

Town of Bristol
Zoning Board of Appeals
Minutes April 11, 2017

Present: Marty Snyder, Jen Sanford, John Krebbeks, Donna Beretta and Sandra Riker

Excused: Steve Smiley

Others Present: see attached sign in sheet

Voting Alternate: A motion was made by Marty Snyder to have Sandra Riker use her privilege of being able to vote as an alternate this evening because the Board is short a member. A second was made by John Krebbeks and all Board members present approved.

Minutes: The minutes of March 21, 2017 were approved with a motion by John Krebbeks and a second by Donna Beretta. Vote as follows: Snyder aye, Riker aye, Krebbeks aye, Beretta aye, Sanford abstained.

Administrative Appeal /Interpretation:

Chairman Snyder opened this meeting by saying he had been informed this afternoon that the Town Attorney would not be present for this meeting given it is in Irrevocable Conflict of Interest for them as they represent the town and the principle complainant in this action.

A request for appeal and interpretation was presented by Jesse Lyon of 4310 Case Road under tax parcel # 124.00-1-39.100 regarding Article 3, Section II, Paragraph 60 Definition of Home Occupation. He is also asking for relief from the decision made by the Code Enforcement Officer dated January 26, 2017. Donald Cheney of Cheney & Blair, LLP will be representing Mr. Lyon.

The definition of Home Occupation reads as follows:

Home Occupation: Any activity carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

A home occupation shall be conducted entirely within the principal dwelling unit and/or in a properly permitted, approved, and fully enclosed accessory building. The accessory structure may not exceed 750 square feet and must be of similar construction, architecture, and materials to the main dwelling unit.

At this time the public hearing was opened.

Mr. Cheney asked the Board if they would consider including a supplemental request for a further interpretation from the Code Enforcement Officer of Article 10 Section B (2) of the Bristol Zoning Law as a permitted use in the A-C district, "The storage of products or equipment and related buildings and fences" as to whether or not Mr. Lyon's use fits under this section. He went on to say Mr. Lyon stores product and equipment to be used for the business at 4310 Case Road but no actual work for Relyon Property Maintenance occurs at 4310 Case Road. Depending on the interpretation from the CEO and or ZBA would provide Mr. Lyon with a use that may be permitted as of right without any review under the Home Occupation rules.

Chairman Snyder said this will not be included in tonight's Board action as it was only presented as of this afternoon on April 11, 2017 and would require action under a separate application. The purpose of this evening's meeting is to address the Administrative Appeal/Interpretation dated March 27, 2017.

The Board asked Jesse Lyon to provide some background information for them.

- Number of employees-Jesse replied 8 to 10
- What are the hours of operation-on a typical day the employees would arrive between 8-8:30 am to pick up what supplies and equipment they would need to complete the day's activity and if they had materials to return to the building they would do that between 4:00 pm and 5:00 pm.
- Number of vehicles parked during the day-his employees car pool so at most 4 or 5 additional vehicles on the property during the day
- Did you provide the CEO what the use of the building at the time you obtained the permit to build the pole barn? He said they did not discuss the specific use but the Code Officer was aware of the type of business Mr. Lyon is doing.
- The site plan presented showed the 750 square feet to be used for storage on the site plan presented to the ZBA at the informational meeting with them in December of 2016. Jesse provided photographs of the storage area that has been set up for the use of his business.
- If the ZBA approves the use of the space inside the building how do we know that this will not change after approval? Mr. Lyon said he would be willing to have the CEO do periodic inspections of the site.
- When Mr. Lyon obtained his building permit that provided approval for the driveway. Mr. Lyon said he was told to contact the Town Highway Superintendent with regard to driveway placement and access, which he did prior to obtaining his building permit for the barn.

Mr. Cheney said Mr. Lyon's use of the property does not produce any additional noise, odor or other negative activity.

Comments from the public present this evening included concerns as follows:

- Property value of neighboring parcels would be diminished by allowing the activity to continue at 4310 Case Road
- Trash and debris on the parcel
- Does this barn really fit with the definition of home occupation-given its size and construction
- The appeal was not presented in the prescribed time frame allowed by NYS Town Law 267-b "an appeal shall be taken within sixty days after the filing of any order, requirement, decision, interpretation or determination of the administrative official, by filing with such administrative official and with the board of appeal a notice of appeal specifying the grounds thereof and the relief sought." The decision from the Code Officer was dated January 26th and mailed out on the 27th the appeal was hand delivered on March 27th from Cheney & Blair, LLC. Exactly 60 days.
- Is there a hazmat problem from the storage of materials-Lyon replied he does not store anything of that nature at the property and that includes asbestos materials
- Additional traffic on the roads causing potential damage to the bridge on Lee Road
- Other comments included that Mr. Lyon and his family are good neighbors
- Mr. Lyon has improved the condition of the parcel
- Does not create any additional noise
- Why would a building permit be granted if the request was not complainant with zoning codes?
- Tremendous amount of activity on the parcel-The Lyons have many relatives and friends who like to visit and enjoy the swimming pool and have parties

- Any business can have occasional meetings providing for an increased # of cars at a given time

Chairman Snyder closed the public hearing and asked the Board for any additional comments from them. Krebbeks said he would like to hear from the Code Officer. Sanford asked why Lyon provided a site plan prior to the informational meeting the ZBA Board. Mr. Lyon said the Code Officer had suggested it would be good to provide the ZBA to show the space to be used for his home occupation. The Chair said he thought it would be wise of the Board to take some time to gather additional information prior to making a decision. Beretta suggested the meeting be tabled to next month.

Chairman Snyder made a motion to table the meeting until May 9th with a second by Jen Sanford. All Board members agreed.

The additional time will be taken to reach out to Mr. Sommer, CEO at the time of this action and for the Board to acquire independent counsel as approved by the Town Supervisor, Robert Green. The question was raised if Mr. Lyon could continue his business during the time being taken by the Board to pursue answers to their questions.

Motion to adjourn the meeting was made by Donna Beretta with a second by John Krebbeks.

Respectfully submitted by,

Sandra Riker

Town of Bristol

Planning and ZBA Secretary

The minutes of April 11, 2017 were approved with a minor change to the word periodic on page 2 with a motion by Jen Sanford and a second by John Krebbeks on May 9, 2017. All Board members agreed.

Update: On April 12th the Secretary contacted Jeff Graff, Esq. from Clifton Springs and provided him with the information regarding the appeal and the dilemma the ZBA is faced by having a lack of legal counsel to turn to for guidance. Mr. Graff replied on April 13th accepting the ZBA as a client and will review the information provided to him and respond to the Board in a timely fashion.

NYS Town Law 267-a (6). Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance or local law, from whom the appeal is taken, certifies to the board of appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.