

**Town of Milton**  
**Building/Zoning/Planning Department**  
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**William F Lewis**  
Zoning Official & Building Inspector

**Meg Soden**  
Zoning Board Chairwoman  
**William Keniry Esq.**  
Planning and Zoning Attorney

2/27/2019

Board Attendance: Matt Akari, Pat Quillan, Eric Smassanow and Chairwoman Meg Soden  
Zoning Alternate: JD Wood  
Zoning Attorney: William Keniry, Esq  
Zoning Official: William F Lewis  
  
Absent: Jerry Manning

7:00pm – Meeting called to order by Chairwoman Soden

Pledge to the Flag lead by Mr. Quillan

Chairwoman Soden: On February 5, 2020 – we had our Saratoga County Planning and Zoning Conference. All of the Board attended. We had some great speakers there and we learned more about the Planning and Zoning regulations. We have all met our in-service Continuing Education requirements for 2020.

Chairwoman Soden: Next item on the Agenda is the Meeting Minutes for January 23, 2020. Any comments or alterations? If not, can I have a Motion to approve the Meeting Minutes?

Motion to approve the January 23, 2020 Meeting Minutes made by Mr. Smassanow; 2<sup>nd</sup> by Mr. Quillan; Mr. Akari- yes, Mr. Quillan-yes, Mr. Smassanow-yes, Chairwoman Soden- yes.

Chairwoman Soden: We will now open the floor for Public Comment.

Mr. Ray Otten- 16 Meadowbrook Ave: In Zoning laws, I know there are certain fire codes that need to be followed. Is there anything in the code to allow the EMS

organization to become involved with looking at plans to see if there obstacles to getting people in and out in case of emergency?

Mr. Lewis: No, but when we do get larger projects, we could include you as we do the fire company.

Mr. Otten: With all the senior housing going, we get more calls. If we had better access to the living quarters, it would make things easier. A few minutes can mean everything. It is hard to get a stretcher in some of the bedrooms in some of the apartments.

Mr. Lewis: We will get information from you and mail a packet when a larger project goes through Planning.

Chairwoman Soden: Any other comments? The Public Comment section is now closed.

Chairwoman Soden: Next on the agenda, we have an Area Variance. Mr. Howard Amash, 720 Burgoyne Ave SBL: 177.5-1-1

Chairwoman Soden: We'd like to understand what relief you are looking for. Please explain to us what the situation is and what you are seeking.

Mr. Lewis: I can help Mr. Amash to explain this. We were called out to the location for a complaint from a neighbor in regards to having his RV parked on the side of his house, in front of the front plain of the house. 167-4 (K) states in the RV storage that ' storage of said recreational vehicle shall not extend beyond the front line of the primary dwelling or closer than 60 feet from the road, whichever is less.' On the site inspection, we noticed that the RV is in front of the front plain of the home. We talked to Mr. Amash, who has been very proactive. He has since moved the RV to his driveway. He is coming in front of the Board to ask for relief of that 60 ft., or front setback, from the house. As you see in the photos, he has put in a stone type driveway with retention on it. With parking there, he is in violation but he is before the Board to try to rectify that. We have a few complaints from the neighbors and all Board members should have a copy of those.

Mr. Smassanow: It looks like it is 45 ft from edge of pavement

Mr. Amash: It is 45 feet from edge of pavement and 60ft from center of the road

Mr. Lewis: A little over half of the RV is in front of the front plain of the house

Mr. Quillan: I noticed that he has it all stone. Anything that comes off the RV is going to be contained in that stone.

Mr. Amash: That area was a sink hole in front of my house. It fills with water. When I did the gravel, I noticed that my neighbors roof drain drains into that hole. I put 13 tons of

gravel there and leveled it off. I put top soil and mulch on top of it. I tried to make it look attractive. I did what I could to make it look good.

Mr. Amash: I put it where it is because it is impossible to put it on the other side of the house.

Chairwoman Soden: What do you mean by that?

Mr. Amash: The other side of the house has a 30 ft. easement, for sewer and water, along the road. I'd have to lay gravel and roll it about 140 ft. on the easement to get the RV back there. I used to have another RV that I put back there and I had to have it towed out because it was so soft.

Chairwoman Soden: Looking at the front of your house, could you drive the RV up the side?

Mr. Amash: No, it weighs too much and it would only be 15 ft from the road.

Mr. Quillan: Looking at the drawing, it shows a tree behind the RV. Is that a tree that could possibly be cut down to move the RV back further?

Mr. Amash: That tree is a 50 year old Red Maple tree. I could cut all the lower branches off and move the RV back another 10-12 ft. If I absolutely had to, I could cut the tree down to move the RV back closer to the fence, but it would still be a few feet from the front of the house.

