

Town of Oneonta
Zoning Board of Appeals
Meeting Minutes
September 27, 2021



Present: Ken Pym, M. Stolzer, Chairman Cannistra, L. Sause (Clerk) /

~~Attest:~~ D. Allison, D. Prouty

Others: William Starna, Ellen Blaisdell, Peter Exton, Eileen McClafferty, Margaret Clemons, Ashley Cammerata, Kelly-Jo Hunink (Mirabito/ Robbins Signs), Kyle Oliver, Will Clemons, Stacy Platt, Erik Silvernail, Ed Thyn, John Platt, Margaret DeThomas, Patricia Jacob, Kate Waltz, Jay Walter, Vicky Klukkert, Tod Gloggun, Brenda Seery, Tom & Pauline Gergel, Ricardo Reid, Janet Balhte

A. Roll Cal

- Chairman Cannistra called the meeting to order at 7:02pm and called for the roll.
- Next meeting is scheduled for October 25, 2021

B. Minutes – August 23, 2021

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

DISCUSSION: None **VOTING:** 3 in favor. **ABSTAIN:** D. Prouty **Motion Carries.**

C. New Applications:

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

Tax Parcel No: 300.11-1-17.00

4968 St. Hwy 23

Zoning: HDD (Highway Development District)

The applicant is requesting a special sign permit to add an additional façade sign to the Mirabito Convenience Store for Dunkin Donuts

Allowable # of signs: 2 signs allowed.

Allowable area of signs: 100SF max per sign allowed.

Existing Signage: Existing signage to replace the existing Tom Horton signs.

The proposed sign needs special sign permit approval because:

1. The requested sign exceeds the allowable number of signs permitted for the business.

Kelly-Jo Hunink from Robbins Signs represented the application. She provided an authorization from Mirabito to the board. They would like to replace the Tim Horton sign with a new Dunkin sign.

MOTION: A motion was made by D. Prouty and seconded by M. Stolzer to set a public hearing on October 25, 2021 at 7:15pm or as soon as possible thereafter.

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

- **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.

Pursuant to notification of complaint to this office regarding motorcycle use bothering neighbors of 623 East St, the Code Office investigated the complaints for standing. The visits by the Code Office to the site did not support the complaints made. The motorcycle use was found to be occurring afternoon and evening hours when this office was not available. The Town Constable was requested by the Town Supervisor to check on this complaint while he was on duty after 4 o'clock in the afternoons. Based on the Constable's verbal report to the Code Officer of his observations, the Code Officer met with the

property owner to discuss the use. The owner stated he was allowing his Granddaughter, Grandson, Daughter, and Son-in-law to use the parcel to ride their motorcycles. Other individuals that were going to and using the site to ride motorcycles, was at the invitation of Mr. Thompson's family and he had no intention of telling his family they could not ride their motorcycles on his property. The Code Officer discussed with Mr. Thompson that he would be reviewing the Town Code and advising him of his decision.

Based on the discussion with the parcel owner, the Constable, and Town Supervisor; The Code Officer's decision was to issue a Notice of Violation of Town of Oneonta Code 103-13(B)(6)- which requires a Special Use Permit for Open Space Recreational Uses. This would provide for Planning Board review to approve with modification, or deny the application. The special use permit review would also allow for public comments related to the action during the public hearing allowing the planning board to establish any necessary/ applicable conditions to the action.

Pursuant to the Notice of Violation, Mr. Thompson requested and was given an Administrative Hearing with the Code Officer to clarify his decision and work towards helping him not be in violation of any Town Code. During said hearing the use of the parcel was discussed relative to private use or public use. The Code Officer told Mr. Thompson if it was public use the special use permit process was required; if the use was private (his family only as described above) the special use permit approval process was not needed. Mr. Thompson and his family stated they would discuss their decision and advise him. At the time and in subsequent conversations, it was expressed by Mr. Thompson and his family that they would likely seek the special use approval.

Pursuant to the administrative hearing, a formal cease and desist order was written for the congregate use as a motocross track and additional construction to expand the track until further notice, or a special use permit approval by the town of Oneonta Planning Board was granted.

Prior to the deadline for application to the Town Planning Board for a special use permit for outdoor recreational use, Mr. Thompson's Son-in-law advised the Code Officer they would not be seeking the permit as their use was private not public.

