

ZONING BOARD OF ADJUSTMENT MEETING
AUGUST 12, 2013

PRESENT: Wendy Freeman, Chairman, Becky Doyle, David Lage, Marianne Graham, Clark Baldwin, Joanne Meshna

The meeting was called to order at 7:30 p.m. at the Town Office. Clark was appointed as a regular member for this evening's meeting.

7:30 p.m. Mosshill Realty, LLC - Submission of special exception application:

Robert and Carol Romeril submitted a special exception application from Article VI. C. of the Zoning Ordinance for 712 Turnpike Road, lot 11/4a-2, rural district. A letter of authorization from the owners of the building, Executive Auto Lease, Inc. was included. The applicants are proposing a multi-use of the building with commercial office space in the upper level and two one-bedroom apartments in the lower level.

The Board advised the applicant for the public hearing to review the size of their septic system and fire codes for two different uses of the building.

Becky made a motion to accept the application as complete. Marianne seconded the motion and it passed unanimously. The public hearing was scheduled for September 5, 2013 at 8:15 p.m. A site visit was scheduled for September 24, 2013 at 9:00 a.m.

7:45 p.m. USA Properties, Inc. - Request for a rehearing:

A request for rehearing from USA Properties, Inc. regarding the Zoning Board's decision of July 22, 2013 was received on August 7, 2013.

Wendy read number one of the request "The Board erred in finding that it has jurisdiction over the determination of density in a cluster subdivision." She noted that the applicant had appealed to the Board with the question of whether or not the Board had jurisdiction; the Board decided they did have jurisdiction and now the applicant is telling the Board they were wrong in that determination. The Board determined they had jurisdiction over the interpretation of the cluster subdivision ordinance and density control. She found it annoying that the Board had been asked if they had jurisdiction and once they decided they did they are now being told that they erred and do not have jurisdiction. David added that the applicant had stated they did not know if the Board had jurisdiction and their attorney had said they did not but they should apply to the Board anyway because they may. Further, David stated it was a play on words and it was aggravating. Members agreed the issue of jurisdiction had been discussed in

length and agreement had been reached that the Board had jurisdiction on all dimensional controls including those listed in the cluster ordinance.

Wendy stated numbers two through six of the rehearing request were not new information. The Board went through the density control table, the maximum number of lots, etc. She added numbers two through six were a rehash of everything discussed.

David referred to number seven. The applicant's appeal was based on an administrative decision of the Planning Board. The Zoning Board's decision was that they upheld the Planning Board's decision. Becky added that they were looking for the reasons the appeal was denied. Marianne noted the Board could not comment on reasons determined by the Planning Board on their decision.

Wendy read the decision letter. After considerable discussion, it was agreed the reasons for the decision could be made clearer in the decision letter. Due to a clerical error, the motion made to deny the applicant's appeal was not transferred to the decision letter. The Board agreed the minutes were accurate in stating the motion that was made and nothing in the motion needed to be clarified.

Wendy made a motion denying USA Properties, Inc.'s request for rehearing for the following reasons:

1) Referencing paragraphs 1-6 of the applicant's request for rehearing, the Board finds no new evidence is presented.

2) Referencing paragraph 7 of the applicant's request for rehearing, the Board finds the motion as stated in the July 11, 2013 draft minutes, "to confirm the Planning Board's decision to require the applicant to provide a plan to show the number of lots obtainable in a conventional subdivision to determine the number of lots allowed in a cluster development," provides clear and sufficient reason for the denial of the appeal of administrative decision.

David seconded the motion and it passed unanimously.

Marianne made a motion to amend the letter of decision to include the motion as stated in the draft Zoning Board minutes of 7/11/2013 for clarification. Becky seconded the motion and it passed unanimously.

The meeting adjourned at 9:15 p.m.

Respectfully submitted,

Joanne Meshna, Land Use Manager