Mr. Lewis: On the Grand Ave. side, as you see on the map, he would have to get a curb cut from the Town. It is very wet over there. It would be a challenge for him to establish a road off Grand Ave. The other issue that he might have is site distance. He is right at an intersection. It would be a challenge to get clearance from DPW with site distance to put a curb cut in to establish a driveway on that side.

Chairwoman Soden: From where it is parked currently, in the driveway, is that an issue as far as Town Code?

Mr. Lewis: If it is registered, it is considered a registered motor vehicle and we have no jurisdiction over it.

Mr. Keniry: As the applicant stands before the Board now, he is in compliance. Unlike when he filed the application, when he was not in compliance.

Mr. Amash: We are about to retire. We have had this RV for 11 months and have put 12,000 miles on it. It doesn't sit there that much. It is just there for the storage in the winter.

Mr. Amash: We used to have a smaller and lighter RV. We had to have it towed out. That was half the weight of the one we have now.

Mr. Quillan: I'm just trying to establish how long the RV has been there.

Mr. Amash: Our new RV has been there 11 month. The old ole was there 2 years.

Mr. Amash: I've talked to my closest neighbors and none of them have a problem with it. I just have one neighbor that has a problem with it.

Chairwoman Soden: How far back is the shed that's behind the RV?

Mr. Amash: The shed is way in the back yard

Chairwoman Soden: Is there a way to open up the fence and have the RV all the way, as far back as it will go?

Mr. Amash: I'd have to take the tree down, part of the deck, my wife's garden out. It goes downhill back there.

Mr. Smassanow: In the code, where it says 'covered at all times', he has this thing over it. Is that what they are talking about? Is there any language that tells us exactly what that means?

Mr. Keniry: I don't know that there is a definition

Mr. Lewis: There is no definition for covered.

Mr. Smassanow: Are there places that store RV's?

Mr. Amash: They have RV storage facilities that cost \$25-\$50 a foot, for the winter months.

Mr. Smassanow: Your RV is how long?

Mr. Amash: 32 feet

Mr. Smassanow: So that would be roughly around \$1000.00

Mr. Amash: yes

Mr. Lewis: The property drains backwards. It pitches back to a shed. The shed was an existing shed from 1993. There was no accessory structure setback in Zoning in 1993. A few years back, we received a complaint on the shed. Mr. Amash fixed it, put new roof and siding on it but didn't move the structure. We went out and talked to him then. He wasn't in violation of anything, but the neighbor was concerned.

Mr. Amash: I could cut some branches off the Red Maple and move the RV back another 10 feet or so.

Chairwoman Soden: Do you have a Home Owners Association?

Mr. Amash: No, there is no HOA.

Mr. Keniry: Do you know whether or not your neighbor is subject to Declarations of Covenants and Restrictions?

Mr. Amash: I'm not sure

Mr. Keniry: Sometimes they restrict a commercial vehicle, boats, things like that

Mr. Lewis: It's just covered under our R1 District Zoning

Mr. Amash: Anytime I have a question, I come to the Town.

Mr. Amash: About 5 houses down from me, they have an RV on the side of the house that has been there 10 years with no complaint.

Chairwoman Soden: I'd like to go over the Area Variance Criteria just so everyone is aware. '(1) In its consideration of area variances, the Board of Appeals shall take into account the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board of Appeals shall also consider:

**[a]** Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

**[b]** Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

**[c]** Whether the requested area variance is substantial.

**[d]** Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

**[e]** Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

**(2)**The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and, at the same time, preserve and protect the character of the neighborhood and the health, safety and welfare of the community.'

Chairwoman Soden: This is a Type 2 Action which is exempt from SEQR and further environmental review.

Chairwoman Soden: I need a Motion to schedule a Public Hearing for March 26, 2020 at 7:05pm

Motion to schedule a Public Hearing for March 26, 2020 at 7:05pm made by Mr, Quillan; 2<sup>nd</sup> by Mr. Smassanow - Mr. Akari- yes, Mr. Quillan-yes, Mr. Smassanow-yes, Chairwoman Soden- yes.

Chairwoman Soden: Next on the Agenda is a Use Variance for Boyhaven/Munter property at 3430 Boyhaven Rd. 162.-1-14.1

Chairwoman Soden: This is a Use Variance that has come before the Planning Board for a Minor Subdivision and Special Use Permit as well. They are proposing a subdivision of the 69 acres of the Boyhaven parcel, including the two ponds and most of the premises that the building is on, for the purposes of conveying the parcel to a corporation for the operation of a youth summer camp. In addition to requiring a minor subdivision approval, it also a use in the R2 Zoning District that requires a Special Use permit and site plan approval. There was a definition conflicts in our code regarding 'Camp', 'Dwelling Units' and 'Family', which have caused this proposed use and construction of bunk cabins to obtain the Use Variance for the ZBA.

