

**TOWN OF DAY-ZONING BOARD OF APPEALS
REGULAR MEETING-APPROVED MINUTES
OCTOBER 17, 2016
PAGE 01 OF 03**

Members Present:

Chairman Dave Davidson
Member Lorraine Newton
Member Al Graham
Member Donald Poe
Member June Dixon

Members Absent:

None

Also Attending:

Attorney Matthew Fuller

Pledge

Roll Call

Motion, made by Al Graham, seconded by Lorraine Newton, to **approve** the minutes from the September 19, 2016 Regular Zoning Board of Appeals meeting.

Ayes: Chairman Dave Davidson, Member Lorraine Newton, Member Al Graham, Member Donald Poe, Member June Dixon.

Carried 5– 0.

OLD BUSINESS: None

NEW BUSINESS: The Application for a Use Variance was under review by the Zoning Board of Assessment. A copy had been given to Attorney Fuller prior to the meeting so that he could make his comments prior to the review. The original draft was 7 pages. Attorney Fuller presented one pared down to 5 pages.

Chairman Davidson presented a brief history of the beginning of the use variance. This began after the completion of the Comprehensive Plan. The Zoning Board of Appeals (ZBA) had one form for both use and variance. It was not user friendly and the application needed more information on it for the ZBA and to the applicant. The ZBA did that for the Area Variance application. The Use Variance now will undergo similar scrutiny.

TOWN OF DAY-ZONING BOARD OF APPEALS
REGULAR MEETING-APPROVED MINUTES
OCTOBER 17, 2016
PAGE 02 OF 03

Chairman Davidson explained that there never has been a history of a use variance in the Town of Day. Attorney Fuller said that was a good thing. Explanations on an Area Variance are not as potentially harmful as they are on a Use Variance. The hurdle is lower for an Area Variance. Basically if there is no harm it is ok. The Use Variance is the exact opposite. It has to be proven that there is nothing else that can be done. It has to be unique.

Attorney Fuller felt that the Use Variance needed to be pared down. The town is much more liable to have something used against it in a Use Variance. He explained several areas where statements in the Use Variance could be used as a challenge in court. He explained the rarity of needing a Use Variance. If one is needed it is more likely a problem with a Zoning Law that needs adjusted.

There was also a discussion on the length of time that a Use Variance application will expire. This is not written in the Town Law. Variances do not expire. Prohibition for applying again for a variance is also not in the Town Law. New York State Law states that once a variance is denied, it can never be applied for again. The Zoning Law states that if the application is not significantly different, the applicant must wait for one year. However, if it is different it can be applied for at the next meeting.

Member Al Graham liked the short version with an informational sheet attached. Member Don Poe would like to keep it as simple as possible. He also questioned if the fees for the application are high enough.

Attorney Fuller reminded the Zoning Board that consultants are built into the process. Costs can be billed back to the applicant. A thorough review of the application can reveal what other professions are involved, i.e. engineering and a ballpark figure can be given to the applicant.

The discussion was ceased for now. The Use Variance Application will continue to be reviewed.

CORRESPONDENCE: An informational sheet for the Saratoga County Planning & Zoning Conference will be emailed or mailed to members soon.

**TOWN OF DAY-ZONING BOARD OF APPEALS
REGULAR MEETING-APPROVED MINUTES
OCTOBER 17, 2016
PAGE 03 OF 03**

SECRETARY'S REPORT: None

Motion, made by June Dixon, seconded by Lorraine Newton to **adjourn** this Regular Meeting of the Town of Day Zoning Board of Appeals was made at 7:35 PM.

Ayes: Chairman Dave Davidson, Member Lorraine Newton, Member Al Graham, Member Donald Poe, Member June Dixon.

Carried 5– 0.

Dawn Graham
Clerk