

TOWN OF YORK
ZONING BOARD MINUTES
May 6, 2014

Present: Chairman Dick Ellis, Jerry Ayers, Paul Schneider, Jerry Sturm

Others: Jim Campbell, Carl Peter, Jerry Deming, George Worden, Lawrence Smith, Chris Gerould, Dick Ash, Steell Fuller, Susan Smith, Jeanne Galbraith, Molly Cummings

Mr. Ellis called the public hearing for Sue Smith to order at 7 p.m.

Mr. Ellis asked Sue to explain what she wanted to do.

Ms. Smith said they were interested in making their barn into an event venue. They have already put in lighting, seats and radiant heat.ex

Mr. Ellis asked for questions from those present.

Mr. Ayers asked if seasonal parking would be in the grassy area. Mrs. Smith responded that the area to the east of the barn could eventually be turned into parking.

Mr. Ellis asked Mr. Peter to explain what needs to be done for compliance.

Mr. Peter said that in order to rent it, it has to be according to code. 100 or more people in assembly requires a sprinkler system, work needs to be done on exits, handicap accessibility. There was a barn in Avon that is similar and a code change was asked for.

Mr. Campbell – if a variance is granted the Smiths will have to do site plan and go back to the Planning Board with it and the Zoning Board should communicate their feelings to the Planning Board.

Mr. Fuller asked about laboratories. Mrs. Smith said that would be the responsibility of the renter and that she has already spoken to the health department.

Mr. Deming said that the Town Board supports a temporary variance and is looking at legislation for repurposing old barns. Mr. Ellis asked what happens after variance is granted. Mr. Deming said the Town Board will come up with a local law. Mr. Campbell said there is new legislation from ag and markets regarding breweries, etc. and these need to be assimilated into local law. Mr. Peter stated that if local law passes the temporary variance would be a moot point but if law doesn't happen a temporary variance will expire.

Mr. Ellis asked if there should be a time limit on the variance. Mr. Campbell said if you don't set a time limit, the variance will run with the land. He recommends that two years might be good to get the legislation correct. Mr. Ayers asked if the engineer is certifying it as farm structure or

commercial. Mrs. Smith answered yes and asked if after two years and nothing happened what then? Mr. Campbell said they would have to come back to the board for an extension.

Mr. Fuller asked if this would be for profit. Mrs. Smith said not necessarily – the goal is to have it for people to come in and enjoy it. Making a lot of money is not what they plan on. Mr. Ayers said that all you really have to do is extend liability on insurance. Mr. Campbell said that after reviewing code you can't invite public in to use it. Mr. Peter said there is not an assembly in ag and markets, once they rent it out it changes function. Mr. Campbell said that if it's not recognized as a permitted use, it allows possible liabilities as far as insurance issues.

Mr. Deming asked how many functions they thought there would be. Mrs. Smith said maybe 6-8 per year. Ms. Cummings said she also wanted to repurpose a barn, they want it to serve a purpose and remain looking like a barn. Mr. Ash stated that as a neighbor he likes what they want to do. Mr. Sturm asked how can they be sure it fits the code after they do it. Mr. Peter said that if it passed they will have to go back to the engineer to see how it would fit the code through the building permit process.

Mr. Ellis stated that they would adjourn, discuss it and render a decision after which Mrs. Smith would be notified by letter of the decision.

7:45 pm – Paul Schneider moved to adjourn the hearing, Jerry Ayers seconded

4 - Yes

Mr. Ellis called the public hearing for Dick Ash to order at 7:50 pm

Mr. Gerould had checked with the highway department before putting the meter in and he was told as long as the structure was in line with the telephone pole it would be ok – the power service for the irrigation system. Mr. Ellis asked if it was finished. Mr. Gerould said not yet. Mr. Ayers asked how far on the highway right of way was it? Mr. Worden said 2 feet on right of way. He was on vacation and if he had been here he would have said put it back farther and see the code officer.

Mr. Campbell said that this board does not have the jurisdiction to give variance for buildings in the right of way. The board can grant a variance to move it (code says 50 ft from edge of right of way). The board can grant any number of feet from right of way. Mr. Deming asked if they move it 2 or 3 feet is the town's liability gone? Mr. Campbell said yes.

Mr. Ellis asked how many unit in there. Mr. Gerould said only 2 are there and not the end of the world to move it 3 feet. Mr. Ayers asked if the cable was already in. Mr. Gerould said no, the cable was still in the field and has to be trenched to the pole and the power for the pole not in place yet. Mr. Campbell asked Mr. Worden if he was confident about the distance. Mr. Worden said that 25 feet from center would be off the right of way. Three feet would put it off right of way – poles are usually one foot inside right of way. Mr. Campbell said it would be a 47 foot variance if move it three feet off right of way. Mr. Ayers said that if actually surveyed

maybe ought to go 4 feet. Mr. Worden thought there was a phone line, so three feet or greater would miss the phone line.

Mr. Ellis said that the board would decide and send a letter to Mr. Ash.

8 pm – Paul Schneider moved to adjourn, Jerry Sturm seconded

4 - Yes

Further Discussion by the board:

Regarding the Ash issue:

Mr. Worden said as long as they're off the right of way, there's no problem. Mr. Campbell said if you only grant a 45 foot variance they have to determine where that is, maybe give a little more wiggle room. Mr. Schneider stated he's going to have to move it. Mr. Ellis asked if the posts were in concrete. Mr. Worden said it didn't look like it. Mr. Sturm said that considering what irrigation systems cost, this cost would be minimal. Mr. Ellis stated that giving a 45 foot area variance would mean the closest edge of the structure would be no closer than 5 feet from the right of way. By consensus the board approved a 45 foot variance moving the structure behind the pole.

Regarding the Smiths:

Mr. Ayers said it would be beneficial if the Smiths will conduct weddings and other events in agricultural zone. Mr. Campbell said that if you grant the variance they have to comply with the code and that these requests are popping up all over. Mr. Ellis said if they are going to comply with everything. Mr. Peter thought Avon only opened flames under pans, his concern is if we allow it the town could be liable. Mr. Deming said if we allow it to remain agricultural the town has no part in it. Mr. Sturm said grant the variance. Mr. Ellis said for two years. We can recommend to the Planning Board subject to site plan approval. Mr. Campbell said that with Ag & Markets if public is invited in expect owner to comply with local and state codes. Agri-business is more complicated than 20 years ago.

The board will meet at 7 pm on Tuesday, May 20 to render their decisions.

Respectfully submitted,
Donna Falkner, Clerk