

Minutes
Zoning Board of Appeals
January 14, 2016

Board Members Present: Donne Lynn Winslow, Mark Morey, Alan Hall, Sr.

Board Member Absent: Harold Moffitt

Others Present: Robert Hitchcock, Tom Beacraft, Mary Beacraft, Dave Beacraft, Jeff Hardy, Patti Corlew, Chris Belden (Zoning Administrator)

Meeting Commenced at 7:00 p.m.

Mr. Morey - This is the January meeting of the Town of Warrensburg, Zoning Board of Appeals. Let the record reflect that members present are Mr. Hall, Ms. Winslow and myself. The next order of business is approval of the minutes of the previous meeting. I don't have any corrections.

Mr. Hall - I have no... I only read the ones that have got my name on 'em and I have none.

Mrs. Winslow - I'm fine with 'em.

Mr. Morey - Let the record reflect the minutes were approved by consensus. First business, area variance ZBA 2015-6. Now I'd like to assume you people are all here for that one. It's the only one we've got. There's only three board members present, so you're going to need a unanimous vote. If you'd like to put that over to maybe when... We've only got one more board member anyway, but if you want to take your chances, we'll continue, but it's up to you.

Mr. Hitchcock - So three is the minimum, whether there's three board members (inaudible).

Mr. Morey - That's correct. It's a, it's a five member board and we're currently vacant one member and..

Mr. Belden - And then one that's out.

Mr. Hitchcock - For everybody's benefit, what, what happens if we don't get three affirmative votes? What's our, what's our appeal process or (inaudible) probably just dead in the water.

Mr. Belden - If you were to not get the area variance, you could apply for a re-hearing. Basically you have to present evidence to show...

Mrs. Corlew - Different evidence.

Mr. Belden - Different evidence to show why...

Mr. Hitchcock - New evidence, that's what I figured.

Mr. Belden - New evidence. And then you would need a consensus of the board to have the application reheard.

Mr. Hitchcock - Yep.

Mr. Belden - And then, ya know, at that time, it could be reheard. And if that fails, obviously there's other litigation measures that could be taken, but.

Mr. Hitchcock - I think this is a slam... I shouldn't say this, but...

(Laughter).

Mr. Hitchcock - I don't think this is at all controversial. I think it's pretty simple, and I think I'm seeing a head shake that we'll proceed.

Mr. Morey - Okay. It's the custom of our board to swear any person who's going to give any information or facts to the board. So, before we get into it, I'll... First of all, I'll open the public hearing on ZBA 2015-6. We'll... Are all of you going to be giving information or just you or?

Mr. Hitchcock - I think I'm doing the presentation and if there are questions that I can't answer, ya know, we've got the property owners and...

Mr. Morey - We can... They can be sworn in anytime anyway.

Mr. Hitchcock - Sure.

Mr. Morey - Okay. Raise your right hand. Do you solemnly swear that the statements you are going to give the board are the truth, the whole truth and nothing but the truth?

Mr. Hitchcock - I do.

Mr. Morey - Okay. Mr. Belden, how does this come before us?

Mr. Belden - Sure. So North Hartland Dry Kilns, the new owners of the former Sweet Mill and Lake George Forestry Products have worked out an arrangement to convey some property in which a new, the property line will move between, will move between two kilns on the property. The, the resulting side setbacks are going to be... Well, were originally going to be one foot. They... In speaking to the applicant in the past few days, that's going to change to, I think, a 0 foot setback request, with the remainder going... And then also a, a second variance for the other kiln, which I think it was six feet? Or 4 and a half feet, so not it will be 5 and a half feet with the change from one foot side setback to zero. In this district, it's, it is required, a 10 foot side setback is required, so that's the reason they're in front of you. This project also involved a subdivision which is on the southern side of Sweet Road. It's kind of unrelated. That's already been. It's related, but unrelated to, for you, for your purposes, and that's already been approved by the Planning Board, ya know, as far as they get (inaudible) APA approval for the project as well. So that's why they're here in front of you tonight.

