. Greenwood responded that it depends on what the ZBA decides to address in this administrative review. She stated that if the ZBA is only considering a local law and a notice of violation we can continue without counsel, however, if the Board decided to consider non-conforming and pre-existing uses and state laws, we do. It was decided by all members present that the ZBA needs to retain counsel.

Arnason then outlined the questions he thinks the Board needs to address.

1 - Does the Town of North East Local Law #1 of 2014 run afoul of any New York State right to farm statute?

2 - Is the law, as written, ambiguous as it is titled "Storage of Manure" while the appellant maintains she is composting, and

3 - The argument regarding pre-existing use.

Stahovec commented that the law seemed pointed in one direction and the road problem should have been fixed. He felt the law should have addressed any type of bulk storage and thought it was odd that it was titled Storage of Manure. Arnason referenced the letter from the town engineer, Morris Associates and pointed out that no specific type of material was cited as creating the drainage problem.

Greenwood informed the Board that she had told John Merwin there was a possibility the ZBA would retain counsel. Then the Board discussed the ZBA's ability to require an escrow account be established to pay legal fees for an interpretation.

The ZBA asked Greenwood to contact George Rodenhausen and find out if he would be willing to represent us.

Greenwood requested a motion to adjourn the regular meeting. Motion was made by Lynch, seconded by Arnason and passed unanimously.

The meeting ended at 8:50 pm.

Respectfully submitted,

Edith Greenwood
Co-Chair of the Town of North East Zoning Board of Appeals