

TOWN OF BENNINGTON
ZONING BOARD OF ADJUSTMENT
Minutes of the Meeting- June 11, 2009

Present: Judy Heddy, Chairperson
John Tyler, Vice Chairperson
Steve Osienski
Barbara Moorehead
Barry White, Alternate
Chris Clough, Alternate

Guest: Peter Hopkins, Code Enforcement Officer
Attorney Robert Best
Stephen Stockwell
Ryan Kulbacki
Jane Handy
Sharon Hubbard
Paul Day
Rick Edmunds

Chairperson Heddy called the meeting to order at 6:42 p.m. Barry White recused himself from the Stockwell hearing. Chris Clough was appointed as a voting member of the Zoning Board of Adjustment.

The minutes of the May 21, 2009 meeting were reviewed and accepted with the following change: Page 1, paragraph 6, sentence 1, after the words “three units” add in end quotes. (Barbara Moorehead, John Tyler, Chris Clough, and Judy Heddy)

The minutes of the June 4, 2009 meeting were reviewed and accepted with the following change: Page 1, paragraph 2, sentence 2, after the word “received” add “from”. (John Tyler, Chris Clough, Steve Osienski, Barbara Moorehead, and Barry White)

The Notice of Decision for the Rex Gray hearing on June 4, 2009 was reviewed. Case # 2009-02 was added to the notice. The notice was accepted as written and signed by John Tyler.

The Stockwell Public Hearing was called to order at 7:15 p.m.

Chairperson Heddy opened the hearing reminding Board members and all in attendance that the Board was meeting to finalize the Zoning Board of Adjustment’s decision regarding the issue in the appeal from an administrative decision, which was the denial to relocate the manufactured housing unit #103.

On June 1, 2009, the Board met with Attorney Surge regarding the questions raised at the hearing on May 21, 2009. Attorney Surge clarified for the Board that they are allowed to accept information on the other issues, which are not in the appeal. However, the Board is only allowed

to make a decision regarding the administrative appeal that is in front of them. Some of the issues raised are outside of the jurisdiction of the Zoning Board of Adjustment. Issues regarding sewer, septic, and environmental issues should be heard by the Planning Board. In reference to units being abandoned, unoccupancy cannot be the only determining factor that the Board takes into consideration. Other factors that need to be examined are if there is a lease for the unit and if the unit is being worked on. The Board noted that Units 101 and 107 have been worked on and therefore should be considered as in continued use.

Town Council has advised the Board that a written notice of decision will be necessary. However, the Board does not need to write up a finding of facts as the Board had moved in their May 21, 2009 hearing to approve the replacing and allowing Mr. Stockwell to place the new unit 103 outside of the fall zone of the tree.

The Board discussed a possible time frame that took into consideration the planning and preparation required to be able to apply for a building permit. Attorney Best asked if the permit would be valid for one year. Code Enforcement Officer Hopkins explained that the building permit would be valid for six months, but that the Board was looking at the length of time to allow Mr. Stockwell to prepare and apply for a building permit.

The Board discussed and set the following conditions to the administrative appeal for Unit 103:

1. 90 days in which to apply for a building permit.
2. The new site will meet all building codes and applicable zoning ordinances.
3. The Certificate of Occupancy will not be issued for the new unit until the old trailer and construction debris has been removed from the property.
4. The porch area will be removed from the property.
5. The new unit can be moved no more than 125 feet from the original site, unless the tree can be proved to be taller.

Steve Osienski made a motion to accept the conditions for Unit 103, all were in favor. (Steve Osienski, John Tyler, Barbara Moorehead, Judy Heddy, Chris Clough). Mr. Stockwell has permission from the Board to start the work to prepare for applying for a building permit. Mr. Stockwell was informed that his 90 days starts tomorrow, June 12, 2009. The Board will meet on Thursday June 18, 2009 at 6:30 p.m. to approve the written notice, which will include the conditions.

The hearing was closed at 7:47 p.m.

There being no other business, the meeting was adjourned at 7:49 p.m.

Respectfully Submitted by,

Karen Bartlett
Zoning Board of Adjustment Recording Secretary