

Town of Otsego Zoning Board of Appeals

Minutes – March 17, 2015

REGULAR MEETING

The monthly Town of Otsego Zoning Board of Appeals (ZBA) meeting was held on this date at the Town Office Building in Fly Creek, NY (the February meeting and public hearings were cancelled, due to the Bissell applications being deemed “untimely” by the Town Attorney). Chairman Greg Crowell called the meeting to order at 7:02 PM and roll call was taken by Secretary Bill Deane. Board members present were Crowell, Meg Kiernan, and John Tedesco. With Christopher Voulo and Michael Pelcer absent, alternate members Nicholas Weir (who arrived at 7:06, after the first vote) and Dean Robinson (newly-appointed) joined the meeting table. Zoning Enforcement Officer Tavis Austin was absent.

Chairman Crowell asked if anyone had a potential conflict with tonight’s applicant. Kiernan disclosed that she is on the committee for the Cider Run, a race sponsored by the Fly Creek Cider Mill, but said she didn’t see that as a problem with her judging the application impartially.

The Board reviewed the minutes of January 20, 2015, e-mailed to the members. Kiernan moved to approve them as written. Tedesco seconded the motion and it was approved, 3-0, with Robinson abstaining because he was not on the Board at that time.

Chairman Crowell reviewed correspondence received since the last meeting. It included a February 11 letter (filed) from Attorney Douglas Zamelis, objecting to the Bissell applications as “untimely.” Crowell said the other correspondence was “junk mail,” including the January/February 2015 issue of *Talk of the Towns & Topics* (Volume 29, Issue 1), copies of which were distributed; a registration form for a New York State Department of State Training event which had already been held (March 16); and a flier from the New York State Council of Landscape Architects.

The Board moved on to the application.

APPLICATION

15.03 – Otsego Apple Growers, LLC (Bill Michaels, Jon McManus, Les Sittler) – Interpretation, December 30, 2014 determination by Zoning Enforcement Officer Austin – 288 Goose Street (#98.00-1-30.00)

Otsego Apple Growers, LLC co-owner Bill Michaels was present, along with his wife, children, and parents. Also present were two people Michaels identified as authorized representatives, engineer Jon McManus and attorney Les Sittler. They submitted application packets.

McManus had contacted Zoning Enforcement Officer Tavis Austin last fall about a proposed building project on the Fly Creek Cider Mill. McManus believed that the project would not require Town Planning or Zoning Board intervention, because there was no change to the footprint of the building. In a letter dated December 30, 2014 Austin replied that, “Following review of the Town of Otsego Land Use Law, and after consulting with the Town Attorney, my determination regarding the aforementioned project is that your

client, Otsego Apple Growers, LLC, may not proceed with their desired project prior to making an application to the ZBA for expansion of the non-conforming use with a use variance.” Otsego Apple Growers disagrees with this decision, and is thus seeking an interpretation by the ZBA.

Michaels read aloud from a written statement (filed), describing the historic family business and the proposed project, which they hope to do during the winter of 2015-16.

McManus put drawings and photos on an easel, describing the proposed project in greater detail. It would involve adding second floor space, including a cupola 31 feet high. It would be within the footprint of the existing building, and within the height limit specified by the *Land Use Law*. The intent is not to attract more customers, but better accommodate the customers they already have, who often have to wait outside due to space limitations. McManus noted that they already have parking space for 213 vehicles, with only 87 required by the law. He said he considered the project a level III alteration (per New York State building code) rather than an expansion, with no change of use.

Sittler called the Board’s attention to *Land Use Law* sections 1.04 and 1.05, and the definition of “alteration” (there is no definition of “expansion” in the law). He said the application packet contains relevant New York State Court of Appeals cases, involving the enlargement or extension of non-conforming uses. Sittler noted that any ambiguity in state or local law should be decided in favor of property owners.

After discussion, Chairman Crowell moved to deem the application complete and schedule a public hearing for April 21. Meg Kiernan seconded the motion and it was approved, 5-0. Afterward, Crowell called members’ attention to relevant guidelines in chapter 5 of *All You Ever Wanted to Know about Zoning*, compiled by the New York Planning Federation.

With no further business, at 7:49 Chairman Crowell adjourned the meeting.

Respectfully submitted,

Bill Deane, Secretary