

**TOWN OF NEVERSINK
ZONING BOARD OF APPEALS
P.O. Box 307 - 273 Main Street
Grahamsville, NY 12740
(845) 985-2262 fax (845) 985-7686**

REGULAR MEETING MINUTES

JANUARY 19, 2016

Chairman Brent Gotsch was absent so Mike Dean the acting Chairman called the regularly scheduled meeting of the Town of Neversink Zoning Board of Appeals to order at 7:33 PM with the Pledge of Allegiance.

A motion to approve the minutes of the previous meeting was made by Jim Wells, seconded by Forest Darder and carried with all in favor.

APPLICATIONS:

35.-1-18- Primax Properties, LLC - Area Variance – Commercial Retail Store to be potentially located at 7401 State Route 55, Neversink Zach Peters from Mercurio, Norton, Tarolli & Marshall was present as representative for Primax Properties. They are here to ask for an area variance in relation to the number of parking spots that zoning requires. His client would like to reduce the number of parking spaces to 34. Our zoning requires 44 1/2. Mike Dean, acting Chairman mentioned the issue that of the property is located within two zones. One zone allows commercial operations and the other is residential. Zach addressed the fact that the storm water basins, septic, and part of the parking area would be located in the RS zone. He feels from their review of the code that those items are incidental and not the primary use and allowed in all zones. Their interpretation was that since they are all incidental uses. Mike brought the conversation back to the reason that they were here for which was the parking spots. Keith felt that a use variance should have come first not the parking variance. After a long conversation Ken mentioned how he had a hard time with the letter provided by MNTM justifying the use and parking. He would have liked to see some legal authority to back up the rationale. The prior business that was a Daycare is a permitted use in both zones. The parking variance would not constitute a ruling on the actual changing the zoning of the property. The question was raised as to whether or not to grant a variance for the parking. After a discussion it was determined that the zoning issue was raised after Primax had come to the Planning Board to pitch the idea regarding a Dollar General. Ken said that the records need to reflect that the purpose of the meeting was for a variance limited to the number of parking spaces. No determination of placement in the existing zone is permissible. It was the general consensus of the board that they did not feel comfortable granting a parking variance before the use variance was approached. Mike asked if there was a way that they could not vote at this time until the zoning issue is addressed. Ken said since the public hearing was already closed the 62 day time clock that the ZBA has to act on a decision doesn't start until the next meeting. So if the applicant agrees than the decision could be made at that point. Zach agrees that since they are two separate issues and

**TOWN OF NEVERSINK
ZONING BOARD OF APPEALS
P.O. Box 307 - 273 Main Street
Grahamsville, NY 12740
(845) 985-2262 fax (845) 985-7686**

they have to be addressed at some point it would be ok with them to wait as well. A motion to

table the decision based on the mutual agreement of the ZBA and the applicant agree that either the ZBA or the applicant starts the 62 day time frame was made by Forest Darder, seconded by Jim Wells and passed with all in favor.

OTHER: NONE

CORRESPONDENCE: NONE

There being no further business before the Board, a motion to close at 7:55 PM was made by Bill Gaudette, seconded by Larry Bracken, put to a vote and carried with all in favor.

Respectfully submitted: Geri Gorton, Clerk
(B137)

Members present:

William Gaudette
Jim Wells
Mike Dean (acting Chairman)
Larry Bracken
Forest Darder

Also present:

Ken Klein, Esq.
Keith Stryker, CEO
Jim Stangle, Planning Board Chairman

NEXT MEETING: FEBRUARY 16, 2016 at 7:30 PM.