

Otsego County Zoning Board of Appeals

Approved Minutes for November 24, 2015

Call to Order: 6:00 pm by Vice-Chairperson Hoffman

Roll Call:

Present: Vice-Chairperson Hoffman, Secretary McCarthy, Mr. Alexander, Ms. Bono, Mr. Mang

Absent/Excused: Mr. Sagasser, Mr. Wagar

Staff Present: Mr. Schlaud, Ms. Boyak-Wohlfeil

Public Present: David M. Delaney, Edgewood Holdings LLC attorney, Randy Stults, Nora Corfis

Approval of Minutes from June 30, 2015:

Vice Chairperson Hoffman requested the roll call vote reflect how each member voted.

Motion made to approve minutes as corrected by Mr. Mang; Seconded by Mr. McCarthy.

Motion approved unanimously.

Citizen Comment Regarding Items not on the Agenda:

Mr. Stults stated a member had been appointed to fill Mr. Summerix's alternate position to the ZBA by the Board of Commissioners.

Public Hearing: None

New Business:

1. **PZBA15-002:**

Nature of request:

Interpretation of Article 4/Residential Zoning District

4.1.9 Structures for storage of the owner's personal possessions and non-commercial activities

Section 21.44 Unlisted Property Use

There was some question as to whether a public hearing should be held for the interpretation and if the applicant was requesting a variance.

Mr. Schlaud stated a public hearing was required for interpretations and variances along with township participation but it was his understanding this was a general interpretation and general interpretation meetings had been held before without a public hearing. If the ZBA wished a hearing be held, this could be tabled until township was notified and a hearing notice published.

Mr. Mang questioned the non-use application submitted by the applicant.

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David Delaney, Edgewood Holdings LLC attorney, stated he understood if a public hearing with township notification was required, he wanted to clarify his request for the meeting. He went on to state there were multiple requests within the application. He was requesting a variance on property in a R1/Residential Zoning District and also an interpretation.

It was stated that since the ZBA did not have the authority to grant a use variance, the meeting focused on the request for interpretation as stated on the agenda.

Vice Chairperson Hoffman stated Mr. Delaney could go ahead with his presentation on non-specific parcels pertaining to the zoning ordinance.

Mr. Delaney stated this was a need factor. A R1 Zoning District was the most restrictive residential district and Crestwood Subdivision was more restrictive as far as what they allowed. Concerning storage, they did not allow detached storage buildings so they felt there was a need for this type of business in the area.

He referred to two (2) previous cases he had represented and sited Section 18.44 Unlisted Property Use. He stated a request for a special use permit for a residential subdivision in a R1 district had been disapproved for incompatibility and a case for a bridge, also in a R1 had been approved as a comparable use. He stated there were other commercial uses already listed in this district. Storage units, if done right could fit into a R1 and would fill a need.

Christa Bono questioned the need for storage units considering the brand new units built on Old 27. She felt there was a huge difference between storage for the owner's personal belongings versus commercial storage units on residential property.

Phil Alexander asked what Mr. Delaney specifically wanted interpreted.

Mr. Delaney stated he was looking for an interpretation on Section 18.44 Unlisted Property Use. (*It was stated this section had been renumbered and is currently Section 21.44.*) If you have comparable uses in a district but they are not listed, this section allows application for that use. He said precedent had been set by the Zoning Board of Appeals and the Planning Commission on a previous case; building a bridge in Guthrie Lakes. That was also an R1 Zoning District and the bridge had been approved by a special use permit; both Boards had considered it a comparable use suited for that district.

Mr. Mang stated the case for the bridge was confusing the matter and questioned exactly what he wanted interpreted from Section 21.44.

Mr. Delaney stated he wanted an interpretation of whether, under Section 21.44 storage units were comparable uses to existing uses already allowed in an R1 Zoning District but not listed.

Mr. Mang stated the use *was* listed as a use by right in an R1 District; *Structure for storage of the owner's personal possessions and non-commercial activities.*

It was stated the key word in that section was '*owner's*'.

Mr. Delaney stated the question then becomes how many.

Mr. Mang stated they had heard the applicant and felt any further discussion should continue after the issue became an official case.

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Vice Chairperson Hoffman encouraged the applicant to work with Land Use Services to determine how to move forward. Township input and a public hearing would follow as required.

Mr. Delaney thanked the Planning Commission and said he would be in contact.

Old Business: None

Communications: None

Adjournment: 6:45 pm by Vice Chairperson Hoffman

Mike McCarthy, ZBA Secretary

Christine Boyak-Wohlfeil, Recording Secretary