

TOWN OF LAKE LUZERNE
ZONING BOARD OF APPEALS
OCTOBER 22, 2009

MEMBERS PRESENT: DONALD BURNHAM, STANLEY GOLDBERG, JAMES MANDLE AND KATHLEEN HURLEY, ALTERNATE. ALSO PRESENT: LEGAL COUNSEL RUSSELL THARP AND ZEO ALLEN SAHEIM.

THE MEETING WAS CALLED TO ORDER AT 7:40 BY CHAIRMAN STANLEY GOLDBERG.

APPROVAL OF MINUTES FOR THE SEPTEMBER 24TH MEETING WAS TABLED AS THERE WERE NOT ENOUGH MEMBERS PRESENT FROM THAT MEETING.

CHAIRMAN GOLDBERG WELCOMED NEW MEMBERS DONALD BURNHAM WHO WILL FILL THE UNEXPIRED TERM OF ROBERT FORTE AND KATHLEEN HURLEY AS AN ALTERNATE MEMBER.

CHAIRMAN GOLDBERG WHO BECAME A BOARD MEMBER WHEN HE WAS CHOSEN TO FILL A VACANCY CREATED BY THE RESIGNATION OF MANIFRED GOLDSTEIN WHO SERVICED ON THE ZBA FROM 2002-2007 TOOK A MOMENT TO REMEMBER MANNY GOLDSTEIN.

THE ZONING OFFICER WILL BE THE GATE KEEPER FOR ALL APPLICATIONS.

AGENDA:

ANGELICA BAUER – FRED BAUER REPRESENTATIVE
51 VILLAGE VIEW - APPLICATION REVIEW – APPLICANT IS IN NEED OF A VARIANCE TO PLACE A SHED ON THE PROPERTY. THE BOARD REVIEWED THE APPLICATION, ASKED ABOUT HARDSHIP, APPLICANT STATED THAT THEY ALSO OWN THE ADJOINING PARCEL. CHAIRMAN GOLDBERG SAID THAT THE BOARD MEMBERS WILL DO A SITE VISIT PRIOR TO THE PUBLIC HEARING.

A MOTION TO ACCEPT THE APPLICATION AS COMPLETE AND SET THE PUBLIC HEARING FOR THE NOVEMBER MEETING WAS MADE BY MANDLE, SECONDED BY HURLEY. ROLL CALL VOTE: BURNHAM, AYE, GOLDBERG, AYE, MANDLE, AYE, HURLEY, AYE. MOTION CARRIED.

ADAM BOOKSPAN – APPLICATION REVIEW – NOT PRESENT
EAST RIVER DRIVE – APPLICANT WISHES TO BUILD A GARAGE AND NEEDS A VARIANCE. THE PLANNING BOARD TABLED THE DISCUSSION AND ASKED THE APPLICANT FOR SPECIFICS: A BETTER SKETCH WITH LOCATION OF ALL STRUCTURE, DRIVEWAY LOCATION, DRIVEWAY

MAINTENANCE AGREEMENT, DECK LOCATION AND PROPOSED GARAGE LOCATION.

A MOTION TO TABLE THE DISCUSSION ON THIS APPLICATION WAS MADE BY GOLDBERG, SECONDED BY BURNHAM. ROLL CALL VOTE: BURNHAM. AYE. GOLDBERG, AYE, MANDLE, AYE, HURLEY, AYE.

GEORGE MOSHER – AREA VARIANCE

MILROSE & SAGAMORE – APPLICANT PROPOSED TO CONSTRUCT A NEW HOME AND CANNOT MEET FRONT YARD AND SIDE YARD SETBACKS.

PUBLIC HEARING OPENED 7:50 BY CHAIRMAN GOLDBERG, SECRETARY READ PUBLIC HEARING NOTICE.

APPLICANT HAS DONE THE BEST THAT COULD BE DONE IN REGARD TO SHRINKING THE ORIGINAL SIZE OF THE HOUSE TO GET AS CLOSE TO SETBACK MINIMUMS AS POSSIBLE.

LETTER WERE SENT BY THE ZEO TO ALL PROPERTY OWNERS WITHIN 500FT OF THIS PROJECT, OWNERS THAT RECEIVED LETTERS ARE LISTED BY LAST NAME AS FOLLOWS:

MOSHER, GANGI, HEIDE, CAPLAN, LEOUSSIS, MANDLE, M., MANDLE R. HEIL, CORCORAN, SOPER, DONOHUE, MENNELLA, NORTON, LYNCH, WHELAN, CALLANAN, SAAM, RICH, KOSZ, PUFF AND HEWSTON.

