

Minutes November 15, 2007

Town of Corinth Planning Board

Meeting called to Order 7:05pm

Present:

Louise Reed
Edwin Eggleston
Althea Rivette
Joan Beckwith
Eric Butler
Attorney Pozefsky
Fred Mann, Building Inspector
Cheri Sullivan, Secretary

Public Present:

Sigrid Koch, Dave Barrass, Arlene Springer, Vincent Inzerilli, Elizabeth Smith, Robert J. Smith Jr., Jay Emery, James Emery

***MOTION TO APPROVE MINUTES FROM OCTOBER 18, 2007 ~ Edwin Eggleston**

Seconded~ Joan Beckwith

All in Favor~ Louise, Edwin, Althea, Joan and Eric

Old Business:

Secretary reads Public Notice into record.

Chairperson Reed opens the Public Hearing.

1.) **Vincent Inzerilli: Tax Map # 74.2-10.2** Property is zoned Industrial. Property is located at 732 County Route 24. Mr. Inzerilli is before the board for a public hearing for a site-plan review application. Mr. Inzerilli is proposing to manufacture and service handicap vans and buses at this location. Application has been sent to Saratoga County

Planning Board and Saratoga County Planning reviewed and replied stating that there is no significant countywide impact for this proposed project. There were a couple of questions for Mr. Inzerilli regarding how he came to this area and how many passengers did the buses and vans hold. Mr. Inzerilli said that the largest bus holds 33 passengers and the smallest holds 14. Mr. & Mrs. Robert Smith resides next to this proposed business. They wanted to know if there was going to be any painting in the building, because the exhaust fans blow towards their house. Mrs. Smith said that with the previous business that was there, the fumes were really bad. Mr. Inzerilli said that there is a spray booth in the building but it is not something that he uses. Mr. Inzerilli said that that room is actually useless for his business. Board Member Butler said that there must be some painting done with the work that Mr. Inzerilli is doing. Mr. Inzerilli said that the painting of clips would be done in his body shop, which is not part of this business. The Smiths also wanted to know what the hours of operation were going to be. Mr. Inzerilli said they would be 8-5pm. There was also some concern relating to the issue of noise. Mr. Inzerilli said that the noise should be minimal because of the buffer of trees, it may be louder in the summer months when the doors are open, however he uses plasma cutters which are very quiet. There was some discussion regarding the buffer between the Smiths property and the proposed business. Chairperson Reed said that she and Code Enforcement Officer Mann had both been to the site and there was a buffer of woods between the two properties. Code Enforcement Officer Mann said that there was a driveway that went all the way around the building, which was beneficial because if there ever were a fire the emergency vehicles would be able to get around. Board member Beckwith wanted to know where the water supply to the building was coming from. Mr. Inzerilli said that it was coming from the Street. Attorney Pozefsky had a questions pertaining to the gravel road on the map. Attorney Pozefsky asked Dave Barrass who had done the original survey if there were any encroachment issues. Mr. Barrass said that it is an old road that is not active, and this property is an accumulation of old properties that were combined. Board member Beckwith said that originally Finch Pryun owned the land in question, and then IP and Finch Pryun traded properties with Buzzy Bursett.

Attorney Pozefsky said he wanted to point out to the board that this was preliminary but under Town Code the final could be waived if so desired. Attorney Pozefsky said a motion would have to be made to waive the final if the board wished to do so.

There were no more questions from the public present or planning board members in regards to this application.

***MOTION TO CLOSE THE PUBLIC HEARING** ~ Joan Beckwith
Seconded~ Edwin Eggleston

All in Favor~ Louise, Edwin, Althea, Joan and Eric

***MOTION TO COMBINE PRELIMINARY AND FINAL FOR SITE-PLAN REVIEW~**

Edwin Eggleston

SECONDED~ Eric Butler

ALL IN FAVOR~ Louise, Edwin, Althea, Joan and Eric

***MOTION FOR A NEGATIVE ENVIRONMENTAL IMPACT~** Joan Beckwith

SECONDED~ Edwin Eggleston

ALL IN FAVOR~ Louise, Edwin, Althea, Joan and Eric

***MOTION TO APPROVE SITE-PLAN REVIEW FOR PRELIMINARY AND FINAL~**

Joan Beckwith

SECONDED~ Eric Butler

ALL IN FAVOR~ Louise, Edwin, Althea, Joan and Eric

New Business:

- 1) Town Board Resolution # 266 extending the Moratorium on Composting another 90 days.

Chairperson Reed told the Planning Board members that the Town Board was looking for the Planning Board to review this and give their input in regards to this resolution. Board member Butler asked why the Town Board wanted another 90 days. Board member Eggleston said he was at that Town Board meeting and the Town Board wanted to make sure there was enough time to get the opposition out of the way and the Town Boards lawyer recommended that the Town Board extend it, because if there are any issues with the wording there would be enough time to make the corrections.

There were no further questions from the board.

