



TOWN OF WOODBURY
Zoning Board of Appeals
281 Main Street South
Woodbury, CT 06798
203.263.3467 ▪ www.woodburyct.org

MEETING MINUTES
October 17, 2022
Shove Building, 281 Main Street South

MEMBERS PRESENT

Joe Donato
Adam Goldberg
Mike Novak
Robert Ratzenberger
Claudette Volage

ALTERNATES PRESENT

Jane Donn

ALTERNATES ABSENT

Vincent Farisello

ALSO PRESENT: Jason Frase and Attorney Kaelin

OPENING OF MEETING

- Call to Order –Chairman Novak called the meeting to order at 7:30 p.m.
- Seating of Members / Alternates – Seated for the meeting were regular members Donato, Goldberg, Novak, Ratzenberger, and Volage

The Chairman reminded members of the Conflict-of-Interest Statues. No one expressed a conflict.

NEW BUSINESS

22-ZBA-2204 – Stone Pit Road / Map 038, Lot 030B-1 / OS-100 District / Stone Pit Hollow Land Company – Application – Appeal of a Zoning Enforcement Decision – Jason J. Frase

Jason Frase was present for the discussion. Chairman Novak noted that they are in receipt of an opinion letter from Town Counsel that basically states the Board does not have jurisdiction over the appeal given the timeframes associated with it. Mr. Frase questioned why the Board couldn't respond to a Zoning decision. Attorney Kaelin noted that prior to the meeting Mr. Frase questioned if he should have an attorney present giving Mr. Frase the opportunity to postpone the matter until such time as he could have his attorney present for the discussion which Mr. Frase declined. Attorney Kaelin noted he was asked to review the matter. It appears Mr. Frase is appealing statements by Town Planner Agresta made on the online permitting system back in the Spring. The statute states an appeal of a decision of a Zoning Enforcement Officer has to be taken within 30 days, and if it is not taken within 30 days, the Zoning Board of Appeals does not have the jurisdiction to hear it.

Mr. Frase stated the permit request was initiated in April, however, there was a "litany of reasons" he couldn't move forward so it was later than April. Understanding that if it is still outside the statutory

timeframe, he could resubmit and come back. He questioned the Town Planner's interpretation of the Zoning Regulations. Chairman Novak stated the Board has to work with what has been given to them and summarized that the application was initiated in April along with the comments associated with that application and it is now October, well beyond the deadline.

Mr. Frase tried to explain that there was no application, he was told he couldn't use his land for anything. Member Donato questioned what the applicant wanted to do with his land. Originally, he wanted to place cabins on these properties and felt the Board had the wrong application. Mr. Frase indicated that the decision that was rendered was not for that application, what he asked for in April was not what was denied later on based on an administrative ruling by the Town Planner. It was asked what Mr. Frase wanted to do. He wants to have an orchard and requires a small building in order to house the mechanicals to irrigate the property. The Town doesn't maintain the road and he needs a way to access the property. Mr. Frase said he needs to store trucks and equipment. Foresters made recommendations and he needs equipment to do these things. Member Donato questioned why he was denied putting up a structure on 96 acres. Mr. Frase said that a shed or garage cannot be erected without having a primary residence. Mr. Frase explained that the regulations allow such a structure for farming or land management, however, understood it that the Town Planner would require a land management plan.

Member Goldberg tried to get clarification on the issue. An application was taken out in April, but a separate application was not submitted for what he was looking to do because he was told he could not do it. It was noted that since there was only one application and they could not act on that because it is outdated, the point of this is moot. Mr. Frase would need to reapply to move forward.

It was questioned who interprets the Zoning Regulations, if the regulations don't specify that you need a land management plan and you are told you need one, what is he to do? Chairman Novak indicated that if further interpretation is needed, they can reach out to Town Counsel for advise on those things. The Board has clear guidelines when it comes to timeframe and the application is in the April/May timeframe well beyond their ability to do anything about it at this point.

Mr. Frase asked if there was another way to go about this, he has 96 acres and wants to put up a building to manage his land. Mr. Frase said the Town Planner said he has to submit additional information and he disagrees with the Planner. Does he just apply and get denied and circle back? Chairman Novak indicated if he submitted something which gets denied and appeals it within the timeframe required, he and the Board would engage Counsel to work through it. Mr. Frase questioned if the Town Planner has the sole discretion to make those decisions even when something is clearly not in the Zoning Regulations. Does the Planner have the authority to condition a regulation and put requirements on it? It was explained by the Board that the ZEO has certain discretion in making determinations of interpretation, and those can be appealed to the Board, which is why such check and balances exist. The ZEO is allowed to make interpretations. If that is erroneous, that is what the appeal process is designed to do.

The Board clarified that the current appointed ZEO is Anne Firlings and at the time involved here the Town Planner was acting ZEO. Mr. Frase questioned Attorney Kaelin if he would be allowed to apply to the Land Use Office as he has been instructed to communicate through the attorneys. Attorney Kaelin explained the application submitted is incomplete. There has been no decision by the ZEO. The application was started back in April, the Building and Zoning checks were initiated. The Zoning check required additional information be submitted this was communicated in comments by Mr. Agresta on

the permitting system. This initiated further emails back and forth between the Planner and Mr. Frase. There is a pending application, it hasn't been withdrawn. It is unclear if there is anything prohibiting Mr. Frase to start a new application. Mr. Frase indicated he is banned from using the Land Use Office and questioned how he could apply. There was discussion about requirements of using an attorney for proceeding with applications.

Attorney Kaelin reiterated that it is clear that the 30-day timeframe has passed for any action of the Board and that is what is before them. Chairman Novak sympathized with the applicant and noted that they are simply out of their jurisdiction. The check and balance is there as a right to undertake an appeal before the Board to understand and review the decisions of the ZEO as long as that is within 30 days.

MOTION:

To deny taking up this appeal based upon a lack of jurisdiction associated with the timeframes mentioned in Town Counsel's letter.

Moved by **GOLDBERG**, Seconded by **RATZENBERGER**

Vote: 5-0-0 – **Approved** – Motion Passed

Ayes	Donato, Goldberg, Novak, Ratzenberger, Volage
Nays	None
Abstain	None

OTHER BUSINESS / CORRESPONDENCE

Correspondence included an email chain from September 16, 2022, and September 18, 2022 regarding Saturday operations that took place at O&G's Stiles Road Quarry.

CONSIDERATION OF MINUTES - Meeting Minutes – 8/15/22

MOTION: To accept the minutes (*of the August 15, 2022, meeting*) as submitted.

Moved by **GOLDBERG**, Seconded by **VOLAGE**

Vote: 5-0-0 - **Approved** – Motion Passed

Ayes	Donato, Goldberg, Novak, Ratzenberger, Volage
Nays	None
Abstain	None

ADJOURNMENT

MOTION: To adjourn the meeting at 7:56 p.m.

Moved by **RATZENBERGER** with no objections.

FILED SUBJECT TO APPROVAL

Respectfully Submitted,
Anne Firlings
Anne Firlings, ZBA Clerk

RECEIVED & FILED
IN WOODSTOCK, VT
This 20th day of Oct 2022
at 8:05 o'clock P.M.
Maria Mancini
Town Clerk