Mr. Morey - Is, in the application here, it says they would need two variances.

Mr. Belden - Right. So it's a, the line will go between two kilns, so there's one variance from... With the proposed line, there's going to be a... They're asking for a 0 foot side setback and a, and then on the other side, for the other kiln, a 5 ½ foot side setback in a district that requires 10 feet, so.

Mr. Morey - But this property hasn't been conveyed yet, is that correct?

Mr. Hitchcock - Correct.

Mr. Morey - So if we give a variance to put a boundary line through what amounts to the... We, we did this previously with Mr. Schiavi a long time before you were here, maybe even before you were born, but...

(Laughter).

Mr. Morey - And I don't remember exactly the particulars on that one, but it was the same situation; ya know, single owner that developed the property over a, really a century and then when that, when that use changed and they, they started, no one wanted all the property, so, as it was sold off.

Mr. Belden - Right, and I, I, my understanding and I'm sure Mr. Hitchcock can inform you guys of this is that I believe that Lake George Forestry Products is using, currently using one of the kilns. They want to make improvements to one of the kilns. To make that investment, they don't... They don't want to make an investment unless they actually own the property the building sits on. So that's my understanding and I'll turn it over to...

Mr. Morey - Well, I'm not sure that we can give a variance to a, somebody that isn't, doesn't own it.

Mrs. Corlew - Yeah, you can.

Mr. Morey - The variance follows the property, I know that.

Mr. Hitchcock - Are you okay with the variance to North Hartland Dry Kilns, but not so to Lake George Forest Products? Is that the issue?

Mr. Morey - It's not... There's no objection to the two, except that I'm not really sure how to proceed on it. I mean, we've only got one variance listed here. We going to combine that like we did last month?

Mr. Belden - Yeah.

Mr. Morey - I'm looking for a little help. Any of the board members that...

Mrs. Winslow - Let's make it easy; let's combine it.

Mr. Hall - Well, the sale of the property kind of hinges on whether this variance is...

Mr. Morey - That's correct.

Mr. Hall - ...available or not, so I don't think they're putting the cart before the horse this way. I think we're legal to do what we're, they're asking.

Mr. Morey - Okay. Then we don't need... We'll proceed.

Mrs. Corlew - Yes, go ahead.

Mr. Hitchcock - My name's Rob Hitchcock. I'm an engineer. I work for Cersosimo; employed by Cersosimo. Cersosimo Lumber leases the land which is owned by North Hartland Dry Kilns. I'm just trying to explain this so you understand. All of this was owned by Sweet at one time. Lake George Forest Products started let's say 15 years ago (inaudible). This is the dry kiln currently on Cersosimo's, Cersosimo's dry kiln that Lake George Forest Products has been using for years. The operation of the kiln was, benefited both Cersosimo and Lake George Forest Products (inaudible) the condition of this mill is such that Cersosimo is no longer operating. All of a sudden (inaudible) mill is Lake George Forest Products, in order to make it more efficient for their operation, getting it switched from steam heat to a drier heat and electric heat. So that's, that's the whole crux of it. There's a, what we call a control house that I thought was coming down when I filled out the initial application. That's when I thought we were having a setback off of kiln 2 and a bigger setback off of kiln 1. Turns out that the control house is concrete. It is not easily taken down. It doesn't benefit anybody to take it down. It doesn't need to be taken down, so we just as soon leave it (inaudible). We need a zero variance for Cersosimo and so that Lake George Forest Products doesn't become a non-conforming lot, we're asking for the variance for them also. There's no additional buildings planned. There's no (inaudible) planned. There's no impact to any of the neighbors. There's no impact to the environment. It... Granting the variance allows the sale of the property to Lake George Forest Products which allows them to improve the kiln, which allows them to continue to be competitive without (inaudible) is gone and potentially (inaudible). Adirondack Park Agency was down today. They don't seem to have any, any problems. They just want me to dot some I's and cross some more T's.

