

ZONING BOARD OF APPEALS MEETING

MONDAY, NOVEMBER 25, 2019

MEMBERS PRESENT: JEFF MULLIGAN, CINDY KELLEN, BOB WESTFALL,
DIANE ATTEA, PASSARELL

OTHERS: CEO BRIAN GLISE, TOWN ATTORNEY, JIM
CAMPBELL, KEVIN MCINTEE, MRB GROUP

VISITORS: BRANDON PICCARRDEO

CLERK: KIM MCDOWELL

MOTION TO OPEN THE MEETING WAS MADE BY BOB; SECONDED BY DIANE.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

CARRIED 5-0.

MOTION TO APPROVE THE MINUTES FROM THE SEPTEMBER 23, 2019 JOINT MEETING SUBMITTED WAS MADE BY BOB; SECONDED BY JEFF MULLIGAN.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

CARRIED 5-0.

THEW, RONALD & FELICIA/6411 ACORD TRAIL/TAX PARCEL#45.-1-84 - VARIANCE FOR ROAD FRONTAGE

Neither, Mr. Thew nor his Attorney was present to discuss this application. Since this application process started over six months ago without any new information or meeting attendance by applicant, the application is considered null and void.

Kim will write a letter to Mr. Thew letting him know that he will need to re-apply for this variance and begin the process all over.

TWARDOKUS, DALE, OAK OPENINGS, LLC/1392 OAK OPENINGS ROAD/ TAX PARCEL#26.-1-22.1 - MODIFICATION TO SPECIAL USE PERMIT FOR 3 DAYS

Mr. Brandon Piccardedo, Oak Openings, LLC, was present to discuss this modification. They have a customer who is located in Dansville and would need the gravel on premise by 7AM which means their trucks would need to be loading at 6AM for three consecutive days to meet that request. At this point, they are unclear which days they would be since the project process would dictate those dates.

Bob asked if there are any other alternatives, possibly loading the trucks the night before. Brandon stated that since the trucks will be out during the day making other deliveries it would be impossible to have the trucks on site and loaded by 4PM.

Jeff Mulligan asked exactly how many trucks would be loaded during the day. Brandon stated they would have no more than 10 trucks an hour and they would be coming back for reloading approximately three times each day.

Kevin, MRB Group, stated he read the DEC permit and the hours of operations begin at 7AM as well. He asked if the DEC has approved the change in hours. Brandon stated they have not but would approve the modification if the Town of Avon provides a letter stating they approved the request.

Jeff Passarell asked if this will be a onetime request or does he foresee this happening frequently in the future. Brandon stated he has not seen a request like this in the year he has been working but he can't determine the frequency if it were to happen in the future.

Cindy asked Brian how many complaints have we had for this business. Brian stated that the only viable complaint was working on Federal Holidays the other complaints are from the same 4 people. Those complaints range from the truck traffic and the gate being open when they feel it shouldn't be. Brian has investigated all complaints and doesn't have a problem with doing so.

Diane asked if the DEC permit was based on what the Town recommended for hours of operations and Jim Campbell was unsure. Brian asked if the DEC permit states excavation or operations during those hours and the permit states operations.

Jim Campbell stated the applicant is doing the right thing by coming in and asking for the modification instead of just doing it and asking for forgiveness later. Jim also stated that there is nothing in the code for this type of request; however, this is not a legal challenge issue with the neighbors. You can include language that states this as a onetime modification and it will not set precedent or dictate the future.

Jeff Mulligan asked the Board members what their opinions are on this request. Diane questioned the part about granting Brian authority to make future decisions if requests are made in the future. Brian stated he doesn't feel he has the authority to do so, that it is completely up to the ZBA Board to make those approvals.

Jeff Mulligan is inclined to deny this modification at this time and have them make other arrangements for this customer. Other Board members agreed with Jeff's statement.

MOTION TO DENY REQUEST FOR MODIFICATION TO SPECIAL USE PERMIT WAS MADE BY CINDY; SECONDED BY BOB.

JEFF MULLIGAN - AYE
CINDY KELLEN - AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

CARRIED 5-0.

MOTION TO CLOSE THE MEETING WAS MADE BY CINDY; SECONDED BY BOB.

JEFF MULLIGAN - AYE
CINDY KELLEN - AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

CARRIED 5-0.

MEETING CLOSED.