

PRESENT: Patricia Hacker, Chairman
David Stringfellow, Vice Chairman
Margaret Andrzejewski
Paul Jusko
Jeff Mendola
Michael Pohl

EXCUSED: J. David Early
Kevin Maxwell

ALSO Dennis Kramer Code Enforcement Officer
PRESENT: Richard Brox Planning Consultant
Marcia Bauemler Applicant for re-zoning

Chairman Hacker called the meeting to order at 7:32 P.M.

MINUTES

Mrs. Hacker asked if there were any additions or corrections to the minutes of May 27, 2003. Being none, Mrs. Andrzejewski made a motion to approve the minutes, seconded by Mr. Stringfellow. All were in favor.

CORRESPONDENCE

Chairman Hacker reported the following correspondence:

- Letter of May 28, 2003 to Highway Superintendent Kreitzbender requesting him to inspect the turnaround situation at Deer Run and to report back to the this Board with his findings.
- Letter of May 28, 2003 to the Town Board recommending approval on the request of Ronald Wierzba for re-zoning at 8338 Boston State Road
- Letter of May 28, 2003 to the Town Board recommending approval on the request of Brian and Rochelle Wendling for re-zoning at 8350 Boston State Road
- Letter of May 28, 2003 to the Town Board recommending approval, with contingencies, for the addition at 8373 Boston State Road, Three Girls' Café
- Letter of June 11, 2003 from Anthony Bernardi stating that he has requested a letter from the DEC indicating that the property at the end of Willow Drive is within the specifications for building
- Letter of June 1, 2003 from Deputy Code Enforcement Officer Lisowski requesting review on sign permit application for 6752 Mill Street, Boston Valley Auto Repair
- Letter from Marcia Bauemler for rezoning, received this evening by Chairman Hacker
- Other correspondence to be read at point in agenda

CODE ENFORCEMENT OFFICER KRAMER REQUEST FOR CODE BOOK CHANGES

Mrs. Hacker asked for comments or questions.

Mr. Stringfellow stated that it did make sense to allow larger buildings on larger lots. He asked if the heights could be allowed to go from 18 feet, to 19 feet and then increase at 2 foot intervals from there.

Mr. Kramer explained that there are several variance requests for accessory buildings. We are getting a lot of building in and around 1000 square feet, 1200 square feet on properties of 2 and 3 acres, or we get calls from people that own 25 acres and want to build an 1800 square foot building, which would not be out of line with that much property.

Code Enforcement Officer Kramer – request for Code Book changes, con't.

He gave the following information:

- Presently in all R Districts, only a 725 square foot accessory building is allowed with the exception of R-A with over 3 acres an accessory building can be as large as 1500 square feet
- These variances are generally granted
- Larger building sizes would expedite the application process
- R-1 & R-2 still locked in to around that 725 square feet, at 728 square feet
- Will not affect sub-divisions
- Rural areas to be most affected
- Also included that these buildings be one (1) and a half stories. Currently anything over 1 story needs Town Board approval.
- Have reviewed with Town Board members and they were receptive to this plan.

Mr. Brox commented that he agreed with most of the proposal. He suggested that 3 to 5 acre parcels be limited to 1200 square feet in R Districts, other than R-A, and limit them all to 16 feet, unless 18 feet makes for a better roof system; this eliminates the possibility of apartments being put in these buildings.

Mr. Kramer said that many of the applicants have equipment that is going to be stored in these buildings and they don't want 8-foot sidewalls.

Mr. Jusko stated that he did not feel that parcels over 5 acres constitutes a farm.

Mr. Brox suggested that in residential areas to limit the size of the building; in an agricultural district a barn of any size would be allowed.

Mr. Mendola commented that in the Boston Hills sub-division there could be several large buildings, one on top of each other, because of the layout of the property.

Mr. Pohl said that if the requirements are set enough to force a variance, the Zoning Board has the opportunity to review: does it fit the property, does it fit the neighborhood? They also have the some control on the size of the building.

