

MINUTES
TOWN OF GHENT
ZONING BOARD OF APPEALS
July 8, 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 via Zoom.com. Applicant Stephanie Hanaman and Allen Halstead.

Minutes of the June 10 meeting were approved as amended on a motion by Chairman Streeter, seconded by James Andrews. All in favor.

New Business:

75.4-1-50 Allen Halstead requests an area variance to expand a non-conforming use. Mr. Khosrova asks Code Enforcement Officer Keefe if this is currently conforming or non-conforming, Mr. Keefe states it is non-conforming. Mr. Halstead explains his reason for going from a single-wide to a double-wide manufactured home. Mr. Andrews states if you go to googleearth.com you can see the structures on the property. Mr. Khosrova states the current structure is 14'x70' and the code states a pre-existing Mobile Home can be replaced by another one but cannot be larger, Mr. Keefe states that is the reason for the variance. Chairman Streeter states 190 58(G)(2)(a) of the Town Code says the Board can grant an enlargement up to 50%. Mr. Andrews states the Board needs to have a sketch of the existing building and the proposed new building. Chairman Streeter asks if the setbacks are met, Mr. Keefe states they are. Chairman Streeter explains the five criteria to the Applicant.

Motion to determine the application as complete and schedule the Public Hearing for August 12th, 2020 is made by James Andrews, seconded by Jack Fenn, all in favor, motion carried.

Public Hearing:

93.-1-94 Stephanie Hanaman requests an appeal of the decision of Code Enforcement of a racetrack, specifically an appeal of the Cease and Desist Order dated May 22, 2020. Chairman Streeter explains the Cease and Desist order and the use of the property for review. Mr. Khosrova adds that the Board needs to determine if it is an accessory use or a subordinate use not if it is a racetrack and if it is not an accessory use than it is not allowed without site plan review by the Planning Board. Mr. Andrews states the minutes from 2015 state the application should have gone to the Town Board, but it doesn't appear that that had happened. Mr. Khosrova adds that if Site Plan was required it would have gone to the Planning Board which also did not happen. Chairman Streeter states the code has a definition for Accessory Uses and Mr. Khosrova reads it aloud. Mr. Andrews states the description of the track from 2015 no longer exists and it is just a dirt track now, Ms. Fleckman adds it is a "track" whether you call it a "racetrack" or not.

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

Ms. Hanaman states the dirt area is where they ride their dirt bikes and they do not charge people nor is it used during crazy hours and they try to keep to 20-minute intervals and never late at night. Chairman Streeter states the jumps have been removed but hay and tires were added for safety purposes and asks

the Board if they have any further comments, no response. Chairman Streeter asks if there is anyone from the Public. Public Member Bruce Alpart states he suffers from migraines and the noise from the bikes raises his level of pain and he feels that this is a safety issue with ArchBridge Road being a dirt road. Public Member Hela Kindler states she has owned her property for 60 years and her peace and quiet has been disturbed increasingly since March and the use is not appropriate for a residential neighborhood.

Mr. Khosrova states he spoke with Larry Machiz weeks ago about representing the neighbors and a possible conflict of interest as he is a member of the Planning Board and it was determined it would not be a conflict of interest. Mr. Machiz states if the Applicant has to come before the Planning Board for this he will recuse himself at that point. Mr. Machiz then shares his screen and explains each slide as well as a letter and video from Stephanie First a neighbor. The Members of the Zoning Board state they could barely hear any sound from the video. In light of the problem of audibility over zoom, Mr. Machiz offered to forward the video to the ZBA members for review. Mr. Machiz then shares on the screen the Affidavit from the Kindlers and Mr. Kindler stated that the use of the racetrack has increased substantially since March, a letter from the Forsynth and Zucker's, a letter from the Gardina's, a letter from Morale's and Gigante's and the legal aspects from the Town Code. Mr. Khosrova asks Mr. Machiz to send all this information to Code Enforcement, who will distribute the materials to the ZBA members.

Chairman Streeter states he would like to keep the Public Hearing open until August to review the new materials submitted and the Board agrees. Ms. Kindler adds that she endorses Mr. Machiz's comments. Ms. First states this is not a personal attack, it's just not enjoyable to live here any longer with the daily interruptions. Ms. Zan adds that in 2015 the law was different, it wasn't deemed a racetrack because it wasn't commercial now the law states racetracks are prohibited. Mr. Khosrova reads aloud the definition of a racetrack.

Mr. Fenn states he did a site visit and saw three different tracks and was told one of the tracks is strictly for mountain bikes, not motorized vehicles and asked if it was a business. Ms. Hanaman states her partner is a professional rider, but they do not charge anyone. Chairman Streeter asks if they use the public roads at all, Ms. Hanaman states it is not from her house that uses the roads.

Motion to continue the Public Hearing until August 12th was made by Jack Fenn, seconded by Beth Lenahan, all in favor, motion carried.

Old Business:

92.-2-49 Liberty Farms requests an Area Variance for a 1,200 ft variance for a wedding event venue. Mr. Khosrova states the name on the application has been modified to match the deed. Chairman Streeter explains the variance from 1,500 ft required to a 1,200 ft variance that is needed for 27 events per year and the Planning Board has done SEQRA review. Mr. Fenn states the applicant has acted in good faith, Chairman Streeter states he is concerned about setting a precedent. Mr. Khosrova states the Board needs to determine factors that contribute to the decision. Ms. Fleckman expressed concern that no abutting owners came to the meeting and raised the question of how they were notified of the meeting. While letters were "mailed to them", there was no way to confirm that they were received (ie return receipt), particularly during this time when services are sometimes disrupted. She further noted that while letters of attestation of the value of the business for the community were submitted, there were no letters from neighboring property owners. Chairman Streeter states if the neighbors were concerned they usually show up for a Public Hearing.

Chairman Streeter suggests a condition the three inch doors stay in place. Mr. Cheffo states they have no intent to change anything. Chairman Streeter adds the noise mitigation measures need to stay in place as to not exceed the decibels, Mr. Khosrova suggests incorporating the noise study that was done into the motion.

FINDINGS OF FACT

Chairman Streeter: Undesirable change to the neighborhood – none confirmed by 3-4 years in use. Can it be achieved differently? – Not possible due to the building existing prior to the applicant ownership. Is the Area Variance substantial? – Yes, but 3-4 years of hosting events without complaints, is evidence that a variance will not create more issues. Any adverse impact? – No. Is it Self-created? – Not entirely by the amount of time the applicants put in with working with the Town. Ms. Lenahan adds that the three-inch doors remain.

James Andrews asks what the exact footage is from the property line, Mr. Prendergast states 300ft. Chairman Streeter asks if that can be sent to Code Enforcement as well as the Noise mitigation measures remain equal to or better than what is existing. Mr. Khosrova adds that the three-inch doors also remain closed during events and, Chairman Streeter adds the curtains remain closed as well. He also states that the wooded terrain to the west should remain as is, and current SOPs used by applicant must be substantially adhered to if a complaint is received a new noise study is to be done.

Motion to approve an Area Variance of a 1,200 foot variance from the required 1,500 foot setback was made by Jack Fenn, seconded by Fern Fleckman. All in favor.

Meeting adjourned at 9:42 pm.

Respectfully submitted

Erin Reis
Recording Secretary