

**TOWN OF LIBERTY  
ZONING BOARD MINUTES  
OCTOBER 18, 2011**

**MEMBERS PRESENT:**

Thomas Sprague  
George Pellam  
Don Nichols  
Peter Belgard  
Tracy Merklin  
Gene Burns, Alternate

**ABSENT:**

**ALSO PRESENT:**

Walter Garigliano, Town Attorney  
Mark Van Etten, CEO

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**CHAIRMAN THOMAS SPRAGUE CALLED THE MEETING TO ORDER AT 7:00 PM.**

**PUBLIC HEARING:**

**Vladimir Romaniv**  
Area Variance  
Station Hill Road  
SBL: 36.-1-108  
Zone: SC #Z-2011-0003

Twenty-three hearing notices were sent, 17 green cards received with three outstanding.

Chairman Sprague asked if there was anyone from the public who wished to speak.

Fritz Meyer appeared. My name is Fritz Meyer and my wife and I own the building next to the building you're discussing tonight and this building I suppose we should grateful that they do anything TAPE UNCLEAR. It's been abandoned since 1994 when we moved up and however long before that. The way I understand it the apartments are a non-conforming use now and they were before he bought it, this gentleman. I think your code says that you can't grant this variance because it has been a non-conforming use for so long and any hardship that goes to him is self created. That's how I read your code. That's really all I have to say.

Chairman Sprague asked for anyone else who would like to be heard.

Maurice Gerry: I was just hoping the owner was here to answer a couple of questions. I'm just at a loss as to what he wants to do. So I'm reserving any big opinion. I'd be happy to see anything improve that corner. I remember that building all my life and it was very beautiful. Of course I've been back from California since 1985 and it just gets worse and worse and worse. So I'm just here, to offer no strong opinion except that I just wanted to know what his plans were. What they were looking to do and if it was of course legal and the sewer and all that stuff.

Anne Hart: My name is Anne Hart and I own the property with him and I'd just also like to say that we're happy that anybody would want to develop that neighborhood in any way, but given the way the code reads and given what he wants to do with it, I don't know how you could do it. And also, we had a long time ago we had looked at that building and looked at what would be involved in trying to make it into anything and the fact that there is no septic system, we were told by Terry Kelly that you would have to dig up Station Hill Road and put the septic

across the street, that there's no parking. I mean if he wanted a use that was permitted; I still think the obstacles would be huge. But that's his issue. While we welcome any development in the neighborhood, I don't think you can do it, but you know the code better than we do.

Chairman Sprague: Is there was anyone else to be heard.

No one appeared.

Chairman Sprague: That being said, I'm going to close the public hearing.

**R.J. Baker**  
Code Interpretation/Area Variance  
36 Main Street  
SBL: 7.-8-7  
Zone: SC #Z2011-0004

Wes Illing appeared for this project. He explained that the applicant wants to rent the old hardware store in Parksville, which he owns to a client who will have artists come and rent the building to create short films and documentaries and advertisement, which is like right in sync with where we want to take everything.

He said the problem they are facing is the new code does not define what business and professional offices are. The old code did. And if they apply the old code definition to this use, this use qualifies and meets that definition. So since it is not defined he thought that if he came before the ZBA and got an interpretation of the code, he was assuming it would be "basically let's just apply the old rule, because that's what the Town previously defined that use as."

It was explained to him that only the Code Enforcement Officer can ask for an interpretation. It's been this Board's policy for 25 years and it's a very good policy. They can decide to not follow that policy should they wish to, but it's a very good policy. Because before this Board and a lot of other Boards had that policy, they'd end up with somebody asking a question of the Building Inspector and if they didn't like the answer, they'd go someplace else and ask the same question. Wes was told he should get together with Mark and discuss what would be needed to proceed with the project. If Mark says no, then the applicant can appeal the decision and the exact same issues will be before the Board.

Attorney Garigliano if they intend to have people sleep there. Wes said they did as it was an incidental use as part of their business in accordance with the State code that they're allowed to use up to 10 percent of the square footage for incidental uses.

