

ZONING BOARD MEETING
TUESDAY- FEBRUARY 25, 2020
ZONING BOARD
7:00 P.M. - TOWN HALL -1529 NYS RTE 12
BINGHAMTON, NEW YORK 13901

PRESENT: James Brewster, Chairperson
Aleta Kinne, Vice Chair
Melanie Pandich, Board Member
Scott Smith, Board Member
Joe Aston, Board Member
Thomas Eldridge, Alternate

ALSO PRESENT: Nicholas Cortese, Esq. - Town Attorney
Frank Carl, Councilperson
John Freer, Ordinance Officer
Donna Webster, Stenographer of the Zoning
Board

At 7:01 p.m. Mr. Brewster called the February meeting of the Town of Chenango Zoning Board of Appeals to order and read the current mission statement.

Approval of the January 28, 2020 Zoning Board minutes:

Mr. Brewster asked if there were any discussions or corrections to the ZBA meeting of January 28th and asked for a motion to approve.

Motion to accept the meeting minutes of January 28, 2020 as written: Motion made by Scott Smith, seconded by Aleta Kinne and carried by the following:

Ayes – 5 Nays – 0 Absent – 0

New Business – Consideration of the application from Robert and Lori Burns, 3 Barry Way, TM#112.12-2-32 for an area variance to reduce the front yard setback from 30' to 23' and for a special permit for a home occupation (hair salon) in a residential zone & Short EAF –

Mr. Brewster – We have a package that looks complete.

The Applicant was not present and after reviewing the contents of the Application, Mr. Brewster asked for any comments.

I will entertain a motion on this variance application from the Board.

Motion to accept the application from Robert and Lori Burns, 3 Barry Way, TM#112.12-2-32 and set a public hearing for March 24, 2020 Motion made by Aleta Kinne, seconded by Melanie Pandich and carried by the following:

Ayes – 5 Nays – 0 Absent – 0

Mr. Brewster – Motion carried. We accept the application and will forward it to the Planning Board. We have an addition to the agenda. The ZBA is required to declare the ZBA as lead agency for purposes of SEQRA review. Is everyone clear on what we are doing? On these applications there is an environmental component called SEQRA – State Environmental Quality Review Act.

Mr. Cortese – Basically everything a local government does is subject to this review. There are forms that applicants fill out and you can question the content of those forms. Then a review will be conducted to determine if the project would cause a significant impact in any number of different types of areas. I won't help you through this one, because you will have appointed counsel for this one, but it is not as complicated as it seems unless...

Mr. Aston – What is the EAF?

Mr. Brewster – Environmental Assessment Form

Mr. Cortese – Quick crash course; There are three different types of actions under SEQRA:

Type I Actions – Generally large projects that exceed certain thresholds and the State has determined these types of projects to be more likely to have an environmental impact.

Unlisted Actions – Huge scope of different types of projects that may or may not have a significant environmental impact.

Type II Actions – A specific list of projects that the State has determined will not have a significant impact so you don't have to do the review for these particular things.

Me. Eldridge – This one is a Type II? They are not building anything, they are not changing the ground' they are not doing anything. They just want to rent space in a barn.

Mr. Cortese – I'm not going to comment on it, but the use variance that you are considering will either be an Unlisted or a Type I action. Part of the reason for that is that it is a non-agricultural use that is being put in a state certified agricultural district. The State has designated that as not necessarily matching up these two characteristics, so there is a lot that goes into it. There is a lot that goes into it, so ask as many questions as you like, but just not to me because I can't go any further.

Mr. Aston – So even though there would be no environmental change it would be classified Type I or Unlisted.

Mr. Brewster – Correct, right now we’re just making ourselves the body that will review it, versus the Planning Board or even the Town Board. Then when we get to it, that’s the meat and potatoes. There are definitions and rules to this and we will actually make a determination as to whether or not it is a Type I, Type II, or Unlisted. The Engineer will actually do a lot of that heavy lifting and make a recommendation on what type it is. I believe we are not obligated to follow that recommendation; of course it will be pretty tight because he goes through it a lot. A lot of times we take that advisement and go from there.

