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Town of Shandaken Zoning Board of Appeals

MINUTES FOR REGULAR MONTHLY MEETING

December 20, 2017

Public Hearing:

Opened with the pledge of allegiance at 7:45 PM. Motion was made by vice chair Reiss to open the public hearing for Jeff Collins, 27-29 Riseley rd., Mt. Tremper, seconded by Board Member Michaels. All in favor. Mr. Collins is applying for three (3) area variances; 25 ft. front, 20 ft. side, and a 154% increase in open space coverage. He's been operating as is for about 10 years. According to him, no variances or applications were requested from previous ZEOs or CEOs. Mr. Lee Delvecchio, resides at 5260 Route 28, off a private road from Riseley that's to the rear of Mr. Collins' property present in opposition of the requested variances. His attorney Phillip Wellner present also on his behalf. Mr. Wellner informed the Board that the parcel in question is part of an on-going lawsuit between the two owners that's currently pending in the Ulster County Supreme Court. Their argument is that the property is being used beyond the scope of any variances that have been granted to Mr. Collins. The original approval was for a use variance, granted in 2001 for a stone yard but was only for a small portion of the property. Since his expansion in 2010, Mr. Delvecchio has been subjected to noise pollution 6 days a week from vehicles and machines being used. The dust from all the stone movement and cutting is significant, settles everywhere causing him to not be able to open his windows or use his pool. He states that the neighborhood character has been severely changed with detriment to surrounding neighbors. Mr. Collins chose to start a business in a residential area, and by expanding the operation without proper permits he's created his own hardship. Mr. Delvecchio stated that the quality of life has been greatly diminished. He's been living in his house that he built by hand, full time since 2010 with all windows and doors shut so he doesn't have to listen to the noise and put up with the dust. On several occasions this year there was an acidy smell coming from the stone yard. His property value has gone down, as he's had a couple appraisers tell him straight out that he probably won't be able to sell or rent the property. He stated that Mr. Collins has been operating on holidays as of late. The original variance was quiet, only had a fork lift and he didn't hear or see it. Once there was a survey of the property next door done, there was a clear cut at the line of the stone yard. Over and acre of trees were removed, Mr. Delvecchio was notified of a green burn going on after authorities called him because his alarms were going off at his house. He's asking that Mr. Collins be held to the original variance by not approving this application that ratifies this huge expansion that he's done over the last decade.

The original variance had specifications for how much land he would use for stockpiling. There was never a specific square footage mentioned in the variance. It allowed him to run a small business in a residential area without disrupting his neighbors. Also states that native evergreen screening is required to disguise the use with something that would grow to 5/6 ft. in two years. There was no formal site plan submitted at the time the original application was before the Board. Declan Feehan was present in support of the stone yard. Stated that he's worked there since it opened, he's reached out to Mr. Delvecchio after

hearing of the issues, hoping to help but attorneys were already involved at that point. Stated that the stone yard's taken steps to remediate some of the issues; 500-1,000 gallons of water put down a day to decrease the amount of dust, back-up alarms have been taken out of the trucks, pay-loaders have been there since the beginning. Mr. Collins stated that he doesn't know where the dust is coming from, he doesn't sell dust. Also mentioned that he and Mr. Delvecchio have been in litigation for two and a half years and nothing's been proven. He doesn't operate on Sundays, and doesn't know anybody else that's been complaining about it. Some discussion from the Board that they think they should hold off making a decision until the Court makes theirs. Board suggested that Mr. Collins plant some more trees in the mean time. There are zoning regulations for noise and OSHA regulates dust matters. Vice chair Reiss stated he agreed with Chair Johnson's decision to table the application until the Court makes their decision regarding the lawsuit. A motion was made by Board Member Michaels to leave the public hearing open, seconded by Board Member Loete. All in favor.

Attendance was recorded as follows.

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| Keith Johnson, Chair | Present |
| Rolf Reiss | Present |
| Joseph Michaels | Present |
| Gary Guglielmetti | Present |
| Mark Loete | Present |

Roll call summary: 5 present

Others present: Warren Tutt, Tina Rice, Kathy Nolan, Declan Feehan, Jeff & Kathy Collins, Anique Taylor, Joe Lavoti, Lee Delvecchio, Joni-Lynn Hames, Phillip Wellner, Corey Shultis

Old Business:

New Business:

Board Member Loete's term is up this month. Advertisements were placed in October, no resumes or inquiries came to the office. Mr. Loete informed the Board that he'd like to continue for another term. A motion was made by Vice chair Reiss to recommend Mr. Loete to the Town Board for another term, seconded by Board Member Michaels. All in favor.

Adjournment:

There being nothing further before the Board, a motion was made by Board Member Guglielmetti to adjourn, seconded by Chair Johnson. All in favor. The Zoning Board of Appeals meeting adjourned at approximately 8:45 PM.