

Town of Oneonta
Zoning Board of Appeals
Meeting Minutes
February 28, 2022

Present: D. Allison, D. Prouty, M. Stolzer, Rob Panasci (Attorney), L. Sause (Clerk)

Absent: Chairman Cannistra, Al Black

Others: Kyle Oliver, John B Claflin, William Starna, Eileen McClafferty, Ellen Blaisdell, Margaret Blaisdell, Peter Exton, Brendy Seery, Pat Jacobs, Janet Ballute, John Platt, Stacy Platt

A. Roll Call

- Acting Chair, D. Prouty called the meeting to order at 7:00pm and called for the roll.
- Next meeting is scheduled for March 28, 2022

B. Minutes – December 27, 2021

MOTION: A motion was made by D. Allison and seconded by M. Stolzer to approve the minutes as presented.

DISCUSSION: None **VOTING:** Unanimous. **Motion Carries**

C. New Applications:

- **Saxton Sign Co., Inc. Special Sign Permit**

Tax Parcel No: 300.11-1-21.00

772 St. Hwy 28, Oneonta, NY

Zoning: HDD (Highway Development District)

The applicant is requesting a special sign permit to add two (2) additional façade signs and two (2) additional freestanding signs to the Starbuck's.

Allowable # of signs: 2 signs allowed. Allowable area of signs: 100 SF per sign allowed.

Existing Signage: None- regular sign permits will be issued for the freestanding and façade sign allowed. The proposed signs need a special sign permit approval because:

1. The two (2) requested façade signs exceeds the allowable number of signs allowed.
2. The two (2) requested freestanding menu board signs exceed the number of freestanding signs allowed.

Darren Katz from Saxton Signs represented the application. He discussed that he would like to put up two menu board signs. The two signs are larger than allowed. The board requested that he bring authorization from the owner of the property that he might represent the application.

MOTION: A motion was made by D. Allison and seconded by Acting Chair, D. Prouty to set a public hearing for March 28, 2022 at 7:15pm or as soon as possible thereafter.

DISCUSSION: None **VOTING:** Unanimous. **Motion Carries**

- **John B. Claflin II, Use Variance**

Tax Parcel No: 287.00-1-17.01

645 State Highway 205, Oneonta

Zoning: RA-40 (Residential – Agricultural)

The applicant desires a use variance to allow the construction of a new structure to be used as a winery. The following town code section will be violated:

103-8. Permitted and prohibited uses. In all districts, uses not specifically listed as permitted shall be deemed prohibited, and all permitted uses shall be subject to all applicable general and special regulations as may be specified in this chapter as a condition for creation of said use, except as provided under Article XIV hereinafter.

Questions 2A & 2B remain unanswered on the application.

John Claflin appeared for the application. He would like to build a structure to be used as a winery. The property has been vacant for 10 years and he has brought it back to being a usable property by leveling off the previous gravel mine. Mr. Claflin would like to use some of the property for growing

grapes and supplement it with a small building like Rustic Ridge has. He is planning a tasting room, parking lot and a small agricultural use. The board requested that he also apply to the Planning Board with a site plan that includes size of rooms and production space.

MOTION: A motion was made by D. Allison and seconded by Acting Chair, D. Prouty to set a public hearing for March 28, 2022 at 7:30pm or as soon as possible thereafter.

DISCUSSION: None **VOTING:** Unanimous. **Motion Carries**

- **Ford and Hill Holdings LLC (Joe Vallette), Special Extension**

Tax Parcel No: 287.19-1-25.00

132 Winney Hill Road

Zoning: B-1 (Neighborhood Business)

The applicant desires a use variance approval to sell the parcel for a single-family residence.

Ford & Hill Holding LLC (Joe Vallette) seeks a special extension to allow occupancy of an existing single family, four-bedroom dwelling by three or more unrelated individuals. The existing home is a preexisting dwelling accessory to the church for use by the Pastor. The subject parcel was purchased by Ford & Hill Holdings LLC. (Joe Vallette) and was rented out to college students without approvals. Subsequently, the current owner chose to apply for a short-term rental special use approval from the Planning Board. During the Planning Board approval process a fire safety inspection was completed by the code office where the occupancy by unrelated individuals was identified.

The Planning Board approval process is on hold because of the unrelated individual violation. The applicant has chosen to seek the special extension to continue the use of the residence by more than two unrelated individuals. Special extension approval by the ZBA is required per the below code section:

103-14(H) Family. A "family" as defined in 103-3, definition of "family," Subsection (3), may be permitted by the Board of Appeals provided that said Board finds the occupants constitute a functional family unit, which means a group of three or more individuals living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in residential neighborhoods. In determining whether or not a group of unrelated individuals is functional family unit under the definition set forth above, the Zoning Board of Appeals may consider, among other things, the following factors:

- (1) Whether occupants share the entire dwelling unit as contrasted with a situation where the various occupants act as separate roomers.
- (2) Whether the household has stability with respect to the purpose of the Zoning Ordinance. Evidence of such stability may include among things, the following:
 - (a) The presence of minor, dependent children regularly residing in the household.
 - (b) Enrollment of dependent children in local schools.
 - (c) Proof of the sharing of expenses for rent or ownership costs utilities and other household expense.
 - (d) Whether the household has been living together as a unit for a year or more; either in the current dwelling unit or other location.
- (3) Whether the household appears to preserve and maintain the harmonious character of the residential district in which the household is located.
- (4) Whether the rooms providing living, cooking, sanitary and sleeping facilities meet the minimum dwelling space requirements of the New York State Uniform Building Code.
- (5) Whether the household is a temporary living arrangement or a framework for transient living, such as a boardinghouse, a temporary residential home or a fraternity or sorority house.
- (6) Whether adequate provision has been provided for off-street parking and related problems which are consistent with the regulations of the zoning district in which the household resides.
- (7) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.