Mr. Hall - Surprise.

(Laughter).

Mr. Hithcock - And that's about as complicated as I can make it. Jeff Hardy's the General Manager for Cersosimo on the right and Tom and Mary Beacraft and their son, Dave, they own Lake George Forest Products. So it's just, if you approve this, then we'll administratively handle the boundary line adjustment and this will become part of this lot, and then everybody's happy.

Mr. Morey - The purpose of the control room isn't going, you don't need that anymore to, or is that going to be shared with both companies?

Mr. Hitchcock - Because it's concrete, I don't know exactly how... I don't think anybody knows exactly how it's all going to work out, but there will be cross easements and, and if it's going through, then it's (inaudible) common ownership of the building, but there will be common access (inaudible) buildings.

Mr. Morey - Okay, so that is definitely necessary that that stays.

Mr. Hitchcock - Yes. Especially for the fact it's concrete and, yeah. I misunderstood when I wrote the application out because I was over in New Hampshire in my office and I didn't make the trip over here and investigate it (inaudible).

Mr. Morey - Do any of the other board members have questions or?

Mrs. Winslow - I completely understand what you're trying to do.

Mr. Hall - I was up and viewed the property (inaudible).

Mr. Morey - Has this been to the County?

Mr. Belden - Yes. There's no county impact.

Mr. Hitchcock - I put some pictures up there if anybody needs anymore explanations. I think it probably just complicates things if I say anything more.

Mr. Belden - Rob, is that control room depicted in any of those pictures or?

Mr. Hitchcock - Yes.

Mr. Belden - Okay.

Mr. Hitchcock - I think, I think what I'm going to do is probably do a blow-up of this area...

Mr. Belden - Okay.

Mr. Hitchcock - ...on the, on the...

Mr. Belden - On the map?

Mr. Hitchcock - ...plan that you get.

Mr. Belden - Okay.

Mrs. Winslow - Is it this?

Mr. Hitchcock - Yep. (Inaudible). ...what we labeled the control room.

Mr. Belden - Okay.

Mr. Hitchcock - This is the actual kiln itself, looking from this direction. Actually... I'm sorry, that's looking from this direction. (Inaudible).

Mr. Morey - Thank you. It's the custom of this board to move in the affirmative, consider ZBA 2015-6. I'll make a motion for that. Is there a second?

Mrs. Winslow - I'll second.

Mr. Morey - Okay. We'll proceed to discussion. Would we close the public hearing now or should we do that at the end of the...

Mrs. Corlew - After you do the questions.

Mr. Morey - Okay, because...

Mrs. Corlew - Then close it.

Mr. Morey - We went months with no meetings and now all of a sudden, we've having one every month. If we're a little... I'm a little rusty. Question #1, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. You answer, "no. Granting the variances allows for approval of the boundary line adjustment. No new buildings are expected to be built and there will be no changes to the site. That's no change to the neighborhood". I don't have any questions on that. Number two, whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. You answer, "no. There is no way to change ownership with the dry kiln in question without the variances". I guess it wouldn't be very practical to move that thing ten feet. Question number three, whether the requested area variance is substantial. You answer, "no because there will be no change to the site and no new building constructed. We believe the variances requested for both properties are not substantial". The board has a rough... Not a rule, but a... Once you get over 50% of a, of non-compliance with, out of compliance with a, with a sideline setback, any setback, that we consider that substantial, at least more substantial, and it's not a... It's not something that we haven't allowed before but it is, from our point of view, that, is it something us board members would like to talk about or any..? I mean, there's obviously reasons...

Mr. Hitchcock - Am I allowed to say anything?

Mr. Morey - Yes, you are. Yeah, sure.

Mr. Hitchcock - I would agree with you if it was a new building that was going up that, that that difference would be substantial, but the fact that everything's here and exists already...

Mr. Morey - Yeah.

Mr. Hitchcock - In my mind, it's not substantial.