***MOTION THAT THE TOWN OF CORINTH PLANNING BOARD HAS NO OBJECTION TO EXTENDING THE PRESENT MORATORIUM FOR ANOTHER 90(NINETY) DAYS~** Eric Butler

SECONDED~ Edwin Eggleston

ALL IN FAVOR~ Louise, Edwin, Althea, Joan and Eric

- 1.) **James Emery:** Mr. Emery was before the board for clarification and direction

for a proposed Boundary line Adjustment on his property. Mr. Emery has two substandard lots, which were substandard prior to zoning. Dave Barrass, Land Surveyor speaks on behalf of Mr. Emery. Mr. Barrass said Mr. Emery owns two separate tax map parcels 73-2-48.12 & 73-2-48.211 is the lower parcel with the home. The first parcel has the garage but as all can see the Boundary line goes directly through the center of the garage. Mr. Barrass said what Mr. Emery would like to do is build an apartment over the garage for his in-laws, and because he cannot have two residences on one piece of property they would like to do a boundary line adjustment. They are before the Planning Board hoping for a boundary line adjustment between the two lots so that the garage would be on its own parcel of property. Mr. Barrass said the zoning for this property is Commercial and the requirement for single-family development is 40,00sq ft. Dave Barrass said the lots were two preexisting non-conforming lots because both lots were in existence before zoning went into effect. Mr. Barrass said moving this line would result in one lot being 6/10 tenths of an acre and the other lot being approximately 1/2 acre.

Attorney Pozefsky said he had a few questions. Attorney Pozefsky said that Boundary Line Adjustments are non-jurisdictional meaning that technically the Planning Board does not even get involved, unless more than a small amount of land is being conveyed. Attorney Pozefsky said the Planning Board has to decide if this is a small amount of land. Attorney Pozefsky said that the APA states that anything under two acres is a small amount of land, but this board has said previously that a small amount of land is less than that. Chairperson Reed said she believes this Planning Board went to a half an acre. Attorney Pozefsky said he felt it was less than that. Attorney Pozefsky said the first question to be decided is if this is a small amount of land or not, if it is then the board does not need to go any farther with this. If it were considered more than small amount of land then it would be considered a minor subdivision. Attorney Pozefsky said the other question is that they would be creating another two substandard lots but as Mr. Barrass said they were already two substandard lots, however the boundary line adjustment would be improving the two substandard lots by cleaning them up a little. Attorney Pozefsky said that these lots were already grand fathered so he does not see this as an issue. Board member Eggleston asked if Mr. Emery owned both of the lots. Mr. Emery does own both parcels.

Code Enforcement Officer Mann said both of those lots were grand fathered but once the boundary line is moved that he felt that Mr. Emery is going to need a variance from the Zoning Board prior to him issuing any permits. Chairperson Reed asked if the existing boundary line was recorded in the deed. Dave Barrass said it was, and there was a deed for each parcel. Chairperson Reed asked Attorney Pozefsky if the Planning Board would have the right to do a boundary line adjustment since these lots belong to the same individual. Attorney Pozefsky said

that is a prerequisite for a boundary line adjustment and it can also be done with two different owners as long as they agree.

Dave Barrass said that even if you did nothing they are going to be substandard lots. Attorney Pozefsky said Mr. Barrass would have to go to the Zoning Board and address the issue if this was a self created hardship by building. Dave Barrass said since they are non conforming lots to start with he would rather not go to the zoning board, a route that may be doomed for failure. Attorney Pozefsky said other than the fact that the boundary line goes directly through the center of the garage, if it just missed the garage, could you go to Code Enforcement Officer Mann and get a permit without having to move the boundary line, and because it is a substandard grand fathered lot, Attorney Pozefsky believes that Mr. Barrass probably could. Attorney Pozefsky said even though it would not meet the setbacks that as long as it was there, he would be entitled to the building permit. Attorney Pozefsky said that it is still going to be a substandard lot even when the line is moved, because it was grand fathered. Dave Barrass said that even if they didn't move the line it was a substandard lot. Mr. Barrass said that if they did move the line that they would be able to accommodate the 40 ft setbacks, which they can't meet currently, they are actually improving the lots. Attorney Pozefsky said that Sigrid Koch is here from the Zoning Board and maybe she could give us some input.

Sigrid Koch said she was just questioning the usage because a garage is not a residence, and now an apartment is mentioned and that would be a residence, she felt that a fine line was being walked on whether or not this should be in front of the Zoning Board. Sigrid Koch said if it was just staying as a garage then it wouldn't be an issue. Dave Barras said if it was just staying a garage there would be no reason to move it, the reason they want to move the line is simply because it is going to change the usage and we wanted to get them on separate lots so that it would be closer to being in compliance. Attorney Pozefsky said the Zoning Board does have the power to interpret the Town Code, so there is the possibility of going to the Zoning Board and see how they would look at this to find out if you would need a variance and that would help to guide the Planning Board on whether they are involved or not. Attorney Pozefsky said if the Planning Board decides that Mr. Emery is non-jurisdictional then you would be done with the Planning Board. Dave Barrass asked Attorney Pozefsky even if the Planning Board deemed this non-jurisdictional that the Code Enforcement Officer may send them to the Zoning Board. Code Enforcement Officer Mann said that he would have to because he is not sure. Attorney Pozefsky said that if you are going from substandard to substandard and it is being improved slightly that you may not need a variance. Attorney Pozefsky said he will have to do some research on this but by the time Mr. Barrass got to the Zoning Board that he will have had enough time to research an answer. Board member Eggleston asked if the

garage was built to be a commercial garage. Mr. Emery said it was built no different than a garage that would be built next to a house. Board member Butler asked if they were moving the line so that they could have two residences, rather than making it all one big lot where you would only be allowed to have one residence. Jay Emery said the standard is that you have to have an addition for your in-laws on your home. Board member Rivette asked what would be the easiest route for the applicant.

