

**TOWN OF AMENIA
ZONING BOARD OF APPEALS
WEDNESDAY, APRIL 19, 2006**

PRESENT: Rudy Eschbach
Judy Velletri
David Rosenberg
Norm Cayea
Katie Loughlin

Michael Hayes, Attorney

The meeting was called to order at 7:05 P.M. by Chairman Rudy Eschbach. Because the Zoning Board Attorney was not present, Chairman Eschbach reversed the order of the Public Hearing.

MID HUDSON CONSTRUCTION – Front Yard Variance, 185 Bog Hollow Road, Wassaic, NY Appeal #2006C

The Public Hearing Notice was read. Kyle Arnold contractor was sworn in. The applicant is requesting a front yard variance. Due to the type of land needed to put the garage 30' in from the road. There is 15' on the side yard. The two-car garage with electric will be Texture 111 on the outside for now and hopefully within a year the applicant wants to side both the garage and the house to tie them together. The driveway will remain bank run gravel. There are no drainage or entrance issues. All the residents within 500' of this residence have been notified and there were no comments either for or against this application from the public.

MOTION TO CLOSE THE PUBLIC HEARING was made by Norm Cayea, seconded by Katie Loughlin.

MOTION TO GRANT THE VARIANCE AS REQUESTED was made by Norm Cayea, seconded by Katie Loughlin.

VOTE TAKEN – ALL IN FAVOR

Board out of Executive Session

**JOSEPH LOUGHLIN – APPEAL OF INTERPRETATION – APPEAL #2006B –
CONTINUATION OF 03/08/06 PUBLIC HEARING – 4 LOUGHLIN WAY, WASSAIC, NY**

Reconvene and continue the Public Hearing from last month, 03/08/06. Issue that brought a continuance was clarification of conducting a business as it is conducted on this farm site.

Katie Loughlin recused and sat in the audience.

Ms. Bethany Ralph spoke to the Board. She wanted to remove from the interim Findings of Fact on page 1, the third whereas clause, "the business should be considered as an accessory use of the farm". That was not our position. Our position is that what is occurring on the Loughlin Farm is open storage of machinery or vehicles customarily associated with farming operation, which is a permitted accessory use. In addition, in the minutes on the second page third paragraph from the bottom, "Mr. Duncan stated that he uses his cell phone on the property to conduct business *sometimes*". This should be changed to *occasionally*.

Mark Reilly representing Dan O'Brien spoke to the Board. Mr. O'Brien strongly feels this is a commercial operation and has detrimental impacts on his property. In addition, last meeting Mr. O'Brien requested the discussion of the apartments on the Loughlin Farm be revisited. Mr. Eschbach would like that issue to be kept separate from this issue.

Katie Loughlin still under oath spoke to the Board. To the north of our property, Mr. O'Brien sold a parcel of property for \$1,495,000. Ms. Loughlin felt the storage of Mr. Duncan's property, which is a drop off, did not have any impact on the O'Brien parcel. Ms. Loughlin then gave out copies of a letter explaining what a drop off was from Joseph Sanfilippo as well as other letters from Tony Cahill and Jere Brown, Business Manager at Taconic DDSO. (Letters in file) There are no bathroom facilities, electric and water come from the Loughlin farm, there is no desk, chair, or heat.

Mr. Frank Duncan still under oath, questions Mr. O'Brien's validity of the complaint. The farm Mr. O'Brien just sold formerly was my in-laws farm. Mr. Duncan has been in business for 11 years. He stored his equipment at the farm. After about 5-6 years of operation, Mr. O'Brien purchased that farm and that is when the equipment was moved. Over the past 6-7 years, Mr. O'Brien's assessments have gone up and has not gone to grievance. He obviously accepts this. How can he say his property values have gone down with my 5-6 trucks on the Loughlin farm? Is there any difference with Harlem Valley Materials across the street with trucks going in and out all day? Alternatively, Amenia Sand and Gravel that is in full view of his property? On the other hand, what about Mr. Thomas who stores his gas tanks only feet away from the property?

