

Zoning Board of the Town of Mexico
Minutes of the Regular Meeting
Held July 19, 2021
At McAuslan Hall.

Present: Ned Waterbury, Chairman
Marty Trey, Board Member
Marcia DeLong, Alternate Board Member
Rebekah Prosachik, Attorney

Absent: Chuck Dimon, Board Member
Ashley Smith, Board Member
Ron Marsden, CEO
And 10 in the audience.

Chairman Waterbury opened the meeting at 7:10 with The Pledge of Allegiance.

A motion was made by DeLong and seconded by Trey to approve the June 30, 2021 minutes as presented. The motion was adopted by a vote of 3 ayes; Waterbury, Trey, DeLong and 0 nays.

Waterbury announced that Marcia DeLong was appointed as a new alternate zoning board member.

Harvey Miller Variance

Waterbury said Miller Sawmill is located on St. Rt. 3. DeLong said there were errors in the SEQRA; #1 should be “no,” #2 should be “yes,” #14 agricultural forest should be checked. The site plan should have a designated storage area and direction for the log pile. Waterbury said he is also concerned about the direction of the logs. DeLong asked if there was an engineering study done as to the size and the depth of the poles that hold back the log pile. Waterbury said the poles are buried 4 feet in the ground, 16 inch diameter, and 12 feet above ground. Sue Ladd said the poles are made from locust trees. DeLong asked if it was discussed that the logs be stored perpendicular to the road. Waterbury explained the difference between parallel and perpendicular. DeLong said there are other areas within the town that are not obeying the perpendicular to the road condition for log storage. DeLong said that it appears that the log storage is about 25 feet from the road, which is a concern. Prosachik said the log pile is near the driveway. DeLong said the driveway is only 15 feet wide. Trey asked if DeLong had the revised drawing. DeLong said yes.

Waterbury said the state DOT responded with criteria for the driveway. Waterbury gave DeLong a copy of the DOT letter. The DOT has concerns that the log storage may cause damage to the shoulder and the width of the driveway is too narrow. Trey said the DOT request could be a condition. Prosachik said one of DOT’s concerns is the logs are not secured. Waterbury said if Miller complies with the DOT’s specs, the site plan will change. Waterbury said that Marsden met with Miller and told him that he must stop operating the saw mill or he would be ticketed. Waterbury commented, “That is what happens when you put the cart before the horse.” DeLong stated that DOT should be addressed prior to addressing other comments. Ladd requested that the application be tabled. Prosachik asked when the public hearing was closed. Waterbury said June 30th. Prosachik said if both parties agree, the deadline for the decision can be extended beyond 62 days. Trey said the applicant could withdraw his application and reapply with the town waiving the fees. DeLong said it would not change anything. Trey requested that a letter be written to document

the mutual approval waiving the deadline of 62 days. Prosachik said that letters to other agencies are not warranted unless the changes are substantial. DeLong said that if the application was tabled, there would not need to be another public hearing. Trey asked if the town had the right to waive the 62 days since it is a state requirement. Trey said he would like to see something in writing that states the town has the power to waive the 62 day deadline. DeLong said it was in Local Law #5 of 2003, section 330.9 states that the decision may be extended by mutual consent of the applicant and the board. Trey said he would defer to legal counsel. Waterbury told Miller to submit the letter to the town clerk if he agreed. DeLong asked if the attorney could draft a letter and send to Ladd. DeLong asked if Miller would be making furniture. Waterbury told DeLong that the sheds would not be pre-constructed but would be made to order. DeLong asked about the sight line. Waterbury said Marsden has checked the sight line and said it would be excellent. Prosachik drafted the letter of permission to waive the 62 days. A motion was made by Trey and seconded by Waterbury to table the Miller application pending the agreement to waive the 62 days is signed by Miller. The motion was adopted by a vote of 3 ayes; Waterbury, Trey, DeLong and 0 nays.