Mr. Morey - When the situation creates a difficulty and if the buildings were owned by a single property owner, they're, really for practicality, close to each other. Dividing apart (inaudible). Any other questions?

Mrs. Winslow - No.

Mr. Morey - Number four, whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. You answer, "no, because there is no change to the site. There is no adverse impact in or to the neighborhood or district". The business is

going to continue. Really there's less impact 'cause the other kilns aren't, the other mill's not operating, right?

Mr. Hitchcock - Right.

Mr. Morey - Is that..? No idea if that's a long-term thing or they..?

Mr. Hitchcock - Well, Jeff, you can correct me, but if the market spins around and it gets good and the price that we could pay for the wood, the mill could come back when it was purchased, the intent was to rebuild it. I think Butch, who owns the company, under-estimated the dollars that it would take to save (inaudible) bring it up to code.

Mr. Hall - There appears to be quite a lot of logs (inaudible).

Mr. Hitchcock - Yeah. Yeah. It's being used as a log yard, but it's, they're not doing any sawing of wood.

(Tape inaudible).

Mr. Morey - Number five, whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance. You answer, "no. The need for the variance was not self-created. The variances are needed as a result of a change in both the NHDK and the LGFP business operations". By that you mean that, with the one company, with the..

Mr. Hitchcock - Go back far enough, Lake George Forest Products didn't even exist. The fact that they came into being and started using the kiln is what's, is to where we are today.

(Inaudible).

Mr. Morey - That, that was a shared.. They leased that property. They leased it or the, the back of the sawmill and the, or did they actually own that?

Mr. Hitchcock - Lake George Forest Products owns this now.

Mr. Morey - Hm hm.

Mr. Hitchcock - And just a gentlemen's agreement, they started using the dry kiln and that's the way it's, that's the way it's been. As of this moment, the agreement to sell and everything is all gentlemen's agreement. There's no (inaudible). They've kept the attorneys out of it. (Inaudible).

Mrs. Corlew - Not anymore.

Mr. Belden - Not anymore.

Mrs. Winslow - Not anymore.

Mr. Morey - So the.. Your'e saying that the difficulty was, arose just because of the mill shutting.. This is an effort to tidy things up and..

Mr. Hitchcock - Right.

Mr. Morey - ...and make everyone on their own firm ground.

Mr. Hitchcock - Yep, yep.

Mr. Hall - Well, you've got to stop and think too, that's still in the past (inaudible) was fed with hardwood (inaudible). Now they're putting soft wood, pines (inaudible) and I can see 'em going to the electric myself because I can't believe the pine's burning anywhere near that the hardwood does. And of course if the mill isn't operating, they're not going (inaudible) anything.

Mr. Morey - Right. They've got no hardwood to get. Is everyone...?

Mrs. Winslow - I have no questions.

Mr. Morey - Any, anything else, Alan or..?

Mr. Hall - That was my only observation.

Mr. Morey - I think I need to make a motion that this is a Type II listed action under SEQRA.

Mr. Belden - Actually..

Mr. Morey - It's not? Boundary line..

Mr. Belden - Well, it.. Well, it is, but you shouldn't have an environmental assessment form. The A.. The Adirondack Park Agency is the lead agency on this, so..

Mrs. Corlew - So you don't have to do it.

Mr. Morey - Okay. I didn't see that on here, but that's...

Mr. Belden - Yeah, I'm sorry I didn't give you... Yeah, a report before the meeting, but.

Mr. Morey - We're, are we ready to vote on the motion?

Mr. Belden - Close the public hearing.

Mrs. Corlew - Yep, close the public hearing.

Mr. Morey - Close the public hearing on ZBA 2015-6. Let the record reflect the time is 7:24.

Mrs. Corlew - Now you can do the vote.

Mr. Morey - At this time, a yes vote will grant the variance.

Mrs. Winslow?

Mrs. Winslow - Yes.

Mr. Morey - Mr. Hall?

(Mr. Hall nodded his head yes).