Mr. Kramer said that the Zoning Board has not rejected any of these variance requests.

Mr. Brox asked if any of the requests have been for 2500 square feet.

Mr. Kramer said, 'not many, but they would still probably approve them. Not many that go over 1500 square feet, we get a few between 1500 and 2000 square feet.'

Mr. Pohl suggested adding, under 25% of the actual rear yard, or up to 1500 square feet and anything over 1500 square feet regardless of the size of the lot, goes to the Zoning Board.

Mr. Kramer stated when Mr. Perley was Town Attorney, his interpretation was: if livestock was going to be housed it was an agricultural use, otherwise it's not an agricultural use even if zoned agricultural.

Mr. Brox said in the Code Book a farm is defined as a parcel larger than 10 acres.

Mrs. Andrzejewski asked if there were any other concerns other than the number of variances.

Mr. Kramer responded that these Code has not been changed since 1990; there is more growth in the rural areas and people want larger buildings; this doesn't mean that everyone is going to build a 2500 square foot building, they build within their means.

Mr. Jusko made a motion to recommend approval of Mr. Kramer's request for the changes to the Code Book as written, seconded by Mr. Stringfellow. All in favor.

SIGN REVIEW FOR 6752 MILL STREET

The members reviewed the application.

Mr. Brox said that the sign is less than 10% of the face of the building; it's 26.6 square feet so is within the permitted size. It does not project far enough out from the face of the building to encroach into the required yard. It would be a permitted sign in the district.

Mrs. Hacker asked if there were any unfinished business between 6752 Mill Street and the Planning Board. Mr. Jusko said that there is none, some concerns were forwarded to the Town Board, and is it at their determination to resolve.

Sign Review for 6752 Mill Street, con't.

Mr. Jusko said that if the sign meets all current requirements that he would make a motion to recommend approval for issuance of the sign permit. Mrs. Hacker added and if it is a lighted sign, that it only be on during normal business hours. Seconded by Mrs. Andrzejewski. All in favor.

SUMMER SCHEDULE

Chairman Hacker stated that the Town Board Meetings are scheduled for July 16 and August 13, 2003. Mrs. Hacker suggested that the Planning Board meet the Tuesday following each of these meetings and set the schedule for July 22 and August 19, 2003. Everyone was in agreement.

DISTRIBUTION AND PRELIMINARY DISCUSSION OF TOWN BOARD REFERRALS

SUBWAY SHOP AT 7178 BOSTON STATE ROAD

Mr. Kramer distributed and explained floor plans that were given to him by the contractor; and once they (Subway) get approval from the Town they will generate a set of blue prints according to this layout. He said they don't do that until they get approval.

Mr. Jusko suggested that a letter be sent to LD Construction requesting the following before any further discussion:

- 12 copies of the floor plan for review prior to the next Planning Board meeting
- Describe parking layout
- Describe signage and outdoor lighting
- Describe any changes made to the building

Chairman Hacker asked that a letter be sent to Mr. Tybor requesting the floor plans and other information be received prior to the meeting of July 22, 2003 and also asking Mr. Tybor to be in attendance at the July meeting.

PROPOSED ADDITION AT 9776 TREVETT ROAD – RICHARD EMERLING

Chairman Hacker stated the proposed addition is 28' x 52', 15' high, and is 23 feet from the property line.

Mr. Stringfellow questioned the shed being attached to the existing building. Mr. Kramer assured him that the shed shown on the survey is not attached to the main building.

Mr. Mendola asked about lot coverage. Mr. Kramer said that Mr. Emerling owns the adjacent property which almost doubles the property, he added that 40% lot coverage is allowed in an M-2 District.

Mr. Stringfellow asked what was going to be stored in the building, is he going to clean up some of the mess on his property? Mr. Kramer said that due to the nature of Mr. Emerling's business he stores some of that 'stuff' there for parts, which is allowed. Mr. Kramer said that he would ask Mr. Emerling to move some of it.