Mr. Eldridge – In other situations it would be important, where this one it may possibly not be.

Mr. Brewster – Probably so.

Ms. Kinne – There is a short form in the packet.

Mr. Cortese – Ms. Kinne is right. If you want to take a look at the application we just accepted for review to the Planning Board tonight, there is a short EAF in there and you can see this would be for an Unlisted Action. You can see that is pretty simple. It’s just a couple of pages and check boxes and most projects don’t run a fowl of the statute as far as environmental review is concerned. I have been in and around municipal government for about a decade and I have never seen a positive declaration. It happens very, very rarely. If you do say yes, it will have some kind of significant impact. It triggers the requirement that the applicant do a big environmental study which is very expensive and people generally want to avoid it.

Mr. Brewster – I was on the defunct Environmental Review Board and we never had a positive declaration.

Mr. Cortese – Back to the motion at this point...

Mr. Brewster – Right, I will seek a motion to declare the Zoning Board of Appeals the lead agency for the Roosevelt Farm application for SEQRA purposes.

Motion to declare the ZBA as lead agency for the Roosevelt Farm application for SEQRA purposes – Motion made by Aleta Kinne, seconded by Scott Smith and carried by the following roll call:

James Brewster, Chairperson Voted ___ Y ___

Aleta Kinne Voted ___ Y ___

Melanie Pandich Voted ___ Y ___

Scott Smith Voted ___ Y ___

Joseph Aston Voted ___ Y ___

Thomas Eldridge, Alternate Voted _____

Ayes – 5 Nays – 0 Absent – 0

Administrative Business – Mr. Brewster explained that he would like to have a discussion with the ZBA on making some changes to the Procedural Rules and Code of Conduct and sample motions.

Mr. Brewster – I have recrafted the Mission Statement after reviewing State guidelines, and Zoning Boards. I sent it to Nick for legal counsel word crafting and wordsmithing to tighten things up. Basically the long thing I read tonight hopefully will be replaced by the Mission Statement that you see here. I am open for comments or debates.

Ms. Kinne – Will we be reading that at our meetings, or will it be on the back of the agenda and people can see it for themselves.

Mr. Brewster – For the first part of your question, we can make that determination. The second part is yes. I was hoping it would be on the back of the agenda. If we read it, it will be read. Otherwise it will be on the back of the agenda like the one is that we currently have in place.

Ms. Kinne – Legally, do we have to read it?

Mr. Cortese – No

Mr. Brewster – That is perfectly up for debate. Do we want to continue reading it?

Ms. Pandich – Do we know the reasoning why it was read all this time? What the tradition was?

Mr. Cortese – I think at one point or another, it probably had more actual utility, but as time has gone on some of the procedural relics that were employed through government in this town have become unnecessary and are falling away at varying speeds.

Mr. Smith – So is it safe to say in this day and age of online communication, if you put this entire page on the website that would kind of cover it?

Mr. Brewster – That’s a valid point which I would probably agree with.

Mr. Cortese – I would too.

Ms. Kinne – They are working on updating our website at this time.

Mr. Brewster – I would agree that we do put this on the backside of the agenda for accessibility.

All agreed.

Mr. Eldridge – Somebody who has never been in this situation or have gone down this path; they don't know what they are walking into.

Mr. Brewster – Right.

Mr. Smith – I think this sounds better than what was here before.

Mr. Brewster – Thank you. As you see going down the page, I am about short bullets and as much information we can get into a short bullet. As far as structuring it, I kind of wanted to keep up with Ken's theme and outline decorum of order. Some of the areas you see are in grey are things I added after Nick reviewed it. I didn't think they would bring too much heartburn. We could red ink those. They came out of another lawyer's document. Feel free to throw ideas or comments.

