

ESOPUS ZONING BOARD OF APPEALS

Date: November 21, 2023
Town Hall, 284 Broadway
Port Ewen, New York 12466

PRESENT: Donn Avallone
Guy Brought
Jim Tomassetti
Katie Zahedi

EXCUSED: Karl Wick, Michael Pittner and Gloria VanVliet

ALSO PRESENT: Town Board Liaison Kathy Quick and CEO Mark Jaffee

Acting Chairman Jim Tomassetti called the meeting to order with the Pledge of Allegiance at 7:09 p.m.

Acting Chairman Jim Tomassetti Motioned to approve the Minutes of August 15, 2023.

The Motion was seconded by Member Avallone and all Members presented voting in the affirmative, the Motion passed 4-0.

INFORMATIONAL:

10-30-23-01 Derick & Lorine Karabec
Appeal of CEO's September 5, 2023 Determination

Present on the Appeal were Derick and Lorine Karabec and Kenneth Stenger, Esq. Acting Chairman Tomassetti stated the normal process was to have an informational session, followed by a public hearing and then a decisional meeting. Chairman Tomassetti stated the informational session was to gather information presented in support of the Appeal. Attorney Stenger stated the appeal was part of a process and in this particular case, there was a definition of "summer cottage colony" and a question of statutory construction - what does the statute mean and in this instance, the CEO had read the definition and determined, in his opinion, that it didn't prevent the use of a proposed campsite on a year-round bases.

Acting Chairman Tomassetti remarked the current application was not for a campsite. Attorney Stenger responded that it was originally proposed as a campsite but the application had been withdrawn, the density had been reduced and it was resubmitted under the definition of a "summer cottage colony." Attorney Stenger stated there were two questions: 1) What is the meaning of "summer" in the definition and 2) provision allowing 8-month maximum occupancy and was the definition in charge of the regulation or was the regulation in charge of the definition. He argued that if the definition was in charge of the regulation and meaning was given to the word "summer," then the 8-month regulation couldn't work. If the 8-month regulation allowed occupancy for eight months, then meaning is given to "summer" in the

definition and the regulation controls over the definition. Mr. Stenger asked what the Code meant. Attorney Stenger closed by asking if meaning was going to be given to “summer” in the definition and if not, the second question did not need to be addressed. If so, the question as to whether the regulation (which prevents 8-month occupancy) controls the definition or does the definition control the regulation and he stated that an attorney could provide guidance in the rules of construction. Attorney Stenger stated that case law would be provided on the date the public hearing would be taking place.

CEO Jaffee stated that the ZBA is a quasi-judicial board which has the ability to make decisions. He stated there is no argument about the definition which is clearly defined in the Code. The regulations and amount of time that would be allowed for the occupancy of cottages was reviewed by the Planning Board. CEO Jaffee’s determination came from the Code which was very clear. He added that the review before the Planning Board should go forward since the appeal did not stop the project. The appeal questioned how long the project could operate.

Attorney Stenger asked that an opinion not be made and argument from all sides should be made at the Public Hearing. Acting Chairman Tomassetti stated the ZBA now had good information which was helpful. The definition in the Code was the question before the ZBA and there wasn’t much more discussion to be had. Attorney Stenger asked for the date of the Public Hearing (December 19, 2023) and the submission date (December 5, 2023). Acting Chairman motioned to close the informational portion of the meeting. All present voted in favor.

PUBLIC HEARING:

None

INFORMATIONAL:

None

Other Business: None

Upon Motion of Acting Chairman Tomassetti, seconded by Member Zahedi, the meeting was adjourned at 7:27 p.m.

Respectfully submitted,

Lisa K. Mance, Administrative Assistant

Submitted on December 11, 2023

Approved: December 19, 2023