Mr. Brox commented that Mr. Emerling is allowed 42,000 square feet of building, and so, is not near the allowed lot coverage.

Mr. Jusko made a motion to recommend approval on the application as submitted, seconded by Mr. Pohl. All in favor.

REZONING REQUEST AT 5786 HERMAN HILL ROAD

Chairman Hacker reviewed the request for rezoning from R-C to C-2 for the parking of tow trucks at this location. She asked Mr. Brox for his comments.

Mr. Brox said that parking of tow trucks would not fit in any district but C-2. He said his recommendation would be to the Town Board that the parcel be rezoned conditionally to C-2, to permit this use, but if the business ceases to exist or the trucks are moved off the property that the rezoning revert back to R-C; so that if the property is sold to someone else it doesn't stay C-2 in an R-C district. There are no provisions in the Code for a variance, in this case.

Rezoning Request at 5786 Herman Hill Raod, con't.

Mr. Brox asked Ms. Bauemler what would be parked on the premises. Ms. Bauemler said 2 flatbeds, a wrecker and a battery truck.

Mr. Kramer said that C-2 Zoning does not allow single-family dwellings, does that create a mixed use? Mr. Brox said the house becomes a legal non-conforming use, and when it reverts back to R-C it will go back the way it was, but they cannot move out of the house.

Discussion continued on the mixed use, legal non-conforming use. The members reviewed zoning in the surrounding area. Adjacent property is C-1, two residences and remainder of the corner is Commercial.

Mr. Jusko suggested that a letter be sent to Town Attorney Vacco asking for her legal opinion on the concerns addressed here tonight.

Chairman Hacker asked that the letter include:

- If rezoned to C-2, can reversion to R-C occur
 - the sale of the property by Ms. Bauemler
 - the sale of business by Ms. Bauemler
 - Other provisions are made for towing equipment and vehicles parking/storage
- It is necessary for the Town Board to be made aware that if this rezoning occurs the Town would be creating a legal non-conforming use by allowing a single family dwelling in a C-2 District.

Mrs. Hacker asked that the letter also state inclusion on the July 22, 2003 agenda will be pending receipt of her response.

Mr. Jusko asked how long the business had been operating at this location.

Ms. Bauemler said since October, 2003.

Mr. Kramer explained that due to complaints, Ms. Bauemler was served a summons for a court appearance and this is where we are.

CODE ENFORCEMENT OFFICER KRAMER

Mr. Kramer said that he had received a call from Rebecca Anderson regarding Anthony Bernardi. She wanted to know if the Town had changed its position on the Bernardi project. Mr. Kramer said that he did not believe so. Mr. Kramer told Ms. Anderson that he has not been to the Planning Board in a couple of years. He added that Mr. Bernardi is trying to convince everybody that he can put in a sub-division down on Willow Drive. Mr. Kramer added that Ms. Anderson said the letter of response would be a copy of the previous letter.

Mr. Mendola said that Nick Charlap should be approached about complying with the approved site plan.

Mr. Jusko suggested that a letter be sent to the Town Board stating that Mr. Charlap has not complied with the approved site plan, specifically the parking.

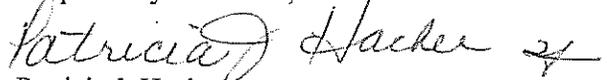
Mr. Mendola asked that Councilman Simmeth be asked to contact the Erie County Highway department for the placement of 'No Parking' signs along both sides of the road by Charlaps.

Mrs. Hacker asked that the letter be sent in the next two days.

Chairman Hacker asked if there were any further business for this evening.

Being none, Mr. Jusko made a motion to adjourn at 8:37 p.m., seconded by Mr. Stringfellow. All in favor.

Respectfully submitted,



Patricia J. Hacker

Chairman

PJH:tjf