

MINUTES  
TOWN OF GHENT  
ZONING BOARD OF APPEALS  
August 12, 2020

Chairman Streeter opened the virtual meeting at 7:00 pm. Present: Fern Fleckman, Jack Fenn, James Andrews and Beth Lenahan. Attorney Mitch Khosrova and Code Enforcement Officer Chris Keefe. Applicant Stephanie Hanaman, Kirk Kneller and Allen Halstead.

Minutes of the July meeting were tabled.

**Public Hearing:**

**75.4-1-50 Allen Halstead** requests an area variance to expand a non-conforming use. Chairman Streeter explains how the Public Hearing will be conducted. Mr. Halstead states they want to replace a single-wide mobile home with a double-wide which is 55'x26.8'.

Motion to open the Public Hearing is made by Chairman Streeter, seconded by Jack Fenn, all in favor, motion carried.

Chairman Streeter states the existing home is 980 sq ft and the new one will be 1,470 sq ft and in accordance with 190-58 G (2) (a) the Board is allowed to approve an expansion up to 50% and this application meets that requirement. He asks if there are any comments from the public. No one from the public responds.

Motion to close the Public Hearing is made by Jack Fenn, seconded by Chairman Streeter, all in favor, motion carried.

FINDINGS OF FACT

James Andrews: Undesirable change to the neighborhood – none. Can it be achieved differently? – No. Is the Area Variance substantial? – No, it is exactly what the Code allows. Any adverse impact? – No. Is it Self-created? – No.

Motion to approve an Area Variance to expand a non-conforming use was made by Jack Fenn, seconded by Beth Lenahan. All in favor.

**New Business:**

**82.-1-68 Pin Oak LLC** requests an Area Variance for a 45ft variance to the south, a 120ft variance to the west and a 3 acre variance in property size. Mr. Keefe states a special event venue needs a minimum of 30 acres and they have 27 acres and a 500 foot set-back which isn't met on the South or West property lines. Chairman Streeter confirms the set-back from the south is 455' and from the west is 380'. Mr. Khosrova states that the deed says 26 acres and asks if Carl Matuzek, the Land Surveyor and Kirk Kneller, the Applicant can confirm the lot size. They confirm the size since the new survey shows 27 acres. Mr. Kneller states that he also owns the 20 acre parcel across the street (Route 9H), which was one parcel and was separated at some point due to the roadway.

Chairman Streeter asks for the details of the application, Mr. Kneller states this parcel was used for pasture, he then built a storage barn and then thought as an accessory to the farm they could host events, for example farm weddings. Since there is no commercial kitchen it is just a barn for those who enjoy a simple barn wedding. Chairman Streeter confirms they are looking for 12 events per year and asks if they have been before the Planning Board yet, Mr. Kneller states he was told to start with the Zoning Board first. Chairman Streeter asks if they have done a noise study, similar to the previous applicant for an event venue, and Mr. Khosrova states the Planning Board had requested a noise study from that applicant. Chairman Streeter asks if the Zoning Board can recommend conditions to the Planning Board, Mr. Khosrova states they can make recommendations and this Board can ask for more information from Pin Oak as well.

Chairman Streeter asks what lies to the west of the property, Mr. Kneller states there are two private residences and it is well over 500' from the venue to them along with a hill and wooded terrain. Mr. Khosrova asks if they can update the survey to show the houses, Chairman Streeter suggests a google map view would be helpful. Mr. Keefe shares his screen of the GIS Mapper and shows it is 750+ feet and 533 feet to each residence, Mr. Kneller states he will add that to the application.

Mr. Fenn states he would like to see the sound mitigation and the use of amplified music added to the application, Ms. Fleckman states outside music should be included as well. Ms. Lenahan asks if they can also add their standard operating procedure to the application, Mr. Kneller states they will have staff on-site during an event. Mr. Khosrova states that SEQRA needs to evaluate all potential impacts. Chairman Streeter asks if they can send a copy of their contract to add to the application. Mr. Khosrova suggests the Board do a site visit, Mr. Kneller states a site visit can be arranged through his daughter Lauren. Mr. Khosrova states examples of sound mitigation are thickness of doors, curtains and terrain.

Chairman Streeter states he would like to wait until the next meeting to deem the application complete with the information requested, Mr. Khosrova states the deadline for the new information is August 31<sup>st</sup>.

### **Old Business:**

**93.-1-94 Stephanie Hanaman** requests an appeal of the decision of Code Enforcement of a race track, specifically an appeal of the Cease and Desist Order dated May 22, 2020. Chairman Streeter states the Public Hearing was kept open from last month. Mr. Khosrova states he was asked about the Board's decision in 2015 and that the Board does not have to follow a previous decision. Ms. Hanaman states that she does not have a racetrack, it is just a path that has been ridden down to dirt and there isn't a start or finish line.

