

**TOWN OF COXSACKIE PLANNING BOARD
MINUTES OF RE-SCHEDULED MEETING
JUNE 25, 2019**

CALL TO ORDER

Chairman Bruce Haeussler called the meeting to order at the Coxsackie Town Office Building at 7:30p.m. followed by the Pledge of Allegiance.

ROLL CALL

The following members were in attendance: Chairman Bruce Haeussler, JoAnn Conway, Vice Chairman, Frank Gerrain, Hal Beaumont, Joseph Garland, Secretary Patty McIntyre, and Attorney Tal Rappleyea. A quorum was declared.

Also, in attendance were Shane Pilato and his attorney, John Biscone, representing North Country Armory, Victoria and Andy Marrone and their attorney, Patrick Logan.

MINUTES

A motion was made by JoAnne Conway and seconded by Joe Garland to approve the minutes of the regular meeting of June 6, 2019 as written. Transcripts from the Public Hearing portion were included. The motion was unanimously approved.

GENERAL DISCUSSION

Frank Gerrain shared that he attended the solar portion of the training in Cairo, and Mr. Beaumont attended a training in New Baltimore. Information regarding attendance was/will be given to the Town for their files.

Mr. Dan Quigley did not get his required mailings out in time to hold the Public Hearing for his lot line adjustment tonight.

JoAnne Conway asked about writing a letter regarding the solar on Bailey Street. They have not finished with plantings, etc. Chairman Haeussler will inquire as to whether it meets DEC regulations because it has been more than 2 weeks with disturbed soil, and he didn't think that was allowed. He will ask Mr. Ed Pebler to investigate this. Ms. Conway suggested that for future projects, we hold money aside until finished. Mr. Chairman added that we require a sequence of construction for the next projects as well. The company shouldn't be allowed to produce anything until everything is complete.

PROJECTS REVIEW

KASSELMAN SOLAR

The Planning Board is waiting to hear from Mr. Pebler regarding this project. It is a small installation. We know by word of mouth that he has been informed, but nothing official.

FREEPOINT SOLAR

Tal Rappleyea reported that Freepoint made their initial presentation to the Zoning Board just prior to this meeting for their use variance. A public hearing is set for July 30th. The ZBA would like the Planning Board to be the lead agency. We need to be sure that MaryBeth Biacone has looked at that. Freepoint is asking for relief of zoning. They will be attending the August meeting to present for the site plan and special use permit. A motion to declare the Planning Board as lead agency for the environmental review was made by Frank Gerrain and seconded by JoAnne Conway. The motion passed unanimously. Mr. Rappleyea will notify Freepoint Solar, Delaware Engineering and the County Planning Board.

NORTHWAY MINING

No one was present representing Northway Mining. Mr. Garland asked if they were still operating, as they were told at the last meeting to cease operations. Ms. Conway asked if they could be fined for not conforming. It is a Town Code Enforcement issue. Mr. Chairman will address this with Mr. Pebler.

NORTH COUNTRY ARMORY

A public hearing was held at the last meeting, which is now closed. Since then, Shane Pilato has hired an attorney. Mr. Chairman agreed to give the attorneys for both parties, Mr. Pilato and Mr. and Mrs. Marrone, a chance to speak. It was not open to the public for comment. Mr. Rappleyea agreed that allowing the attorneys to speak would be recommended.

Mr. John Biscone spoke on Mr. Pilato's behalf to start. He gave a brief history of the use of the property where the shooting range is in regard to its zoning. In 1980 the property was zoned as residential (RA). In 2006, Mr. Pilato became the owner, and they put in a new mobile home and retail building and applied for his business. Around 2008 it became commercial zone for 600 feet in from 9W. "Since this was an existing dwelling, we cannot now say that it is in violation of zoning." In relation to the retail business, in 2010 Mr. Pilato started dealing with pool supplies, in 2015 he began selling guns and ammunition, and in 2016 he started selling cigars. According to Mr. Biscone, this is all within the retail – commercial zoning all under the same use, and in the same commercial zone. There was no need for a variance. It was not clandestine. In 2016 Mr. Pilato added the shooting range. This is something that they believe is incidental to the gun shop. You need to shoot and site, and target- shoot when you sell guns. Everything is within the 600 ft. Even the ranges are within this area. The only thing that possibly is not, is the mountain where the bullets end up. Mr. Pilato put up berms to keep it safe and kept it wooded. Everything was done very professionally. Mr. Biscone believes that the only thing that may be considered is a site plan review. He reminded the Board that there is much greater use around the corner with the range that the State runs. Both the State's shooting range and the Sportsman Club's range are in RA zones, not commercial as this one is. They feel that Mr. Pilato is not in violation of anything. He has submitted his paperwork. So, a site plan review should be done. Mr. Pilato is willing to adjust his hours to accommodate those that have complained. He doesn't feel the decibel levels are too high.

Mr. Patrick Logan, attorney for Mr. and Mrs. Marrone spoke next. He spoke in response to the idea that this is all happening under one roof and quoted the code-enforcement officer as saying that this is incorrect. Mr. Logan has interpreted the zoning law to state that existing, non-conforming uses cannot not expand to the extent of the non-conforming uses according to the Town's zoning law. Mr. Logan feels that the Town Zoning Law only permits 1 principal use per lot, and this is bordering on 3 or 4. Also, you can buy guns in many places that do not have shooting ranges.

He spoke to the fact that Mr. Pilato "cut out the mountain" and reminded the Board that the Town's zoning law states that steep slopes are to be preserved to the maximum extent possible. The fact that this was done without approval is a violation of the law. He noted that there are multiple ranges in the area, lessening the need for this range. He also pointed out that the person that spoke at the public hearing that said they were "across the street" was a disingenuous location and a map was provided showing the location. Since new information and arguments were presented, and if the Board is considering approval, he would like the opportunity first to review the new submissions in detail and provide a written response.

Mr. Biscone responded with his interpretation of non-conforming use. The dwelling was approved. What makes it a non-conforming use is because of the change in zoning. There is no expansion of the non-conforming use. The retail establishment is the same four corners.

Mr. Logan responded that it was approved in 2006 as a landscaping business, not a shop plus a shooting range.

At this point, Mr. Rappleyea requested that we retire to an attorney-client discussion.

Ms. Conway asked again about whether we will have a decibel testing.

A motion to retire to an attorney-client discussion was made by Frank Gerrain and seconded by Hal Beaumont at 8:00pm.

The Board returned at 8:26pm after going through the legalities with attorney Tal Rappleyea. Mr. Chairman stated that the Board is going to hire an agency to conduct an independent decibel reading. He is hoping to have this done next week despite the holiday. He will then call for a special meeting the following week, to review the results. There will not be public input, but he wants to make sure that we are within the existing code for decibel readings before deciding.

OTHER

Joe Garland was appointed as a liaison to the Town Board to meet with Mike Veeder, who is the liaison to the Planning Board to increase communications.

ADJOURNMENT

A motion was made by Frank Gerrain and seconded by JoAnne Conway to adjourn the meeting at 8:29pm. The motion was accepted unanimously.

RESPECTFULLY SUBMITTED,

Patricia McIntyre, Secretary