Mr. Morey - And I vote yes as well, so your, you made a good gamble, I guess.

(Laughter).

RESOLUTION #2016-1

Motion by: Mark Morey

Second by:

RESOLVED, to approve application ZBA 2015-6 by North Hartland Dry Kilns, tax map #183.3-1-18.111, for property located at 4557 Route 9, to allow a boundary line adjustment, resulting in existing kilns having setbacks of 0 feet and 5 ½ feet.

DULY ADOPTED ON THIS 14TH DAY OF JANUARY, 2016 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Mark Morey, Alan Hall

Nays: None

Mr. Hitchcock - Thank you very much.

Mr. Morey - You're welcome.

Mr. Hall - I nodded my head yes, by the way.

Mrs. Corlew - Yes, I saw you and so didn't Chris.
(Tape inaudible).

Mrs. Corlew - I'll, I'll note that in the minutes.
(Tape inaudible).

Mr. Morey - I think we're supposed to have an organizational meeting.

Mrs. Corlew - You can if you want. I forgot to put it on there.
It's up to you.

Mr. Morey - This is the first meeting of...

Mrs. Winslow - 2016.

Mr. Morey - 2016 and... First meeting of 2016...

Unknown Speaker - Guys, thank you for coming out.

Mrs. Winslow - Thank you.
(Tape inaudible).

Mrs. Winslow - Good luck. It's pretty simple.

Mr. Morey - The question is... Well, all the questions are... One is... You guys are free to leave. This is just housekeeping.

Mrs. Corlew - Yeah, you guys...
(Tape inaudible).

Unknown Speaker - Thank you very much.

Mr. Morey - You're welcome.
(Tape inaudible).

Mr. Morey - Are you going to change anything or, meeting dates, change in... Do you want to be Chairman?

Mrs. Winslow - I don't want to be Chairman.

Mr. Hall - I vote to keep the same (inaudible).

Mrs. Corlew - Do one vote to keep everything the same.

Mr. Belden - I don't...

Mr. Morey - Then at this time, I'll make a motion that we keep everything as it was last year as far as meeting dates, times and composition of the board. Is there a second to that?

Mrs. Winslow - I second it.

Mr. Morey - All those in favor.

Mr. Hall - Aye.

Mrs. Winslow - Aye.

Mr. Morey - Aye. Let the record reflect the motion passed unanimously.

Mrs. Corlew - Okay.

RESOLUTION #2016-2

Motion by: Mark Morey
Second by: Donne Lynn Winslow

RESOLVED, to keep night and time of Zoning Board meetings as the second Thursday of each month at 7:00 p.m. and officers as follows: Mark Morey, Chairperson, Alan Hall, Vice Chairperson and Harold Moffitt, Secretary.

DULY ADOPTED ON THIS 14TH DAY OF JANUARY, 2016 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Mark Morey, Alan Hall
Nays: None

Mr. Morey - At this time, we'll close the January meeting (at 7:26 p.m.)

Respectfully submitted,

Patti Corlew
Recording Secretary

Pc01142016

RESOLUTION #2016-1

Motion by: Mark Morey

Second by:

RESOLVED, to approve application ZBA 2015-6 by North Hartland Dry Kilns, tax map #183.3-1-18.111, for property located at 4557 Route 9, to allow a boundary line adjustment, resulting in existing kilns having setbacks of 0 feet and 5 ½ feet.

DULY ADOPTED ON THIS 14TH DAY OF JANUARY, 2016 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Mark Morey, Alan Hall

Nays: None

RESOLUTION #2016-2

Motion by: Mark Morey

Second by: Donne Lynn Winslow

RESOLVED, to keep night and time of Zoning Board meetings as the second Thursday of each month at 7:00 p.m. and officers as follows: Mark Morey, Chairperson, Alan Hall, Vice Chairperson and Harold Moffitt, Secretary.

DULY ADOPTED ON THIS 14TH DAY OF JANUARY, 2016 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Mark Morey, Alan Hall

Nays: None