It was determined that the building, even though existing, would need a variance because there is no current use in the building and it's been abandoned for more than 12 months. There is also the issue of the area variance, 5,000 or 12,000 feet.

Wes was told that if his client wants to move ahead on the area variance the Board can go through and see that he has made a prime facie case and move ahead. He would need to submit an application with a sketch plan to Mark for a Building Permit. Mark would probably deny it and Wes could have it before the ZBA on appeal for an area variance

Wes said he may have to lop off a portion of the building off the backyard that's not in the best shape structurally because the DOH may want a cut back in size because of requirements for the leach field area the will need for a possible flow of 2,000 gallons a day even though it would be intermittent.

A public hearing will be held next month. Once the file is complete, it will be submitted to Sullivan County under 239 and Wes Illing and his applicant will have lost no time.

**Russell Reeves**  
Use Variance  
33 Castle Hill Road  
SBL: 13.-1-33.5  
Zone: RD #Z-2011-0002

Attorney Garigliano brought a resolution for the Board members to review and possibly pass on the Reeves approval from the September meeting.

The Motion for Resolution was interrupted by Mark Van Etten. He said he didn't see anywhere where the result was the year built of the building in '86. Attorney Garigliano said he didn't think that it was this Board's issue. And that he left it out on purpose. I did see you had '86 and '90 as the years built. He also didn't think that this Board can impose a timeline, but Mark could write a ticket anytime he wanted if they're not progressing based upon the schedule he likes. He said he also thought this Board didn't have enforcement authority. It was determined that the years were 1986 and 1970 as stated in the minutes of the September, 2011 minutes.

**ON A MOTION BY DON NICHOLS, SECONDED BY GEORGE PELLAM THE RESOLUTION ON RUSSELL REEVES USE VARIANCE IS APPROVED. ROLL CALL VOTE. ALL IN FAVOR. APPROVED.**

**Vladimir Romaniv**  
Area Variance  
Station Hill Road  
SBL: 36.-1-108  
Zone: SC #Z-2011-0003

No one appeared for this project so the Town Attorney suggested the Secretary send a letter to the Applicant and the engineer asking the applicant and engineer to be here at the next meeting. It was also determined that the Board has 62 days to act on the variance once the public hearing is held and that the time can be extended by the applicant. Nancy will also in that letter include a request that he execute a copy of it and return it to the Board to extend the time of the Board to make a decision 62 days from when he shows up.

**Marlene Ross**  
Mobile Home Placement

This concerns a letter from the Supervisor received by the Board with regard to a mobile home Marlene Ross would like to have placed on her property for herself to live in until she either moves or passes on.

The Board discussed the similarity of this with a former variance granted to Bernice Smith for her property back in 1992. Both Nancy and Attorney Garigliano brought the Bernice Smith file to the meeting.

It was determined that the procedure for this is that the applicant needs to go through the same process that Bernice went through.

When the Bernice Smith variance was granted, it was granted it with the condition that when the Bernice Smith died the trailer would be removed. It came back in again in 2004 because there was another sick relative.

Attorney Garigliano said they have to ask for a variance and should the Board want to grant the variance, they might want to condition it upon, since we're helping out a family with a sick relative, that when the sick relative passes on, six months after that the structure has to be gone. That's the precedent from last time.

Nancy is to write a letter to the applicant to let them know an application must be made. Attorney Garigliano suggested that the Bernice Smith file be followed because she got a lot of help last time from folks that were in her corner and she did a nice application. She did a very good job.

Chairman Sprague asked if there was any other business that needed taking care of, then asked for a motion to adjourn.

**ON A MOTION BY GEORGE PELLAM, SECONDED BY DON NICHOLS, THE MEETING WAS ADJOURNED AT 7:40 P.M.**

Respectfully submitted,  
Nancy Saucier, Zoning Board Secretary

The foregoing represents unapproved minutes of the Town of Liberty's Zoning Board from a meeting held on October 18, 2011 are not to be construed as the final official minutes until so approved.

  X   Approved as read