CHAIRMAN GOLDBERG ASKED FOR COMMENTS FROM BOTH THE BOARD AND AUDIENCE, NO COMMENTS BUT THERE WAS A LETTER SUBMITTED FROM MR. MENNELLA WITH NO OBJECTIONS AND READS AS FOLLOWS:

OCTOBER 11, 2009

TOWN OF LAKE LUZERNE
ZONING BOARD OF APPEALS

RE: AREA VARIANCE AV09-9

AS A NEIGHBOR OF THE APPLICANT, I WOULD LIKE TO STATE THAT I HAVE NO OBJECTION TO GRANTING THE TWO VARIANCES BEING REQUESTED. I AM TOUGHLY FAMILIAR WITH THE PLANS AND SEE THE PROJECT ONLY AS AN ENCASEMENT OF THE BEAUTY OF THE SURROUNDING LOCATION CAME TO BE KNOWN AS SAGAMORE HEIGHTS.

AS PERHAPS SOME BOARD MEMBERS MAY KNOW, I AM AN OUTSPOKEN PROPONENT FOR KEEPING HAMLET RESIDENTIAL ZONES JUST THAT, THE WORD “RESIDENTIAL” BEING THE KEY WORD BY ELIMINATING

PERMANENT ADVERTISING SIGNS, ELIMINATING EXCESSIVE AND PROLONGED GARBAGE CONDITIONS, AND I MIGHT ADD I AM REQUESTING THE MASTER PLAN ZONING REVISIONS INCLUDE A HAMLET RESIDENTIAL ZONE PROVISION THAT LL UNREGISTERED VEHICLES BE KEPT AT LEAST 100FT FROM A PUBLIC ROAD, GARAGED OR KEPT OUT OF SIGHT.

IN CLOSING I WOULD LIKE TO COMMEND ZONING ENFORCEMENT OFFICE ALLEN SAHEIM FOR THE FINE PERFORMANCE OF THE DUTIES OF HIS OFFICE IN THIS APPLICATION AND OTHER LONG NEGLECTED CONDITIONS IN NEED OF ATTENTION.

RESPECTFULLY SUBMITTED,

THOMAS L. MENNELLA.

THE PLANNING BOARD FORWARDED TO THE ZBA RECOMMENDING APPROVAL OF THE REQUESTED VARIANCE.

PUBLIC HEARING WAS CLOSED AT 8:10 BY CHAIRMAN GOLDBERG.

THE BOARD FURTHER REVIEWED APPLICATION AND WENT THROUGH THE 5 CRITERIA. MANDLE STATED THAT HE FELT IT WOULD FIT WELL IN THE COMMUNITY AND THE APPLICANT HAS DONE A GOOD JOB. BURNHAM VISITED THE SITE AND ASKED IF THE APPLICANT HAD THOUGHT OF PLACING THE GARAGE IN SOME OTHER LOCATION, THE APPLICANT STATED THAT AT 50FT THERE IS STILL ENOUGH ROOM TO PARK VEHICLES WELL OFF THE ROAD. THE BOARD HAD NO FURTHER QUESTIONS AND PLACED NO CONDITIONS ON THIS VARIANCE.

A MOTION TO APPROVE THE VARIANCE WAS MADE BY MANDLE, SECONDED BY BURNHAM. ROLL CALL VOTE: BURNHAM, AYE, GOLDBERG, AYE, MANDLE, AYE, HURLEY, AYE.

BOARD BUSINESS:

CHAIRMAN GOLDBERG ASKED TO KEEP THE MEETING OPEN TO GO OVER SOME THINGS WITH THE BOARD.

ZEO SAHEIM – THERE HAS BEEN SOME CONFUSION ON THE MEETING TIME BEING 7:30 WHEN THE TOWN BOARD AND PLANNING BOARD MEET AT 7:00.

CHAIRMAN GOLDBERG ASKED FOR A CONSENSUS OF HOW BOARD MEMBERS FELT ABOUT STARTING AT 7:00 AND ALSO IS REQUESTING THAT ALL BOARD MEMBERS BE SEATED FIVE MINUTES PRIOR TO THE MEETING STARTING. CHAIRMAN GOLDBERG WILL WORK WITH ZEO SAHEIM ON THE APPLICATIONS PRIOR TO THE MEETING TO AVOID INCOMPLETE

APPLICATIONS AND GO BACK AND HAVING APPLICATION REVIEW AND PUBLIC HEARING AT THE SAME MEETING. THIS PROCESS WAS CHANGED ABOUT A YEAR AGO TO ONE MEETING BEING APPLICATION REVIEW AND NEXT MEETING PUBLIC HEARING. THIS WOULD SPEED UP THE PROCESS FOR THE APPLICANTS.

