

Otsego County Zoning Board of Appeals

Corrected Minutes for July 31, 2012/Regular Meeting

Call to Order: 6:00 pm by Vice Chairperson Sagasser

Pledge of Allegiance

Roll Call:

Present: Mr. Wagar, Mr. Alexander, Secretary McCarthy, Ms. Bono, Mr. Stults, Vice Chairperson Sagasser

Absent: Chairperson Hoffman

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

Public Present: Angie & Austin Behling

Approval of Minutes from September 27, 2011:

Minute corrections include: page one (1) last two paragraphs, 'Barau' should be '*Burau*'; '...Bagley Township Planning Commission had approved the variance' should be '*...Bagley Township had recommended approval of the variance*'; and page five (5) from 'Mr. Alexander requested the motion to interpret Zoning Ordinance...' to '*Mr. Alexander requested the discussion to interpret Zoning Ordinance...*'.

Motion made to approve the minutes by Mr. Alexander as corrected; Support by Mr. Sagasser.

Motion approved unanimously.

Citizen Comment Regarding Items not on the Agenda: None

Mr. Stults requested '*Election of Officers*' be added to the agenda as it states in the ZBA Bylaws elections be held in April or the following meeting thereafter.

Ms. Bono requested an update of the Burau case/ZBA Case #11-001.

Mr. Stults also requested the status of the interpretation of Article 18 Section 18.1.3.1 be added to the agenda.

Motion made by Mr. Stults to amend agenda; Support by Ms. Bono.

Motion approved unanimously.

Public Hearing: None

Mr. Stults requested consent to move number one (1) under **New Business** to accommodate Mr. & Mrs. Behling.

Ms. Bono supported.

Vice Chairperson Sagasser agreed to move **New Business** and postpone **Old Business**.

1. AR Zoning District/Use Subject to Special Conditions

Mr. Ferrigan stated Mr. & Mrs. Behling requested the Otsego County Zoning Board of Appeals classify an Equipment Auction as a comparable use to a Livestock Auction Yard and allow Equipment Auction as a *Use Subject to Special Conditions* in an Agricultural Zoning District.

Mrs. Behling stated their primary use of the property was farmland/hay use and the farm equipment auction was only a secondary use. She supplied maps of their property depicting the purpose of each area. She stated they would hold approximately one (1) auction a month, excluding the winter months, and the entrance for the auction yard would be off of Flott Road. They also planned on opening a fruit and vegetable stand on M-32.

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Mr. Stults read *Section 18.44 Unlisted Property Use*, establishing procedure whether the Zoning Board of Appeals find a comparable use or not. He also stated their ruling would change *all* Agricultural zoned areas, not just this particular piece of property.

Mr. Alexander questioned the definition of Agriculture not allowing a building for retail trade as defined in Article 2 Section 2.2 of the Otsego County Zoning Ordinance.

Ms. Bono stated she considered an auction different from a retail business because it entails a temporary, minimal amount of sale days and product is not always available.

Mr. Stults commented on the acreage differences in Section 9.2.4 and Section 18.20.

Mr. Ferrigan and Mr. Stults agreed that the Zoning Ordinance language should be addressed concerning the inconsistency. The Planning Commission is encouraged to clarify the Zoning Ordinance language, *either ten (10) or more acres or forty (40)*.

Mr. Alexander also requested the definition of *Agriculture* be clarified as referenced above.

Vice Chairperson Sagasser suggested focusing on the comparability of an Equipment Auction and a Livestock Auction and discussion ensued.

Mr. Stults discussed the differences.

Vice Chairperson Sagasser stated the need to be detailed in the Zoning Board of Appeals interpretation of a Farm Equipment Auction concerning agricultural equipment.

Mr. Ferrigan presented minutes from a Special Planning Commission meeting dated May 16, 1974, permitting the operation of an Auto Auction in an Agricultural (AR) zoned district.

Mr. Ferrigan suggested the Board weigh the similarities and the differences to make a determination.

Mr. Stults made the following motion; Support by Ms. Bono.

The Zoning Board of Appeals makes the determination that Agricultural Equipment Auctions are a comparable use to Article 9.2.4 'Livestock Auction Yards' and therefore, under Article 9.2.24 and Article 18.44, Agricultural Equipment Auctions are a permitted use subject to special conditions and the conditions of Livestock Auction Yards in the Agricultural Resource District (AR).

Roll call vote:

Mr. Wagar-Yes, Mr. Alexander-Yes, Mr. McCarthy-Yes, Ms. Bono-Yes, Mr. Stults-Yes, Mr. Sagasser-Yes

(6)-Yes (0) No: Motion passes

Vice Chairperson Sagasser stated a Farm Equipment Auction was a comparable use.

Mr. & Mrs. Behling were told to call Mr. Ferrigan's office to proceed with the next step.

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Old Business:

1. Status of Article 18 Section 18.1.3.1 Interpretation
As per the advice from the Otsego County's legal counsel, Haider Kazim, the Planning Commission recommends changing the wording, '...up to a maximum of a four thousand (4000) square foot building' to '*...up to four thousand (4000) square feet.*'
2. Burau Case Update/ZBA Case #11-001
Mr. Ferrigan stated Mr. Burau has connected two (2) existing buildings and was now in compliance.

New Business:

1. AR Zoning District/Use Subject to Special Conditions
Agenda amendment (see above)
2. Expiring Terms/Reappointment
 - a. Mr. Alexander: Reappointed; Term ending December 31, 2015
 - b. Mr. Wagar: Reappointed; Term ending December 31, 2015

Reappointments recommended to the Otsego County Board of Commissioners.

3. Election of Officers

Mr. Sagasser nominated for Chairperson by Mr. Alexander; Support by Mr. Wagar
Vote unanimous.
Mr. Sagasser elected Chairperson.

Mr. Wagar nominated for Vice Chairperson by Mr. Alexander; Support by Mr. McCarthy
Vote unanimous.
Mr. Wagar elected Vice Chairperson.

Mr. McCarthy nominated for Secretary by Mr. Alexander; Support by Mr. Sagasser
Vote unanimous.
Mr. McCarthy elected Secretary.

Communications: None

ZBA Member Items:

Mr. Ferrigan stated the Land Use Services Department may be moving in the near future to the old AT&T building on Hayes Road.

Adjournment: 7:55 pm

Christine Boyak-Wohlfeil, Recording Secretary