

Town of North East
Zoning Board of Appeals

Minutes

December 21, 2017

The regularly scheduled monthly meeting of the Town of North East Zoning Board of Appeals, (ZBA), took place on Thursday, December 21, 2017 at 7:30 PM at the Town of North East Town Hall, 19 N. Maple Ave, Millerton, NY. ZBA members present were Chair Julie Schroeder, Edith Greenwood, Patti Lynch-VandeBogart, Karen Pitcher and Jon Arnason. Attorney for the Town Warren Replansky was present. Also present were Cindy and John Heck, Ralph Fedele, Mike Taylor, Deborah Hanlon, Matt Parisi, Richard Rennia, Robert Cooper, Matthew Hartzog and Kaitlyn Lyle.

Chair Schroeder called the meeting to order at 7:30 PM. Chair Schroeder asked for Replansky to outline the draft decision of the appeal of the Code Enforcement Officer's Determinations 01-17 and 02-17, dated 06-08-17, concerning the Leemilt's Petroleum- site plan application and to explain the process of how the ZBA members reached a consensus.

Replansky explained the history of the Code Enforcement Officer's involvement in the project leading to the appeal. He commented that the appellants were correct in that the original application did not include electric charging stations but the application was revised and that is the application including the electric charging stations that is before the ZBA. Replansky explained that in all decisions of zoning law, any ambiguity must be ruled upon in favor of the land owner. Replansky also said that under the code the internal circulation and the connection of parking between the uses may be allowed as is a drive -thru entrance in the BD1 zone.

Jurisdiction of the appeal was also examined, as the appellants, specifically Mike Taylor, John Heck and Cindy Heck do not own property adjacent to the parcel for which the project is planned. However, no objections were made to the appeal due to that fact. Replansky concluded that the Town of North East Planning Board had authority to file the appeal and because no objection had been voiced based on jurisdiction of the appellants that the application was heard.

Replansky then reviewed the relevant jurisdictional law for the ZBA to hear the appeal, which gives them the authority to decide appeals such as this. Replansky also pointed out that the ZBA does not have any legislative powers. Only the Town Board can adopt changes to the current code.

Replansky outlined the main sections of applicable town code, specifically §180-5, noting that in addition the Town must abide by the Federal Clean Air Act adopted by New York state which considers electric power as a desirable form of energy. Replansky commented that the zoning law must recognize the evolving standards.

Replansky also explained that the issues of parking, trash, septic and entrance ways must be brought before the ZBA by the applicant for a variance beyond 35 feet. Citing §180-50A (2) Replansky further explained that parking can also be up to 400 feet away from the main entrance on another parcel, but only with a permit from the ZBA for which the property owner has not yet applied.

There was further discussion regarding the "drive-in" versus "drive-thru" issue . All board members clearly agreed that the proposed Dunkin Donuts is a drive- thru" and permitted.

Finally, reaching the conclusion of the decision, Replansky stated that through a careful examination of the application, the proposed Mavis does constitute a motor vehicle service station. Also that the parking, trash, septic and entrance and exit ways beyond 35 feet of the district boundary require variances to be located in the BD-2 district.

Arnason commented that there was an error on page two, and that it should be clear that the parking, trash, septic and entrance ways are not permitted beyond 35 feet without variances and to make that abundantly clear in the determination. However at this time the ZBA did not decide if the applicant would need a use or area variance for such issues.

Arnason made a motion to accept the decision with proposed amendments; it was seconded by Lynch-VandeBogart.

Replansky made a final comment that there was no deliberation outside of the meeting.

A roll call vote was held in the matter of the Mavis appeal decision, all members of the ZBA voting in favor of the draft decision.

Hartzog asked when the minutes and the decision will be made available to the public. Chair Schroeder commented that as soon as the decision is notarized by the town clerk it will be available for viewing, and that the minutes are current on the website.

The minutes for November 14, 2017 were discussed by the board. A motion was made by Greenwood to accept the minutes as presented; it was seconded by Lynch-VandeBogart and passed unanimously.

A motion to adjourn the meeting was made by Arnason and seconded by Lynch-VandeBogart and passed unanimously.

Respectfully Submitted,

Sarah Cottell

ZBA Secretary