



Present: John Dax, Chairman
Jeff Hattat, Zoning Board Member
Tony Murad, Zoning Board Member
Phyllis Stoller, Zoning Board Member
Jeannine Tonetti, Zoning Board Member

Absent: Charles Gerald, Zoning Board Member
Thaddeus Krolikowski, Zoning Board Member

Others Present: Thomas Seamon, Carole Schwartz, Paul Schwartz, Svetlana Yuzhelevskaya, Luba, Fred Haley, Robert Mittnight, Robert Smith, Joanna Smith, Kevin Smith, Carin deJong, Fiona Lally, Trina Porte, Kevin Smith

I. Call to Order:

Chairman Dax called the regular meeting of the Zoning Board of Appeals to order at 7:45 pm.

II. Minutes Review:

Upon Review of the April 6, 2010 minutes, a motion was made by Tony Murad , seconded by Phyllis Stoller to approve them as submitted. The motion carried upon the following vote:

Chairman Dax	Aye
Charles Gerald	Absent
Jeff Hattat	Aye
Ted Krolikowski	Absent
Tony Murad	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Aye

III. Application Review/Deliberation:

Case No. 2010-014: Svetlana Yuzhelevskaya (TM# 18.-1-74)

A request has been made for a 25ft. rear and side setback on property located at 614 Salls Road. The ZEO's denial is based on "The request requires a variance for rear and side setbacks. 50 ft requested, 75 ft is required. Article Four (3) (D) does not provide relief. No useable foundation currently exists."

A motion was made by Tony Murad, seconded by Jeff Hattat to grant the 25 ft. variance. The motion carried on the following vote:

Chairman Dax	Aye
Charles Gerald	Absent
Jeff Hattat	Aye
Ted Krolikowski	Absent
Tony Murad	Aye

Phyllis Stoller Aye
Jeannine Tonetti Aye

Case No. 10-013: Darrow School – TM# 29.-1-17 [Area Variance]

Representative: Tom Seamon

A request has been made for an area variance to install four 7ft. diameter wind turbines roof mounted onto the Science Building. The tallest one is 56 ft. from bottom grade. The ZEO's denial is based on article 7; a maximum height allowance of 35 ft. is permitted in the RA 2 and RA 5 zones.

Mr. Seamon informed the Board that during the Planning Board 'review for recommendation' it was recommended that the ZBA approve this request on the condition that the appropriate SEQR review is conducted. The Planning Board believed that a full EAF is required [per 6NYCRR part 617: §617.4 (b) 9] because the Darrow property abuts the Shaker Museum and Library which is a registered National Historic Landmark.

Mr. Seamon further informed the Board that he has completed the full EAF and also has taken photographs depicting no visual impacts.

Chairman Dax asked if Mr. Seamon has spoken with anyone from the Shaker Museum and Library. Mr. Seamon replied "Yes. I've spoken with Jerry Grant and David Stocks".

The Board determined that this is a type 1 action and after full EAF analysis, a motion was made by Tony Murad, seconded by Jeff Hattat to authorize Chairman Dax to sign the Negative Declaration. The motion carried on the following vote:

Chairman Dax Aye
Charles Gerald Absent
Jeff Hattat Aye
Ted Krolikowski Absent
Tony Murad Aye
Phyllis Stoller Aye
Jeannine Tonetti Aye

A motion was made by Tony Murad, seconded by Phyllis Stoller to approve the requested variance. The motion carried on the following vote:

Chairman Dax Aye
Charles Gerald Absent
Jeff Hattat Aye
Ted Krolikowski Absent
Tony Murad Aye
Phyllis Stoller Aye
Jeannine Tonetti Aye

Case No. 10-005: Robert Mittnight – TM# 7.-2-20.11 [Appeal]

A request has been made for an appeal of a decision of the ZEO dated 02/12/2010. The applicant had applied for a Pole Barn for storage and maintenance of agricultural equipment on 1/26/10. The application was denied by the ZEO due to various reasons listed on his 2/12/2010 'memo for the record' [attached]

Since Mr. Mittnight informed the Board that he had not yet notified the abutting landowners, the public hearing could not be opened tonight and was rescheduled for next month's regularly scheduled meeting [June 1, 2010].