In considering the applicants request it is the opinion of the Code Officer that the applicants do not meet the criteria for special extension granting. There are no children proposed at the location; the use does not preserve and maintain the character of the neighborhood, the occupancy is a temporary living arrangement (college students) and further will not, as the applicant has expressed a desire to rent short term during the "baseball park season.

Daniel Hunter appeared for the application. He would like to apply to get a special extension to allow his four tenants to continue living there as they have leases until May. He stated that he learned of the limit to two unrelated persons while he was obtaining a fire inspection to get a permit for short-term rentals. Mr. Hunter says he may wish to have students in the future but is also open to other possibilities. They are trying to recoup the costs of their renovations by leasing the property.

MOTION: A motion was made by M. Stolzer and seconded by D. Allison to set a public hearing for March 28, 2022 at 7:45pm or as soon as possible thereafter.

DISCUSSION: None **VOTING:** Unanimous. **Motion Carries**

D. Decision:

- **(cont.) Interpretation of Municipal Officials Decision**

Tax Parcel No: 275.00-1-54.02

617 East St., Oneonta, NY

Zoning: R-80

The applicants desire an appeal to the decision and interpretation made by the Code Officer relative to the motorcycle use of the Thompson parcel between East Street and Wilber Lake Road. The appeal for interpretation is outlined in the Notice of appeal to the Zoning Board of Appeals dated August 13, 2021.

Atty Panasci began by bringing up some questions for the board to start their discussion. The first one is: Should a landowner be prohibited from riding a dirt bike on their property?

M. Stolzer stated that this is an upsetting situation and both sides are right. It is a dilemma and he believes that given the construction of the bike track and its use, they should have gone to the planning board first. The issue should not have come to us first and they are bypassing the process. He understands the family wanting to use the property for their enjoyment and also the neighbors peaceably enjoying their homes and he stated that the neighbors should have worked it out.

D. Allison says that is not a question of approving or disapproving the use, the question is that we were just being asked to rule on which of Paul's interpretation was correct. Since the RA 80 code did not differentiate between public and private uses, the one where he required the Planning Board review seems to be the correct one.

Acting Chair, D. Prouty questioned if people on their own property can drive a tractor, lawn mower and snowmobiles are they violating the code? Which car or vehicle can be approved or disapproved? He also mentioned that if there are problems with the code then they should have the code changed.

M. Stolzer objected to the comparison and thought they were two different things.

The second question to discuss was: Should the immediate family be prohibited from riding a dirt bike on their property?

D. Allison – No. Acting Chair, D. Prouty – No. M. Stolzer – If you allow dirt bikes, can you determine the number of dirt bikes, the size of dirt bikes? The question is not cut and dry.

The third question that was brought up to discussion: Does riding a dirt bike on private property constitute a use? The appeal asks if it is a prohibited use.

Acting chair, D. Prouty says that it is a lot for us to establish. If a public use, the use applies to public, if private it is not restricted for use.

D. Allison mentioned that he would not be able to build 100 ft. antenna on his property even if it was for private use only. He asked if the use would require a use variance as the code doesn't mention a motocross as a permitted use.

M. Stolzer says there are two sides to the story and the code doesn't differentiate between private and public use. Should it have gone to the planning board if only used by the family and is it in the definitions of the code itself?

Atty Panasci did not find it in the code and looked up the word use in the Webster's dictionary. It is defined as the ability or power to use something. M. Stolzer agreed that it fits as a use.

MOTION: A motion was made by M. Stolzer and seconded by D. Allison to grant the appeal dated August 13, 2021 from Doug Zamelis on behalf of the local residents that the determination of CEO Neske should be rescinded.

DISCUSSION: None **VOTING:** 2 in favor. Acting Chair, D. Prouty: No **Motion Denied.**

MOTION: A motion was made by D. Allison and seconded by M. Stolzer that the use of the motocross track required the review of Planning Board.

DISCUSSION: Atty Panasci mentioned that if a use is not allowed it would need a use variance. If the use is allowed it would need to go the Planning Board.

D. Allison stated that he likes the idea of the official process of sending it to the Planning Board to set conditions of use.

VOTING: 2 in favor. Acting Chair, D. Prouty: No **Motion Denied.**

There being no further business before the Board, the meeting was adjourned at 8:30pm.

Laura Sause,
Clerk of the Zoning Board of Appeals