Ms. Ralph called Mr. Loughlin for another question. You grow fruits, vegetables, and hay on the farm. Mr. Loughlin: Yes. Does the agricultural products that you produce on the farm have a value in excess of \$150. Mr. Loughlin: Yes. For the record, is the property located in an agricultural district? Mr. Loughlin: Yes. Do you have an agricultural exemption? Mr. Loughlin: Yes.

Joseph Loughlin spoke to the Board. The Town Boards that come in all want to bring in new business to town. I feel we have proved to you that this is just storage not a business.

Ms. Ralph spoke again regarding reviewing with the Town Attorney Section 305A of the Ag and Markets Law. The Court of Appeals states that the statute directs that local government shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened. The stated purpose of the article is that the legislature have found that many of the agricultural lands in NY State are in jeopardy of being lost for any agricultural purposes due to local land use regulations prohibiting farming as well as various other deleterious side effects resulting from the extension of non agricultural development into farm areas. Ms. Ralph also wanted the Board to note that the letter from Mr. Cahill states, "The neighbor and the Town are challenging your right to store

equipment on your farm and in doing so are taking away one of the small income producing vehicles that allows you to continue to operate as a farm.”

Mr. Reilly stated there is obviously more to this than he knew, however, he asked the Board not to lose site of the fact that before you is the interpretation of the Notice of Violation.

Michael Hayes, ZBA Attorney felt that there are three issues before the Board.

1. Does the use of the property constitute commercial use of property? Does the Board feel that there is a greater use of the property other than drop off and storage of the equipment? If the Board concludes that this is commercial use of the property, there is at least a partial violation of the property.
2. If the business is commercial, is it a permitted accessory use?
3. Is this equipment being stored on the property as part of a protected farm operation under Section 305A of the Ag and Markets Law, if it is then this does not comply with the Town Zoning Code?

MOTION TO CLOSE THE PUBLIC HEARING was made by David Rosenberg, seconded by Rudy Eschbach.

ROLL CALL – ALL IN FAVOR

EXECUTIVE SESSION - David Rosenberg asked Michael Hayes – Is the income that Mr. Loughlin gets from Mr. Duncan that assists him in operating his farm a valid reason for storing equipment from another business and is contrary to zoning and therefore Ms. Brusie would be upheld? Mr. Hayes stated that part of the answer is the definition of accessory use.

Chairman Eschbach felt that the interpretation of incidental and customary use is critical to the decision process. Mr. Hayes will send to the Board the necessary interpretations within the next three weeks.

Chairman Eschbach adjourned the Executive Session and reconvene the Executive Session to finalize the Board's discussion at the next meeting.

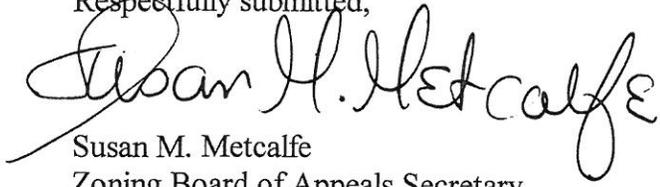
MOTION TO ADJOURN THE EXECUTIVE SESSION AND CONTINUE AT A SPECIAL MEETING TO BE HELD ON MAY 24, 2006 was made by David Rosenberg, seconded by Rudy Eschbach.

VOTE TAKEN – ALL IN FAVOR

Chairman Eschbach wanted to make clear that this is being treated as a sensitive issue and in order to be fair to all parties the meeting would be held over until May 24th, 2006. The Board in looking over the minutes, decided to defer a vote on them until next meeting.

Meeting was adjourned at 9:05 P.M.

Respectfully submitted,



Susan M. Metcalfe
Zoning Board of Appeals Secretary

The foregoing represents unapproved minutes of the Town of Amenia Zoning Board of Appeals from a meeting held on April 19, 2006 and are not to be construed as the final official minutes until so approved.

Approved as read

Approved with: deletions, corrections and additions.

Amended 05/15/06