

**Zoning Board of the Town of Mexico**  
**Minutes of the Regular Meeting**  
**Held February 15, 2021**  
**Via Zoom commencing at 7:00 P.M.**

Present: Ned Waterbury, Chairman  
Chuck Dimon, Board Member  
Marty Trey, Board Member  
Rebekah Prosachik, Attorney  
Absent: Ashley Smith, Board Member  
Ron Marsden, CEO  
And 7 in the audience

Chairman Waterbury opened the meeting at 7:05.

**Ruffos Public Hearing**

Waterbury opened the public hearing at 7:05. Waterbury reviewed the public notice and the rules to speak. There were no comments.

A motion was made by Dimon and seconded by Waterbury to close the public hearing at 7:10. The motion was unanimously adopted by a vote of 3 ayes and 0 nays.

**Dishaw Public Hearing**

Waterbury opened the public hearing at 7:11. Waterbury read the public notice. The comments were opened. Michelle Cravitz spoke in favor of the variance.

A motion was made by Dimon and seconded by Trey to close the public hearing at 7:15. The motion was unanimously adopted by a vote of 3 ayes and 0 nays.

Waterbury reopened the regular meeting at 7:15.

**Ruffos Area Variance**

Waterbury asked if the board members had read the planning board minutes. Dimon said he had. Trey said he had not. Waterbury explained that once the ZBA deems an application complete the application goes to the planning board for a site plan review and a recommendation. Waterbury said the setbacks at 20 feet from the property line. Ruffos wants to build a pole barn 8 feet from the property line. The house is not parallel with the road. There is an attached garage that was built after the house. The pole barn would be aligned with the house. Waterbury reviewed the criteria for area variances. The lot is 150 feet by 450 feet and 1.55 acres.

The pole barn will be 83 feet from the garage and 168 feet from the rear property line. The pole barn will be 12 feet on the north end and 8 feet on the south end. The location of the septic tank is unknown. Trey asked if the only reason for the location of the pole barn is esthetics. There are no technical reasons why the pole barn can't be moved. Ruffos said that is correct. The planning board recommended to square the pole barn up and to move it to 12 feet and both ends. Trey said he review the planning board minutes while Waterbury spoke. His main

concern is the encroachment on the neighbor's property for future building. Dimon said he agreed. Dimon said he feels that 20 feet from the property line isn't very much. Waterbury said there is a gravel driveway. Ruffos said the driveway would have to be enlarged. Waterbury asked if Ruffos received plans of the septic when he purchased the property. Waterbury said the property is large enough that the pole barn could be moved so it would have clearance of the septic and comply with setbacks. Trey agrees that there is another reasonable remedy. Dimon said he agreed. Waterbury said the best course of action is to stick to the 20-foot setback. Waterbury said the board has up to 62 days to make a decision. Trey said it is useless to rationalize as to why building could not be moved. Ruffos said he went to the neighbors and no one cares. He would need more gravel and there would be more snow blowing if he moves it backwards. He said he does not want to relocate it.

Waterbury said he is concerned that the board would be setting a precedence. Waterbury said he believes Ruffos could work with the 20-foot setback.

A motion was made by Trey and seconded by Dimon to deny the application from Ruffos for an area variance. The motion was unanimously adopted by a vote of 3 ayes and 0 nays. Prosachik said she would update the resolution.

#### Dishaw Special Permit or Use Variance

Dishaw lives at 294 Kenyon Road and desires to use her barn to display and sell crafts that she makes in her home. Waterbury asked if the board had read the minutes from the planning board. Trey and Dimon said yes. Waterbury said he spoke to Nancy Weber, Planning Board Chairman and has come to the conclusion that the special permit was the most applicable. Trey said he struggles as to why it can be called a home occupation. It is not permissible to move to another location. It can't be called a home occupation when it doesn't comply with Section 566.1. Prosachik said she sent a notice that the planning board recommended approval. She said at the last ZBA meeting it was changed to the "other" category rather than home occupation. Prosachik said the boards should decide on the resolution tonight.

Weber said she would like to explain. Trey asked if the board was excepting comments at this time from people outside the ZBA. Waterbury said no. Waterbury said the board decided last month to go with the "other" category. Trey said the board decided to deem complete for "other" in the special permit or use variance. Trey said it is cleaner to go with use variance. If go with other could the board waive Section 566.1 with home occupation. Waterbury said the board needs to be careful with how it moves forward. Waterbury asked Prosachik about self-created. Prosachik said an application was refused due to self-created. Dimon said he remembers the application. She purchased the equipment after she purchased the house. She would not work with the board and did not have anything in her house. It was self-created. Prosachik said she application was denied because she wasn't willing to make any compromise. Dishaw has an existing business. Waterbury asked if that was a defensible position. Dimon said Dishaw's application is not self-created.