Mr. Cortese – Just very quickly from me, everything you have here is fine. I would just suggest under the Public Hearings heading, under what's highlighted; I would just change "and to allow the general public to speak in favor or opposition to the application."

Mr. Brewster – Duly noted. Do we just have an informal agreement or do we have to vote?

Mr. Cortese – You have to vote.

Mr. Brewster – Roll Call?

Mr. Cortese – You can do it either way that you want, but this is your ability to created rules that you want for procedure and decorum. You do have to make a motion and vote on this stuff, but I'd say it's always a good thing to do a roll call vote. Because if you need a resolution, the roll call vote turns what would be otherwise be a simple motion in to a more formal resolution style vote. So when in doubt, ask for a roll call vote.

Mr. Brewster – If we don't have any more particular discussion, I will entertain a motion to bring forth this document into our Procedural Rules and Conduct to our ZBA meetings. (See attachment)

Motion made by Scott Smith, seconded by Joe Aston and carried by the following roll call:

James Brewster, Chairperson Voted ___ Y ___

Aleta Kinne Voted ___ Y ___

Melanie Pandich Voted ___ Y ___

Scott Smith Voted ___ Y ___

Joseph Aston Voted ___ Y ___

Thomas Eldridge, Alternate Voted _____

Ayes – 5 Nays – 0 Absent – 0

Ms. Kinne – What is the proper way for the ZBA to ask the public to give their name when speaking at a Public Hearing.

Mr. Cortese – There is no proper way. You can say, “You can give your name if you like”, but they are not required to. If someone wants to stand up and something, they can do that.

Ms. Kinne – Also, they don’t have to be a resident?

Mr. Cortese – No.

Mr. Brewster – I knew that and then that was made very clear at one of the sessions I took.

The next document I have is the sample motion guidelines. I took a shot at rewriting a few parts of them, like just using the case number. It makes it a little simpler. If you look at the cover sheets to all the applications we get, we do have a file number and it’s unique.

Ms. Kinne – Again, this is news to me. Legally can we just go by the application number?

Mr. Cortese – Sure, as Mr. Brewster just said there is just one application number in the town that’s like it and so if you refer to the application number, you are referring to everything that comes along with it. Instead of making very wordy and often time’s an inaccurate description of what they’re asking for, just refer to the application number and then anything in there is included in what you are going to send along.

Mr. Brewster – Again, I have amended these through Nick and I think I would make an amendment of my own. Right now you can see the wording I have in there now. Should I amend this to say “/deny”?

Mr. Cortese – Yes, because denying something, even though it is counterintuitive, it is an affirmative action. So you can vote yes to deny something if someone makes a motion to deny it. It could be either way.

Mr. Brewster – So, I will self-amend these right now to put in “/Deny” on these motions. Of course, these are samples, we don’t have to be rigid and use these motions every time because every situation is going to be different, but I thought they would be succinct and consistent to freshen up what we had anyway. Anything else?

Mr. Cortese – Can I just quickly say that you don’t need to vote on this. This is just motion language, it can be used whenever, however, or wherever as appropriate. You don’t have to memorialize this as part of your rules, because motion language is fluid. If everyone is in agreement to make this your most basic motion, then just do it from now on.

All agreed.

Mr. Brewster – I’ll put this in effect and send everyone a copy.

There was a discussion on ZBA members having identification cards for site visits. Mr. Brewster, Ms. Pandich and Mr. Smith do not currently have one. They will need the application which requires the Supervisor’s signature.

Mr. Brewster also mentioned the classes he attended in New York City at the Association of Towns meeting. Mr. Brewster then said if the budget allows for it and if any members have the opportunity and time to attend he would highly recommend it.

ADJOURNMENT

Motion to Adjourn – Motion made by Scott Smith, seconded by Todd Eldridge. All in favor.

Meeting adjourned at 7:43 p.m.

Respectfully Submitted,

Donna M. Webster
Stenographer of the Zoning Board