Chairman Streeter asks if there are any further comments from the public. Mr. Machiz states a video had been submitted and hopefully the Board was able to view and hear it as well as review the definition of a racetrack. Ms. First reads a letter she had submitted to the Board and adds that the activity this year has tripled. Mr. Machiz adds the paths in the woods are used by motorized vehicles not just bikes as previously stated, Ms. Hanaman clarifies the trails in the woods.

Chairman Streeter asks how the tracks were made and if heavy equipment was used, Ms. Hanaman explains where a neighbor had used equipment on part of the tracks. Mr. Fenn asks about the second track in the woods he was not aware of on the site visit, Ms. Kindler explains the one is used as a learning track for small children she hears being coached. Ms. Hanaman states it is just the parents

directing the children in the right direction that are friends she had invited over for something to do due to the COVID 19 pandemic. Chairman Streeter asks whose children are there, Ms. Hanaman states they are her friends and their kids and her partner is a professional racer but they do not charge fees to use the track. Karina Kindler states on April 5<sup>th</sup> she went there due to the noise and Ms. Hanaman's partner stated this was how he makes his living. Mr. Khosrova asks again if anyone has ever charged anyone ever for the use of their track, Ms. Hanaman states no one. Mr. Khosrova asks if equipment was ever used year by year aside from tires to make the tracks, Ms. Hanaman states in 2015 bulldozers were used.

Chairman Streeter asks if the public might be okay with immediate family using the track in hopes to come to an agreement, Ms. First states she doesn't feel it would be adhered to and it has become disruptive and does not belong in this type of neighborhood. Chairman Streeter notes a letter was received from Bruce Alpart stating the track has an adverse effect on the neighborhood. Mr. Machiz asks how neighbors get to the property without riding the recreational vehicles on the road, Ms. Hanaman explains and that one neighbor comes through the Gardina property, Chairman Streeter states the Gardina's stated they don't give that permission for people to ride on their property. Ms. Hanaman asks if this is deemed a racetrack is she then not allowed to ride on her own property, Mr. Khosrova explains the Town is not trying to stop owners from riding on their own properties, it is the level of use and noise, the four tracks and non-residents of the property.

Motion to close the Public Hearing is made by Fern Fleckman, seconded by Jack Fenn, all in favor, motion carried.

Ms. Fleckman states she feels the cease and desist should remain and that this meets the definition of a racetrack. Mr. Fenn states he feels the scope of the operation dominates the property and is a type of use that would require Planning Board permission due to the level of activity but that it does not meet the definition of a racetrack. Mr. Khosrova adds that if it is deemed it is not an accessory use the cease and desist stays and they could go to the Planning Board with a scaled down version. Mr. Andrews states he does not feel it is a racetrack by definition although the level of activity makes this not an incidental use and that the cease and desist should remain until something can be worked out. Ms. Lenahan states she feels it is not a racetrack by definition but due to the level of activity the cease and desist should remain. Chairman Streeter agrees that it is not a racetrack by definition but cease and desist should remain due to the level of activity and that everyone has a right to enjoy their properties and the level of use has made it unenjoyable for others.

Ms. Fleckman reads a loud the minutes from 2015. Mr. Khosrova states a motion is needed that the cease and desist stand and after that the applicant can speak to Mr. Keefe about Planning Board approval. Chairman Streeter begins with the cease and desist should stand due to the intensity of use of the track not that it is a racetrack, Mr. Fenn adds the recognition that there are four tracks there as well. Mr. Khosrova adds that the Board hopes the adversaries can come to an agreement and that the Board is split as to whether it meets the definition of a racetrack.

A motion was made by Chairman Streeter as follows:

The ZBA members are not in agreement on whether the area used by the Applicant to ride dirt bikes, four-wheelers, and bicycles should be considered a racetrack and therefore this issue was not decided upon.

The ZBA members unanimously hope that the parties will come to a mutual understanding of the frequency and intensity of use of dirt bikes and four-wheelers by the applicant, such that all parties can enjoy the use of their own properties.

The ZBA members unanimously voted that the May 22, 2020 Cease and Desist Order should remain in place based on the level and intensity of use due to the frequency and duration, that was occurring at the time the Order was served and therefore this use cannot be considered an "accessory use" under the Code.

Mr. Khosrova states the Board can make a separate recommendation to the Town Board, because that Board enacts the code, on the definition of a racetrack due to the fact it could be deemed insufficient. Mallory Mort and Patti Matteny state they are in attendance. Chairman Streeter states that the Zoning Board should have further discussion on what it may want the Town Board to consider regarding racetracks and states this can be discussed at the next meeting.

Meeting adjourned at 9:32 pm.

Respectfully submitted

Erin Reis  
Recording Secretary