

**Town of Stillwater
Zoning Board of Appeals
January 26, 2009 7:30 PM
Stillwater Town Hall**

Present: Chairman James Ferris, Donald D'Ambro, Alec Mackey, William Ritter, Joseph Urbanski

Also Present: **Ray Abbey, Bldg Inspector/Code Enforcement, Paul Cummings—Planner for the Town, Daryl Cutler—Attorney for the Town, Sue Cunningham--Secretary to the Zoning Board

Chairman Ferris called the meeting to order.

Approval of Minutes: Motion by A. Mackey and seconded by W. Ritter to adopt the minutes of the October 27, 2009 Zoning Board of Appeals.

Discussion: D. D'Ambro commented on page #71 3rd paragraph in regard to the date of the meeting. He stated that the date should read October 27th and not November.

Motion carried. The minutes as amended were approved.

Vice Chairperson: Motion by J. Urbanski and seconded by D. D'Ambro to appoint A. Mackey as Vice Chairperson of the Zoning Board of Appeals. **Motion carried unanimously.**

New Business

Jib Drive: A. Mackey commented on an application before the Planning Board for recommendation to the Town Board for a PDD subject to approval from the Zoning Board for a variance exceeding what the PDD language allow for the number of lots for the zoning.

Attorney Cutler stated that the applicant is seeking to have 39 lots. The PDD legislation allows up to 120%. They are asking for a PDD which will take them to about 34 lots. They are also looking for PDD approval that gives them the ability to come back to the ZBA and receive a variance from the PDD legislation to exceed the 120% which will give them the 39 lots they are seeking.

A discussion was held on the PDD application and the term subject to approval of the ZBA.

A. Mackey inquired if their PDD application is for thirty-four lots.

Attorney Cutler replied that it was not.

A. Mackey stated that they are now going to come before the Town Board even though it's subject to zoning approval, once they get their PDD approval they will not be subject to the ZBA because the PDD now approves them for thirty-nine lots. He feels that they are sending them in a legal circle.

Attorney Cutler stated that what they are asking for is the Town Board to give them PDD approval conditioned upon the ZBA granting them a variance from the PDD legislation stating 120%. It is a highly unique position to take but it is the only way they see that

they can exceed the thirty-four lots and go to thirty-nine. He is not convinced the ZBA has the authority to grant the variance relating to PDD legislation.

A. Mackey feels that once they get their approval they will not come before the ZBA, it is not subject to zoning because it's a PDD with thirty-nine lots.

Attorney Cutler stated that this was referred to the Planning Board for their recommendations, Planning Board needs to make a favorable or unfavorable recommendation, then the Planning Board sends the recommendations back to the Town Board.

Further discussion was held on this topic.

Agenda Items

ABC Recycling Zoning Interpretation ZB2008-38 SBL #253.-1-55.122

Donald Buonomo of ABC Recycling commented on his application. He stated that they have attempted to cooperate in every respect with the Planning Board. Everything that they have done is complete, had the public hearing, submitted funds for escrow account, and as now they are powerless to do anything without a decision from the Planning Board. He requested to table his application before the Zoning Board pending a decision from the Planning Board.

Attorney Cutler stated that the public hearing was closed and expects the Planning Board to act on Mr. Buonomo's application at the scheduled Planning Board meeting.

A discussion was held on the application before the ZBA, timeframe and notice to be given to be placed on the next ZBA meeting.

Resolution #1—2009 ABC Recycling—Zoning Interpretation

Motion by A. Mackey and seconded by W. Ritter to adopt Resolution #1 of 2009.

WHEREAS, ABC Recycled Auto Parts, Inc. has submitted an application to the Zoning Board of Appeals for an interpretation of Article 3, Section 3.5 and Article 7, Section 7.6 of the Stillwater Zoning Code; and

WHEREAS, the Applicant has requested an adjournment of its application to the Zoning Board of Appeals to allow it to present its request for a Special Use Permit to the Planning Board at the next regularly scheduled meeting.

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the Applicant has been operating its business for an extended period of time and is actively seeking to become fully compliant with the Zoning laws, that the Applicant currently is before the Planning Board seeking a special permit for a junkyard, accordingly, the application is held in abeyance until the next regularly scheduled Zoning Board of Appeals meeting that is held a minimum of ten (10) days after a determination by the Planning Board on the issuance of a special permit.

Motion carried unanimously.

New Business

Jib Drive Con't:

Further discussion was held on the concerns of A. Mackey in regard to conditional approval of the ZBA for a PDD.

Chairman Ferris stated that a PDD is zoning legislation and in the thirty-years of zoning in the Town, no PDD has ever been adjusted by the Zoning Board of Appeals.

Letter of Determination: Paul Cummings commented that it is common of Planning & Zoning Depts. to write Letters of Determination on issues that could be considered a gray area.

J. Urbanski stated concerns he had in regard to the process and concept of the Letters of Determination. He stated that before anything is mailed out the ZBA should review what is written to make sure the wording is correct.

Discussion on the process and concept of how the Letters of Determination is handled was held.

It was determined that if it is a determination of the ZBA, the ZBA reviews the determination and approves the wording of the Letter of Determination before it is sent out to anyone.

Old Business

Palmieri Trailer Park: D. D'Ambro inquired as to the status of the Trailer Park.

R. Abbey reported that the weather has stalled work, they are addressing other issues that have come up, the Consolidated Health Board is involved now and the Town Board would like some other homes realigned and made more conforming.

Building Dept Report: R. Abbey submitted a summary of the last month for the Building Dept.

R. Abbey answered questions from the ZBA.

Signatures: Chairman Ferris requested that the signing of names on documents be consistent. He would like to see all documents signed the same way using full names with middle initials, if used.

Meeting: Chairman Ferris stated that the next scheduled meeting would be in February but with no new cases before the ZBA he requested that they meet in March.

Keys: Chairman Ferris reported that in speaking with the Supervisor it is being requested that the members of the ZBA stop in the Town Hall to pick up their packets for their meetings. (Keys were handed out to the Members of the ZBA by the Supervisor).

Motion by A. Mackey and seconded by J. Urbanski to adjourn the ZBA meeting at 8:35 PM. **Motion carried.**

Respectfully submitted by
Sue Cunningham
Zoning Board of Appeals Secretary