Chairwoman Soden: With that said, the Planning Board has taken Lead Agency on this application as far as SEQR. This was declared an Unlisted Action as well as the ones that were before them as well.

Mr. Lewis: The applicant was before the Planning Board with some issues, then sent to Zoning for interpretation of parts of our code in the definition section. There was a question in the definition of Camp, Dwelling Unit, and Family.

Mr. Lewis: To me, the definition of Family is pretty clear. A seasonal structure is what the applicant is looking to put on the property. They are looking to put 4 bunk units with 12 beds in each unit in a seasonal structure.

Mr. Lewis: The definition of 'Dwelling Unit' is more of a permanent structure. I think what the applicant is looking for is a seasonal structure. The Variance is

for the definition explanation. In my opinion, the definition of Camp is a little different than what the state has as a definition. When you read our code, it brings you back to the Dwelling Unit definition, which states a “permanent structure”. There is a gray area that needs to be clarified for the applicant in order to process his Planning Board application.

Mr. Keniry: To try to help the Board, the specific subsection is 180-42 (A)(2) reads; ‘Such cabins or cottages shall be designed for one family only, with not more than two such dwelling units permitted per gross acre, i.e., a maximum gross density of two dwelling units per acre.’ As I understand it, you cannot reconcile that definition with both the past use of the property and the contemplated use in the present or future.

Mr. Munter: That is where Code Enforcement found discrepancies. There isn’t a clear way to define our use against what the Town code is. NYS Department of Health is the governing agent of the camp for water, waste, bed count, etc. After a CO is issued, NYS DOH will annually check to make sure the camp is compliant with their rules.

Mr. Lewis: The Camp is subject to fire safety inspections through the Town Code Enforcement Office on an annual basis. They monitor the water and sewer. You’ll need to have a water professional on staff to do a monthly, or weekly, water testing while the Camp is in use. I’d like to refer the Board to the NYS definition of ‘Camp’. It is a clear vision as to what a seasonal camp structure should be. The Town definition is a little vague.

Mr. Munter: The size of the parcel versus the size of a dwelling is very small. This is basically just a cabin. It’s an unfinished, non-insulated bunkhouse. When the Boy Scout used the camp, they probably had people housed in lean-to’s. The types of campers using this might want to have a closed door/overnight dwelling.

Mr. Lewis: The applicant submitted plans for a 24x24 seasonal structure. No insulation and no sheet rock. It is proposing electric, with smoke and carbon monoxide detectors and emergency lighting to meet the fire code. It is a base structure, not a habitable dwelling. It’s a seasonal structure, weather permitting, that they are proposing.

Mr. Munter: I am here representing my dad. A camp group that he is in contact with wants to operate this camp. They will do a phenomenal job

renovating the camp. It was their choice to add these structures. With the group size, they needed to have more facilities to make the numbers work.

Chairwoman Soden: One thing we look at in a Use Variance is a reasonable return.

Mr. Smassanow: What exactly are we doing here? I just want to make sure I have this right. Do you need our permission to build a few more buildings and we have to say that these buildings are going to be for kids and not for family, is that one of the issues?

Mr. Munter: No, not really.

Mr. Lewis: The definition of a Dwelling Unit is what sticks out here. It states habitable structure, which is a year round atmosphere. The applicant is looking for a 'seasonal structure'. They are looking for clarity.

Mr. Keniry: In this applicants instance, they have identified a circumstance where the definitions of Camp and Dwelling Unit and Family conflict. They are inapposite of the intended use of the proposed project.

Mr. Smassanow: So a Use Variance? I'm trying to see what the remedy is. If we go ahead with this, what do we need to focus on? I'm trying to narrow it down.

Mr. Keniry: The focus would be to define and describe the exact use.

Mr. Smassanow: So we would say a Use Variance that would include these things?

Mr. Keniry: Correct. They are proceeding under the right section, which is Camp, but Camp is not defined.

Mr. Munter: There is not a single part of this facility that will be in use and not be compliant with code. Everything that was there and wasn't compliant prior is now being renewed to be code compliant.

Chairwoman Soden: Can I get a motion to schedule a Public Hearing for March 26, 2020 at 7:30pm?

Motion to schedule Public Hearing for March 26, 2020 at 7:30pm made by Mr. Smassanow, 2<sup>nd</sup> by Mr. Quillan; Mr. Akari- yes, Mr. Quillan-yes, Mr. Smassanow-yes, Chairwoman Soden- yes.

Chairwoman Soden: Can I get a motion to adjourn, please?

Motion to adjourn made by Mr. Quillan, 2<sup>nd</sup> by Mr. Smassanow; Mr. Akari- yes, Mr. Quillan-yes, Mr. Smassanow-yes, Chairwoman Soden- yes.

APPROVED