

ZBA Meeting
January 19, 2009, 7:00pm
Village Municipal Center

Attendance: ZBA: Chairman Stephen Lynch, Members Edward Fish, Harry Haldt and George Macura; absent: Kenneth Taylor

Village Officials and Staff: Mayor Jay Niles, Trustee Dean Hyatt, Clerk-Treasurer Rick Roberts

Press: Matthew Rice, *The Granville Sentinel*

Others: Mr. Ronald and Mrs. Candace Combs

Chairman Lynch called the meeting to order at 7:00pm.

Ratify Meeting Minutes: Mr. Haldt moved acceptance of the minutes of the meeting of December 15th as circulated to the Board. Mr. Macura seconded the motion and it carried unanimously.

Training Reminder: Chairman Lynch reminded the Board that the annual Zoning and Planning Seminar conducted by the Saratoga County Planning Department will be held on January 28th. The Chairman stated that this session represents an excellent forum and encouraged members to participate if at all possible in order to allow them to meet the minimum training standards mandated by the State. Mr. Fish and Mr. Macura asked the ZBA Clerk to register them for the seminar. The Clerk advised that he would handle this in an expedient manner, and that all ZBA members save Mr. Taylor will now be registered to attend.

Continue Deliberations, Stop Work Order, Ronald & Candace Combs: Chairman Lynch asked the Board if they wished to continue deliberations concerning Mr. & Mrs. Combs' appeal of a Stop Work Order issued by the Code Enforcement Officer (CEO) in October. The Board unanimously agreed to proceed with deliberations. The Chairman stated that two distinct perspectives had been presented during the Public Hearing relating to this appeal—the applicant's position that no permits are required to draw in fill, and the Village Attorney's position that the reasonable man standard should be applied (the drawing in of fill is simply another step in the furtherance of an illegal subdivision).

The Chairman then questioned when, if ever, an individual property owner's rights change. Do they change when someone provides a stated plan to develop the property? When excavation is completed? When piping is installed for water/sewer service? The Chairman then referenced a series of passages from the Village Zoning Law pertaining to proper drainage/drainage improvements, Environmental Assessment Review, SEQR, and Major Subdivisions. A period of discussion ensued between the Chairman and Mr. Combs relating to the necessity of subdivision review for the proposed project, and the ZBA's previous determination that subdivision review was in order for the proposed

development. Chairman Lynch then inquired if the Board had any additional comments relating to the matter at hand.

Mr. Fish inquired if the CEO would generally advise the applicant as to what channels to go thru for a given project. The Chairman advised that this would be normal procedure, but that a builder/developer was also expected to have a general working knowledge of the laws and regulations that apply to their particular situation.

Mr. Haldt stated that he felt that the CEO was justified in issuing the Stop Work Order (SWO). Further, he feels that a building permit should be required before the initiation of any construction activity. Given that additional work has been ongoing/in process on the site (which had been ruled to be in violation of the Village Zoning Law as no subdivision approval had ever been obtained), the CEO was justified in reiterating that no building activity can be initiated or furthered without the issuance of the proper permits. In Mr. Haldt's view, there was no intent to harass the applicant here—this was just a case of the CEO trying to do his job and/or to maintain clear communication to the applicants.

Chairman Lynch then re-read the applicant's appeal letter into the record.

Mr. Macura stated that he felt that the location of the fill was a key point to him—given that the fill is to be contained to the front (south) of the property, it was not such a substantial concern. If the fill were to be accumulated in the rear (north) of the property, where construction had been prohibited, this would be a greater concern. Chairman Lynch disagreed with Mr. Macura's position in this matter. An extended period of discussion followed.

Following the period of discussion, Chairman Lynch stated that while the ZBA had previously ruled that the proposed development was subject to Subdivision Review per the Village Zoning Code, the key for him was that no property owner should lose their rights (in this case the right to accumulate earthen fill), just because a project had been declined. All property owners have rights, and while both sides of this argument do possess merit, an owner's property rights are something of great importance as a general rule. While the CEO's issuance of the SWO as a furtherance of the construction process does make sense, Mr. Combs' assertion of his rights absent a specific regulation or Law prohibiting this activity seem to carry greater weight.

Following a brief period of discussion, Mr. Haldt moved that the ZBA uphold the SWO issued by the CEO on October 10, 2008, with the exclusion of the phrase which prohibited "the accumulation of earthen material". Mr. Macura seconded the motion and it carried unanimously.

Chairman Lynch thanked Mr. & Mrs. Combs for their inquiry and advised that a written decision detailing the ZBA's determination would be issued within five business days.

Chairman Lynch inquired of the ZBA Clerk if there were any items of new or other business to consider. The Clerk advised that he was not aware of any other items to be considered.

The Chairman announced that the next scheduled meeting of the ZBA will be held on Monday, February 16, at 7:00pm here at the Village Municipal Center. If there is no business for the ZBA to consider, the Clerk will so advise the Chairman.

Mr. Haldt moved that the meeting be adjourned at 7:50pm. Mr. Fish seconded the motion and it carried unanimously.

Respectfully Submitted,

Richard H. Roberts
ZBA Clerk