SITE VISITS – CHAIRMAN GOLDBERG WOULD LIKE EVERY BOARD MEMBER TO MAKE SITE VISITS PRIOR TO THE MEETING, IT IS VERY IMPORTANT AND ALWAYS WEAR THE ZBA ID BADGE. THE ID BADGES ARE GIVEN OUT BY THE COUNTY, THIS IS A PICTURE ID AND SHOULD BE WORN WHENEVER VISITING PROPERTIES. PART OF THE PROCESS OF THE SITE VISIT IS TO CHECK IN ALL DIRECTIONS 500FT EACH WAY FOR COMPLIANCE ETC. MANY HOMES IN TOWN WERE BUILT PRIOR TO ZONING AND ARE NON CONFORMING BUT IF THERE ARE 5 OR SIX HOMES IN THAT AREA THEN PREFERENCE SHOULD BE GIVEN TO THAT. ALSO THINK OF WAYS TO MINIMIZE THE REQUEST, ALTER OR PUT CONDITIONS ON THE REQUEST.

THE ATTORNEY MENTIONED CASES IN WHICH BOARD MEMBERS NOTICED SOMETHING ABOUT AN AREA AND MAY HAVE TAKEN IT INTO THEIR CONSIDERATION IN THINKING BUT NEVER PUT IT ON THE RECORD, SOMETHING ADDITIONAL, IF YOU SEE ANYTHING, NOTE IT DOWN AND BRING IT TO THE MEETING, IT MAY BE IMPORTANT AND NEED TO BE IN THE RECORD.

WHEN APPLICANT APPLIES FOR A VARIANCE, THE WHOLE PROPERTY MUST BE BROUGHT INTO COMPLIANCE. THERE COULD BE MANY VIOLATIONS THAT EXIST THAT WERE DONE PRIOR TO ZONING, ALL VIOLATIONS WOULD NEED VARIANCES TO BRING PROPERTY INTO CONFORMANCE. THIS MAY BE A BALANCING ACT AND WE CAN DO THAT. THE ORDINANCE SAYS YOU CANNOT PUT A BUILDING INTO A MORE NON CONFORMING CONDITION THAN IT ALREADY IS SO IF SOMEONE WANTS TO DO AN ADDITION TO A DWELLING, THE ORIGINAL BUILDING WOULD HAVE TO BE DEALT WITH AS WELL.

TO CLEAR UP THE CONFUSION ON VOTING – REQUIRED VOTES FOR EITHER APPROVAL OR DENIAL. IF ALL 5 MEMBERS ARE PRESENT THE DENIAL OR APPROVAL WOULD NEED 3 VOTES. IF 4 MEMBERS ARE PRESENT, YOU NEED 3 VOTES, IF 3 MEMBERS ARE PRESENT YOU NEED 3 VOTES, IT IS CALLED THE SUPER MAJORITY. IF THERE IS A 2 TO 2 VOTE WITH A 4 MEMBER BOARD IT, THERE IS NO DECISION. AFTER NO DECISION, APPLICANT NEEDS TO REAPPLY BECAUSE IN FACT NO DECISION IS THE SAME AS DENIAL.

MOTION TO APPROVE YOU MUST VOTE AYE, FOR A MOTION TO DENY, YOU MUST VOTE AYE. A MOTION TO DENY IS A NEGATIVE MOTION, BUT YOU ARE VOTING YES TO DENY.

TRAINING – EVERYONE IS REQUIRED TO HAVE 4 HOURS OF TRAINING PER YEAR. CHAIRMAN GOLDBERG WOULD LIKE TO BRING THE COUNTY TRAINING INTO OUR TOWN HALL. STATE LAWS AS FAR AS MEETING IS THAT NO MORE THAN 2 MEMBERS MAY MEET TO REVIEW AN APPLICATION OR DO A SITE VISIT TOGETHER. A PUBLIC MEETING MUST BE SCHEDULED AND ADVERTISED IF 3 OR MORE MEMBERS WANT TO GET TOGETHER TO DISCUSS ZONING BUSINESS.

THERE IS A NEW MASTER PLAN FOR THE TOWN AND IS CURRENTLY BEING REVIEWED BY DEC, THE TOWN BOARD HAS PASSED A RESOLUTION TO BE LEAD AGENCY AND WILL MAKE THE FINAL DECISION AFTER DEC PASSES IT WHEN THE PUBLIC HEARING AND FINAL VOTE ON THE MASTER PLAN OCCURS. THIS COULD TAKE SOME TIME.

OUR FORMS WILL BE PUT ON LINE EVENTUALLY, THESE WILL HOPEFULLY BE INTERACTIVE.

WITH NO FURTHER BUSINESS A MOTION TO ADJOURN WAS MADE BY HURLEY, SECONDED BY MANDLE. ROLL CALL VOTE: BURNHAM, AYE, GOLDBERG, AYE, MANDLE, AYE, HURLEY, AYE.

RESPECTFULLY SUBMITTED,

LORRI HOLCOMB
SECRETARY