Attorney Pozefsky said that it is an improvement to the parcels whether the applicant continues to move forward with a variance or not, it still cleans up the situation because the lot line would not be going through the garage. If the Planning Board grants to the applicant that it is a boundary line adjustment and not a subdivision, then the next question is what has to be done to make it a residence. Code Enforcement Officer Mann said that there would be an easement from the original driveway. Chairperson Reed asked Code Enforcement Officer Mann what the Code states about building on a non-conforming lot. Code Enforcement Officer Mann said if it was a lot prior to Zoning, and the applicant can meet the setbacks, then there is no issue hence where lays the problem. Code Enforcement Officer Mann said that is why he asked Attorney Pozefsky, because the line is being moved and it is still a substandard lot, the setbacks can be made. Code Enforcement Officer Mann said that if the applicant had never touched the line then that would be a different story, and then there would be no problem. Code Enforcement Officer Mann said that the question remains for the Attorney is does the applicant have to get a variance. Attorney Pozefsky said does grandfathering remain grandfathered, and this may have to be run by the Zoning Board to get an interpretation of that. Code Enforcement Officer Mann said that he does not want to get caught in the middle here, that he has issued a permit for the garage, but now that the applicant wants to put an apartment above it, it becomes a whole different ball of wax. Board member Rivette asked if these lots were substandard prior to Zoning whether there were special circumstances. Code Enforcement Officer Mann said that they are grandfathered until they move the line. Attorney Pozefsky said that he was going to have to research this. Board member Beckwith said that the real question here is if whether or not they are still going to be grandfathered after they move the line. Chairperson Reed asked if it would be in the best interest, because you don't want a boundary line going through the garage. Attorney Pozefsky said if the Planning Board decides that this is a small amount of land then the Planning Board is done and the applicant has to decide which way he wants to go from there.

Board member Butler asked if it would be a substandard size lot even if it were one whole piece of property. Dave Barrass said that if the two parcels were combined together that it would be a standard size lot. Code Enforcement Officer Man Said that if the applicant did that

that he would have to go to Zoning for a variance to have two houses on one lot. Dave Barrass said that if he had to go the variance route that that would be the one that he should go for. Mr. Emery said that it would not matter to him either way, just whatever way was the easiest. Dave Barrass said that he was not sure which way was going to be the easiest route. Attorney Pozefsky said that is why he feels that it's best to go to the Zoning Board and get an interpretation of what they feel the situation is. Attorney Pozefsky said that nothing has to be granted or denied, just an interpretation and in the meantime he would have time to research it. Dave Barrass said that he was just looking for the easiest route to get to the building permit. Board member Butler said he felt the easiest route would be to combine the two parcels and apply for the apartment over the garage because if combined the setbacks are all there on a legal conforming piece of property. Code Enforcement Officer Mann said again that would be the Zoning Boards call. Code Enforcement Officer Mann said that in one way he feels what Mr. Butler said is right, that one big lot is better.

Attorney Pozefsky said the first interpretation the applicant wants is to do is to put an application into the Zoning Board for an alternative type of relief requesting an interpretation stating that this is all grand fathered and can you get a building permit. It needs to state that they are grand fathered lots, even after the Boundary Line Adjustment. The other option is to try for an area variance on a substandard lot. The third option would be to put two residences on one lot. Dave Barras asked if he could get a determination from the Planning Board that this is a Boundary Line Adjustment and not a subdivision. Mr. Barrass said his applicant would wait and decide what direction he will go in after they meet with the Zoning Board. If they decide to go with a Boundary line Adjustment that he will bring the maps in for the Chairperson to sign.

***MOTION THAT THE PROPOSED APPLICATION FOR A BOUNDARY LINE ADJUSTMENT IS A SMALL PIECE OF PROPERTY AND A SUBDIVISION OF THE PROPERTY IS NOT REQUIRED.**~ Eric Butler

SECONDED~ Althea Rivette

ABSTAINED~ Joan Beckwith

ALL IN FAVOR~ Louise, Edwin, Althea, and Eric

MOTION TO ADJOURN MEETING ~ Joan Beckwith
SECONDED ~ Edwin Eggleston

ALL IN FAVOR~ Louise, Edwin, Althea, Joan and Eric
Meeting Adjourned at 7:54pm

Respectfully Submitted

Cheri Sullivan