Mr. Mittnight stated that he has hired a ZEO from another town and is waiting for his report, as well as the report from Councilmember Doug Clark's visit. Mr. Mittnight stated that he believes our bylaws do not require a permit for a pole barn.

Chairman Dax stated that that is not what this appeal is based on and asked if there are existing violations on the property. Mr. Mittnight stated that some of the violations are not there any more. Everything has been met but he needs an interpretation of 'sheds/mobile homes/mobile home parts.

Jeannine Tonetti commented that Mr. Mittnight had postponed the site visit scheduled with this Board which leaves us in an awkward position.

Mr. Mittnight said that he wants to see what Dean Herrick, the former ZEO, has to say.

Chairman Dax stated that it is our prerogative to conduct a site visit and that Mr. Mittnight is not helping his case by not allowing the Board to do so. Chairman Dax urged Mr. Mittnight to reconsider.

Mr. Mittnight stated that he is hoping that Dean Herrick's report will be beneficial to his case. Chairman Dax stated that if Mr. Herrick render's an opinion, the Board will consider it.

Case No. 08-056: Kevin Smith (TM#19.1-1-15.200)

Request for second extension of Area/Use Variance order dated 10.7.08

The Board considered Mr. Smith's letter of April 7, 2010, in which he requested an extension of the building permit that was issued on February 20, 2009. The Board advised that the Code Enforcement Officer, not the ZBA, is the official to whom he should address his request concerning the building permit.

The ZBA voted to (i) deem Mr. Smith's April 7, 2010 letter as a request that the Board waive the deadline it had adopted for for him to request an extension of the variances granted in their decision dated October 7, 2008 to allow him to maintain the mobile home in its present location, and (ii) to grant the extension of those variances to October 7, 2010. In taking these actions, the ZBA noted that Mr. Smith had complied with the substantive requirements of our October 7, 2008 decision.

Carin deJong on Behalf of LV Farmer's Market (TM#19.2-1-51)

Preliminary review on a request to operate a Farmer's Market at the Midtown Mall on Route 20. Application has been denied by the ZEO on the basis that a flea market requires a special permit.

Chairman Dax explained the process for obtaining a special permit. Ms. deJong stated that she may be in error in asking for a special permit as she has had contact with Ag & Markets who advised that this application should be viewed as a farmer's markets and not a flea market. Farmer's markets are considered to be an extension of an agriculture business or private business neither of which requires a special permit.

Chairman Dax distributed copies of the relevant excerpts of our zoning law. He explained that the Board has to follow our codes. Our codes do not provide for farmer's market but do provide for

flea markets. The application does seem to fit our definition for a flea market and even though, in this case, the application will require a special permit, it is a permitted use. Chairman Dax further stated that if Ms. deJong has any information from Ag & Markets she should submit it in writing, but that she should keep in mind that Ag & Market does not preempt our code.

Chairman Dax informed Ms. deJong that a larger map drawn to scale will be required depicting traffic flow, parking (70% of the property being leased must be designated for parking), dimensions of the booths, sanitary facility, etc. Additionally, a copy of the lease agreement and a letter from the property owner granting authority to act on this application will be required for the next meeting.

Ms. deJong asked "Are you sure a special permit is needed"? Chairman Dax stated that unless it is proven that Ag & Markets preempts our codes the Board is required to follow our laws.

Chairman Dax informed that DOT approval will also be required. He suggested that Ms. Boushour [owner of the Midtown Mall] contact the Hudson office of DOT to obtain something in writing from them, even if it is from old records of approval from 40 years ago.

Chairman Dax moved to refer the application for County and Local Planning Board recommendations as well as set the public hearing date for the next regularly scheduled meeting [June 1, 2010]. Jeannine Tonetti seconded the motion which was carried on the following vote:

Chairman Dax	Aye
Charles Geraldi	Absent
Jeff Hattat	Aye
Ted Krolikowski	Absent
Tony Murad	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Aye

V. Adjournment

The meeting adjourned at 8:45 pm.

Respectfully submitted,

Cissy Hernandez
Planning/Zoning Clerk