

Town of Ulster
Zoning Board of Appeals
June 5, 2013

The regular monthly meeting of the Town of Ulster Zoning Board of Appeals was held at the Town of Ulster Town Hall on June 5, 2013 at 7:30 P.M.

Present:

John Crispell
George Carlson
Arnold Jacobsen
Elizabeth Kyriacou

A motion to approve the minutes from the May meeting was made by Mr. Porter and seconded from Mrs. Kyriacou. All were in favor.

Appeal of Notice of Violation- Buck's Recycling

Mr. Crispell stated the Board was just given a packet of information; they have not had time to review this material therefore the Board will not be making a decision on the Appeal. Mr. Kovacs advised the Board to hold the Public Hearing keeping it open until the next meeting.

Public Hearing

The Public Hearing was opened by Mr. Crispell.

Nancy Ebel of DeWitt Lake Road spoke against the Junk Yard stating the area was residential. The site is next to a wetlands; she has concerns about the pollution on the site and how it is affecting the Rondout and wildlife in the area. Ms. Ebel read sections of the Town's Junk Yard Code to the Board and showed pictures of the site. (No pictures were submitted to the file) She asked the Board to consider her comments and not allow the Junk Yard use to continue.

Paul Gemma stated the site is an on going environmental disaster; there are thousands of gallons of transmission fluids and antifreeze spilling in to the pond behind the site. He stated DOC has found evidence of toxic waste on the site. The area floods on a regular basis. The DEC is investigating the site. Mr. Gemma stated there are no bathrooms on the site.

Judy Hanson of Cutler Hill Road stated she agreed with Ms. Ebel and she requested the Board deny the petition before them.

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Megan Rodier stated the neighborhood is close knit and is concerned about their community; there are more residents that are concerned about this site that could not make it to the meeting.

Rosalind Stark stated the current owner like the previous owner have not obeyed Town Codes. There are cars parked at the site all the time. Ms. Stark stated she had serious concerns about the application for a variance as the site has been cited by DMV and DEC.

Silos Whitaker stated he has been on the site and does business with Mr. MacKenzie and the previous owners. There are containers to separate fluids on site as well as a scale house and a bathroom. If regulated he sees no reason why this business cannot continue at this site. Mr. Whitaker goes on to state the site did not fall into disrepair overnight and will not be fixed overnight. Mr. MacKenzie has made improvements to the site. This is a small business and it takes alot of money to do the repairs that he is doing.

Jeffrey Baker appeared on behalf of Mr. MacKenzie. Mr. Baker stated he appreciates the neighbors concern but Mr. MacKenzie is not asking for a variance or special permit. The reason he is before the Board is to review the Order of the Building Inspector that states the site was in violation with the Junkyard Law and that by virtue of being in violation of the Junkyard Law it lost its non conforming status. The question is did the site lose its non conforming use due to the lack of the license. In 2011 the Planning Board approved a site plan therefore saying this was a nonconforming use. Part of the site plan was to build a fence that he has been in the process of building; the Planning Board did not put in a time constraint on when the fence would need to be complete. The Town Code gives him 3 years to complete site improvements. The fence should be completed before the 3 years is up. DEC has been doing an investigation on the site and a remediation plan has been submitted. When you look at the site all of the debris and the falling down building to the left does not belong to Mr. Mackenzie. The question before the Board is this by not having a Junkyard License does that constitute the lost of a non conforming use. If a Barber Shop loses its licenses it is still a Barber Shop. Mr. Baker stated the site has containers for fluids that are in compliance with the DEC; the DEC is looking into violations on the site that occurred prior to Mr. Mac Kenzie's ownership. When the Town Board denied Mr. MacKenzie his license last year he did not understand that he had the right to present the case. Mr. MacKenzie stated he has taken 300 tires off of his site the neighboring property has around 400 tires on it. Mr. MacKenzie stated that some of the photos that were submitted to the Board are photos of the neighboring parcel. Mr. Baker stated that they would be willing to sign an agreement that the fence will be completed within a specified time. Mr. Kovacs stated the Towns position is that Mr. Mackenzie was given the opportunity by the Town to create a legal site. A Stipulation was signed and Mr. MacKenzie did not meet all the requirements of that agreement in a timely manor. The Town feels that this is not the best use of the property. Mr. Kovacs

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stated he spoke with the previous owner of the site and he stated that he vacated the property more than two years before Mr. MacKenzie bought the property. Mr. Baker submitted an affidavit from Frank Pronesti stating he operated a junk yard up to the day Mr. MacKenzie took title of the property. Mr. Kovacs stated that 2 partners owned the site previous to Mr. MacKenzie.

A motion to hold the Public Hearing over to the July meeting was made by Mr. Porter with a second from Mr. Carlson with all in favor.

A motion to adjourn was made by Mrs. Kyriacou with a second from Mr. Jacobsen; all were in favor.

Respectfully Submitted,

Mary O'Bryan-Secreto
Zoning Board Secretary