

TOWN OF ESOPUS
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Zoning Board of Appeals

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TOWN OF ESOPUS ZONING BOARD OF APPEALS
Minutes of the January 20, 2015 Meeting

CALL TO ORDER: Chair, Kathy Kiernan, called the meeting to order at 7:17p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Vic Barranca, Joe Guido, Kathy Kiernan, Melanie Marino, Frank Skerritt, Karl Wick

Excused: Dick Wenzel

Also present: Diane McCord, Gloria Van Vliet, Ron Pordy, Michael Moriello, Mike Ankrom, and Matt DiFrancesco

MINUTES

Vic made a motion to approve the December minutes as written. Seconded by Joe. Kathy, Melanie & Frank in favor, Karl abstained because he was excused from December's meeting.

VOUCHERS

Karl made a motion to approve the voucher for secretarial work. Seconded by Vic. All in favor.

Kathy noted that there were no new applications.

DECISIONAL

09-16-14-01

Eli Melamud
15 Rifton Terrace

zoning interpretation
71.30-2-25.200

Applicants, Eli Melamud and Dale Schaeffer, and attorney Michael Moriello were present.

Motion

Kathy read the following resolutions:

RESOLVED, that pursuant to 6 NYCRR Section 617.5(c)(31) of the SEQR regulations, it is hereby determined that the action proposed in the subject application constitutes a Type II action as defined under said regulations and does not require an environmental review;

RESOLVED, that this case derives from the issuance by Timothy Keefe, Building Inspector of the Town of Esopus, of a letter, dated June 19, 2014, and delivered to the applicants stating in pertinent part: “It has come to our attention that your Special Use Permit for the rooming house located at 15 Rifton Terrace has not been renewed since 1974. A new application must be completed and submitted to the Planning Board for approval to bring 15 Rifton Terrace up to compliance. An application is enclosed. . . If this matter is not resolved, you may lose your status as an approved boarding house”;

RESOLVED, that applicants then brought this appeal seeking an interpretation determining whether applicants’ twelve (12) room rooming house is a lawful and continuing Non-conforming use under the Town of Esopus Zoning Law as presently operated and without annual discretionary permit review”;

RESOLVED, that pursuant to Sections 123-40A(1) and (2), 123-42 and 123-43 of the Town of Esopus Zoning Law (the “EZL”), the Town of Esopus Zoning Board of Appeals (the “ZBA”) hereby determines that: (i) the conditional use permit affecting the subject property is valid and enforceable and that the use of the subject property as a rooming house is a legal and conforming use under that conditional use permit subject to the right of the Planning Board to require the conditional use permit to be annually renewed provided that such renewal may be withheld only upon a determination by the Planning Board that the condition to annually renew it as prescribed by the Planning Board in conjunction with the original conditional use permits has not been, or is no longer being, complied with and provided, further, that the Planning Board has first duly notified the property owner and conducted a public hearing to that effect; (ii) the June 19, 2014 Letter of the Building Inspector, which we find in essence constitutes a notice and order of an alleged violation of the EZL for failing to submit an application for a renewal of the conditional use permit, is reversed to the extent that it is the obligation of the Planning Board, and not that of the Building Inspector or the applicants in this case, to provide due notice and a public hearing to the property owner for the limited purpose of determining whether the rooming house is in compliance with the conditions prescribed in the conditional use permit of which there is only the condition to annually renew upon due notice from and a public hearing before the Planning Board and because no such notice as been provided by the Planning Board the applicants are not currently in violation of any such requirement; and (iii) there is no requirement that the applicants submit an application for a new special use permit each year, other than the requirement to submit administrative forms for informational or scheduling purposes related to the renewal requirements set forth in the conditional use permit, if any, because a valid and enforceable conditional use permit has already been granted and is currently in full force and effect for the existing rooming house use.

RESOLVED, that the ZBA hereby adopts the within resolutions and incorporates into the within resolutions the attached interpretation and decision with respect to the provisions of the EZL applicable to the present case.

Motion seconded by Vic.

VOTE

Karl – In favor

Frank – In favor

Vic – In favor

Melanie – In favor

Kathy – In favor

Joe – In favor with the understanding that the Planning Board, when they follow proper procedure, can call him (applicant) before them.

Motion to accept these resolutions carried.

Kathy stated that a copy of the Interpretation And Decision with supporting documentation will be available as soon as it is filed with the Town Clerk.

Mike Moriello thanked the Board for its time.

There was no other business.

Vic made a motion to adjourn, seconded by Karl. All in favor.

Meeting adjourned at 7:25 pm.

Respectfully submitted,

Joan Boris, Secretary
Zoning Board of Appeals