Waterbury said the parking will be in front of the barn. Dishaw said yes. Waterbury asked if there would be activity in both locations. Dishaw said yes. Waterbury asked if the Dishaw met handicap and exit rules. Dishaw said yes. Waterbury asked about signage. Dishaw said the sign would be 4 ft x 8 ft and 2 feet off the ground. Waterbury asked if the sign would have lighting. Dishaw said no. Waterbury asked if Trey or Dimon had any questions. No.

Waterbury said the board had 62 days to make a decision. Prosachik said yes, the board can wait if they had concerns. Trey said he wasn't comfortable with home occupation in the A1 area. It not longer fits. Commercial is not allowed in the A1 area. Trey suggested going with the use variance and waiving the Section 566.1. Prosachik said it was the board's decision. Both boards decided that what Dishaw wants doesn't fit under any category. Trey asked if it was sound. It is not in compliance with the law. Dimon said to waive Section 566.1. Prosachik said part of the home occupation is in the home and part would not be. It can be address in use variance. Waterbury said it is important that the board get this right. We are living in times where things are changing and people want to engage in activities to assist with their income. It is not a negative opinion but a cautious one. Trey said if concede that it is a combination of other and home occupation then a car wash and golf course is not either but could go under other. It makes more sense to go under use variance. Trey said there isn't enough information. Prosachik said if there are classes, they would take place in the barn as well as retail. Trey said if the board moves forward the language would permit home occupation to extend from house to barn for retail and educational purposes. Prosachik said part of the business would move to the barn with no other structure built. The home occupation would still exist.

Waterbury said he was reviewing Tug Hill literature. He will provide the board members with a copy. It has court cases and explains why use variances are hard to obtain. Trey said he reviewed the same documents last month and that is why he asked Prosachik if it was on solid ground. Waterbury said he wants to take care of the community.

A motion was made by Waterbury and seconded by Dimon to table until next month to review the state documents on use variance. The motion was unanimously adopted by a vote of 3 ayes and 0 nays.

#### Rosato variance

Joshua Rosato wants to convert the barn to an entertainment/party venue on Valley Road. Waterbury said the purpose is to determine if the application is complete, schedule a public hearing, send to agencies and to notify neighbors. Rosato said he is in the events industry that is shut down due to COVID-19. He wants to hold weddings and have the property pay for itself. He has a decimal meter and can set it so he complies with the Town of Mexico noise ordinance. Waterbury said this is a special permit and is under the "other" category. Waterbury asked if there were any questions. Trey asked if Waterbury was going to go through the checklist for Section 340. Waterbury said yes. a) Yes b) yes c) no watercourses d) no slopes e) gravel on east side for drainage f) ok g) ingress and egress ok h) no storage i) would get blue bowls if necessary j) ok k) sign will be 18 feet off road and 6 feet off ground l) ok m) lighting ok n) ok o) window boxes of flowers p) existing q) n/a r) planning board s) plan to open in June t) in application. Trey said he was concerned about traffic. Waterbury asked what the capacity is. Rosato said it is 50 to 100 people. The building is 9,600 sq ft and is a seasonal business. 3a) ok b) ok c) ok d) ok e) ok.

Waterbury said there is no public water. Prosachik said the board had to review the EAR.

1)no 2) yes 3) ok 4) ok 5) yes 6) yes 7) no 8) yes, no, no 9) yes 10) yes 11) yes 12) no, no, no 13) no, no 14) ag 15) no 16) no 17) no, no, no 18) no 19) no 20) no

Prosachik said the application would have to go to the Department of Health for the septic. It isn't too close to Richland so it will not have to go there. Rosato said he will give directions from Tubbs Road to avoid confusion for going back roads. Dimon said the public

hearing would be in March. Trey asked if they could move forward with the corrections to the EAF. Prosachik said Rosato could initial the corrected areas and email them to her.

A motion was made by Trey and seconded by Dimon to adjourn deem the application complete with the pending receipt of the corrected EAF, send to the appropriate agencies and schedule a public hearing for March 15, 2021. The motion was unanimously adopted by a vote of 3 ayes and 0 nays.

A motion was made by Dimon and seconded by Trey to amend to previous motion to include "via Zoom". The motion was unanimously adopted by a vote of 3 ayes and 0 nays.

A motion was made by Dimon and seconded by Trey to notify neighbors 500 feet from property line with registered receipt mail. The motion was unanimously adopted by a vote of 3 ayes and 0 nays.

Rosato was told to attend the planning board meeting on March 1, 2021. The Zoom information can be found on the town website.

A motion was made by Dimon and seconded by Waterbury to adjourn at 9:51. The motion was unanimously adopted by a vote of 3 ayes and 0 nays.

Respectfully submitted,

Elizabeth Dishaw  
Town Clerk