A letter was sent to Mr. Thompson by the Code Officer outlining his decision of resolution to the cease-and-desist order based on his phone conversation with his Son-In-law that clarified in writing who was acceptable to use his property for the motorcycle use for private use.

Attorney Doug Zimelis spoke for the application. He is representing the neighbors of Ed Thompson in appealing the decision by the code office for what he believes is the use of an unpermitted motor cross track. He presented that the zoning laws are there to regulate the uses of land and believes that the ZBA should hold a hearing on the matter and not the Code Office. Attorney Zimelis also stated that in a neighborhood, a motocross track is not a low impact use and that this use causes loud noises, fuel smells and dust unlike other permitted uses such as golf courses or swimming pools. He does not believe that any activity that uses combustible engines can be called a low impact use.

MOTION: A motion was made by M. Stolzer and seconded by K. Pym to set a public hearing on October 25, 2021 at 7:30pm or as soon as possible thereafter.

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

D. Public Hearings:

- **Seventh Day Adventist Church, Special Sign Permit**
Tax Parcel No: 287.00-1-52.00
634 State Highway 205
Zoning: RA-40 (Residential – Agricultural District)

The applicant is requesting a special sign permit to replace the existing freestanding sign with a new larger freestanding sign.

Allowable # of signs: 1 sign allowed.

Allowable area of signs: 2 SF max per sign allowed.

Existing Signage: Existing approved special sign for church in residential district.

The proposed sign needs special sign permit approval because:

1. In RA-40 districts signs are limited to number and size. The Church desires to replace and improve their sign which will require special sign permit approval from the ZBA.

The public hearing began at 7:35pm and Chairman Cannistra read aloud the notice from The Daily Star. Chaplin Chervin Evans and Donna Greene represented the application. They would like to renovate their sign to be large enough to put their name on top and room for changeable messages below. They have a unique hardship as the current sign is too small to see at the speed that cars drive by the property. They believe that the sign will comply with the area and not change the character of the neighborhood as there are other signs nearby. The sign will not be LED and will utilize the same lights they are already using for their current sign. No one else addressed the matter. The public hearing closed at 7:42pm.

The board discussed that the sign will have no impact on the neighborhood and it is not a significant change in size.

MOTION: A motion was made by M. Stolzer and seconded by K. Pym to approve the Special Sign Permit.

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

E. Decisions:

- **Barbara Hazen, Area Variance**

Tax Parcel No: 308.00-2-7.00

MOTION: A motion was made by K. Pym and seconded by M. Stolzer to approve the decision.

DISCUSSION: None **VOTING:** 3 in favor. ABSTAIN: D. Prouty, D. Allison **Motion Carries.**

- **Andrew Kahl, Area Variance**

Tax Parcel No: 300.00-3-50.01

MOTION: A motion was made by D. Prouty and seconded by Chairman Cannistra to approve the decision.

DISCUSSION: None **VOTING:** 4 in favor. ABSTAIN: D. Allison **Motion Carries.**

- **Scholet Realty, Special Sign Permit**

Tax Parcel No.: 300.11-1-16.00

MOTION: A motion was made by D. Prouty and seconded by K. Pym to approve the decision.

DISCUSSION: None **VOTING:** 4 in favor. ABSTAIN: D. Allison **Motion Carries.**

- **Country Club Realty Holding Co., LLC, Use Variance**

Tax Parcel No.: 299.06-1-74.01

MOTION: A motion was made by D. Prouty and seconded by K. Pym to approve the decision as corrected to omit the word "new" to revise the wording of the first condition to say "No entrance or exit from the property".

DISCUSSION: None **VOTING:** 4 in favor. ABSTAIN: D. Allison **Motion Carries.**

- **Rebecca LaBarr, Area Variance**

Tax Parcel No.: 299.06-1-49.02

MOTION: A motion was made by M. Stolzer and seconded by D. Prouty to approve the decision.

DISCUSSION: None **VOTING:** 4 in favor. ABSTAIN: D. Allison **Motion Carries.**

There being no further business before the Board, the meeting was adjourned at 7:53pm.

Laura Sause,

Clerk of the Zoning Board of Appeals