**APPROVED**: Certification of Receipt **MOTION BY: SECONDED BY: AYES:** NAYS: ABSTENTIONS: ABSENT: By: Rosaria Peplow, Town Clerk DISTRIBUTION: OFFICIAL MINUTES BOOK - TOWN CLERK - BLDG DEPT.

# ZBA MEETING MINUTES TOWN OF LLOYD ZONING BOARD

### **Thursday, May 14, 2015**

CALL TO ORDER TIME: 7:07 PM

#### PLEDGE OF ALLEGIANCE

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ATTENDANCE Present: Chairman Paul Gargiulo, Tim Marion, Paul Symes, Anthony Pavese, John Litts, Peter Paulsen, Alan

Hartman, Michael Guerriero Town Board Liaision, Shari Riley Code Enforcement Officer, Terresa B

Bakner Town Attorney

ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.

## **Closed Public Hearings**

Burdash, Peter, 131 S Riverside Rd, SBL#87.2-8-16.121, in R1 zone. 19

The applicant would like a variance allowing a 10'x14' shed in his front yard.

21 Mr. Burdash was present for the meeting.

Terresa Bakner, Town Attorney, was present to do some training as well as address a procedure that was

23 followed last month with Mr. Burdash.

24 Terresa: I am updated on last month's meeting. I listened to the recording, so it was just as good as being

here, and I read the minutes. The Board opened the public hearing, gave the public an opportunity to

comment, discussed the criteria and took a vote. As I recall the vote was three against and two in favor for a 26

variance of on placing a shed in the front yard. After the vote was taken and entered into the minutes there

were a couple of questions about whether the Chair should have recused himself. There were also some 28

questions about whether the Board wanted to vote to rehear the application. I looked at the Town's ethics rules 29

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and I am very familiar with the State's ethics rules and I have talked to Paul G. and there is no reason in the

law for him to have recused himself. So the vote that you took, which was a three to two vote, was an 31

appropriate vote. The next thing you had was a question on whether you wanted to rehear it. The State law is 32

very clear on this and the only way you can rehear an application is if you unanimously vote to rehear it.

Whether Paul voted or not you were not getting to unanimous. There are two options to move forward. Given 34

the circumstances of the last time you could take another vote to see if you want to rehear it or you could leave 35

it up to the applicant to change his application and go through the process again from the beginning. 36

A **Motion** to rehear the application was made by Tim Marion, seconded by Anthony Pavese. 37

Paul Symes-Nay, John Litts-Nay, Tim Marion-Aye, Paul Gargiulo-Nay, Anthony Pavese-Aye. 38

39 Peter Paulsen-Ave and Alan Hartman-Ave.

The Motion did not carry because it was not unanimous. 40

- 41 Terresa: That is the State Legislatures rules; it is just what the law is. This means that the application has been
- denied and it is in the hands of the applicant to apply again in a different fashion.
- 43 Mr. Burdash: In regard to the five questions (the balanced test); I do not feel that the five questions were
- answered adequately. For instance the first question reads "is this a detriment to the Town?", the answer was
- 45 yes but there was no explanation of why the answer was yes. I would like the record to state why it is a
- detriment to the Town other than the Board thinks it is.
- 47 Anthony P: The law is written that way.
- 48 Terresa: We will give you a copy of the minutes, you can call me with any questions that you have.
- 49 Unfortunately it is a little bit like squeezing ketchup out of a bottle, you can't put the ketchup back in the
- 50 bottle. They have made the decision and felt strongly enough about it that there was still not a willingness to
- 51 rehear it as it currently is. It is entirely up to you, but I would recommend that you change the application and
- strengthen your reasons as to why you should get the area variance and come back.
- Mr. Burdash: I presented all of that and had the forum; there was one person at the public hearing that was for
- 54 it and no one who was against this. I don't think that that was really weighed into the decision. I do
- understand that I need to reapply.

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Terresa: The Board does not have any other choice at this point.

# **Administrative Business**

- The Town of Plattekill is holding a seminar on June 11, 2015. This is the date of the next scheduled ZBA meeting. The Board discussed attending the Plattekill Seminar and cancelling the scheduled June meeting.
  - A **Motion** was made by Alan Hartman, seconded by Tim Marion to cancel the June ZBA meeting. All ayes.

### **Extend Public Hearings**

### New Village View, 1 Grove St, SBL#88.69-1-10, in CB zone.

- 67 The proposed application is for an expansion of an existing assisted living facility.
- Section 100-17C(1) Expansion of a non conforming use. A 50% expansion is allowed. The proposed expansion exceeds 50%.
- 70 The applicant requested an adjournment for this application until next month.
- A **Motion** was made by Tim Marion, seconded by Paul Symes to extend the public hearing for the New
- 72 Village View until July 9, 2015. All ayes.

#### **Minutes to Approve**

- A **Motion** to approve the minutes from the January 8, 2015 meeting was made by Anthony Pavese, seconded
- 76 by Peter Paulsen. Alan Hartman-Aye.
- Paul Gargiulo-Abstained, John Litts-abstained, Tim Marion-Abstained, Paul Symes-Abstained.
- A **Motion** to approve the minutes from the March 12, 2015 meeting was made by Paul Gargiulo, seconded by
- 79 Alan Hartman. Tim Marion-Aye, John Litts-Aye, Paul Symes-Aye.
- 80 Antony Pavese-Abstained and Peter Paulsen-Abstained.
- A **Motion** to approve the minutes from the April 9, 2015 meeting was made by Tim Marion, seconded by Paul
- 82 Gargiulo. Anthony Pavese-Aye, Paul Symes-Aye, Alan Hartman-Aye.
- 83 John Litts-Abstained and Peter Paulsen-Abstained.
- 85 Supervisor Paul Hansut thanked the members of the Zoning Board of Appeals for their service to the Town
- and the Community.

A **Motion** to adjourn was made by Tim Marion, seconded by John Litts. All ayes 7:25PM

Paul Gargiulo informed the Board that he will be stepping aside as the Chairman of the Zoning Board and will be taking over the role as the Vice-Chair. Anthony Pavese will now be Chairman.

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