Eli Miller Special Permit

Waterbury told the board that Eli Miller is applying for a special permit to operate a saw mill, build sheds, and sell lumber at 60 Frazier Road. The property is located in the A1 zone. DeLong asked if there would be any milling. Miller said sawing and milling are the same thing. DeLong said there were errors on the SEQRA, #2 should be "yes," #5 should be "forest and rural." DeLong asked why there was not a last page to the SEQRA. Wetlands are indicated on the last page. Trey asked how that would have any bearing on the application. Prosachik said, "if you use the mapper, the last page prints out." Trey asked if pages 1-3 would satisfy the requirements. Prosachik said yes. DeLong asked if the fence is part of the site plan. Prosachik said the fence is pre-existing and only a small square is part of the application. Prosachik stated that the surveyor noted on the site plan that a zone change to commercial is required. DeLong said that would not stop the application. Waterbury asked if Marsden gave Miller the checklist on section 340 of the local law. Miller said yes. DeLong said the surveyor does not have the authority to request a zone change. Waterbury said section 340 states the criteria for a special permit. Waterbury said the hours of operation are not on the site plan. DeLong said it is important to have everything that is listed in section 340 included on the site plan. Waterbury said Marsden should make sure that all information is on the application before sending it to ZBA. It would move things along if the board had all information prior to the meeting. Prosachik asked if the sheds would be built inside a building and it would be beneficial to have the dimensions of the building. Miller said the sheds would be built outside. If the customer does not pick up the shed in a timely fashion, there will be a secondary space to build sheds. The trees in the front are not going to be removed. Waterbury suggested tabling the application. A motion was made by Waterbury and seconded by DeLong to table the application until the August meeting. The motion was adopted by a vote of 2 ayes; Waterbury, DeLong, 0 nays, and 1 abstain, Trey.

Levi Miller Special Permit

Waterbury told the board that Levi Miller is applying for a special permit to operate a saw mill, build sheds, and build furniture. This is his only source of income. DeLong said there are errors on the SEQRA, #1 and #2 are not answered, #3 the acreage is reversed. Waterbury said this is also an incomplete application. Trey asked what material was missing. DeLong said information is not on the site plan. Trey said the planning board has sole jurisdiction over the site plan. Prosachik

said details about the special use are missing, such as hours of operation. Waterbury said the ZBA would set conditions. DeLong agreed that the planning board has control over the site plan. Prosachik said once the application is deemed complete, the SEQRA process starts. A motion was made by Waterbury and seconded by DeLong to table the application until the August meeting. The motion was adopted by a vote of 2 ayes; Waterbury, DeLong, 0 nays, and 1 abstain, Trey. Waterbury suggested that Miller contact Marsden for section 340 and 345 of Local Law #5 of 2003.

RIC Solar Area Variance

Waterbury said the board should determine if the application is complete. Waterbury asked if all board members received the application. The board members said yes. Waterbury asked if the property owners are still the Klebs. John Reagan said yes. RIC has an option to buy the property pending the approval of the variance. Waterbury said that a letter from the Klebs authorizing RIC to act on their behalf is required. Reagan said he would check through the application to see if it was obtained. Reagan said he did not have the letter. DeLong asked the attorney if the board could proceed if the letter was obtained by Monday. Trey said the application could be discussed but a decision could not be made.

Reagan said he understood the procedure but doesn't know why it would need an area variance. The Local Law is confusing about lot coverage. Reagan said the local law states that total lot coverage is 25% or 14 acres. There is not a definition for "lot coverage" in large scale energy systems but there is a definition under small scale energy systems. Since "lot coverage" is not defined under large scale solar, then "lot coverage" definition should be the same for large scale solar and small scale solar. DeLong said "lot coverage" is any land that is used for the business. Reagan said most of the lot is grass. In small scale solar, the "lot coverage" is what is under the solar panels. Reagan said there are only 6 acres of lot coverage if using the definition for small scale. There are 15 feet of grass between each row of panels. DeLong calculated the panels and came up with 24 acres. Reagan said there are 20 acres that will be used for environmental conservation easement at the back of the property. Reagan said if the application is unsuccessful, then the project could be downsized. A row of pine trees is planned for screening. Reagan said the trees will be 8 feet tall at the time of planting.

Waterbury asked Reagan about utilizing grid capacity at the Colosse substation. Reagan said 5 megawatts is planned. They are limited to building near a substation. National Grid is doing a study for grid capacity and cost to connect. If the cost to connect is too high, the project would not be viable. Reagan said the hosting maps online indicate that there is capacity but it will take National Grid approximately one month to determine the cost to connect. DeLong said the lot coverage is unclear in the application. It comes to approximately 46% of the total parcel. Reagan said that was accurate according to the board's calculations. DeLong said the narrative is not clear. Reagan asked if the board would like him to add 46% and 24 total acres of lot coverage to the narrative. DeLong said all information for an area variance is included.

Waterbury said there is not a negative impact for residents that drive down County Route 58. Waterbury asked how long before the screening matures. Reagan said the evergreens will be 8 feet tall at planting and may take a few years before maturing to the 12-foot height of the solar panels. Waterbury asked if RIC had interacted with the neighbors. Reagan said not yet. DeLong said the neighbors will be notified for the public hearing. Waterbury said the application states a 7.5 foot fence but the local law requires an 8.5 foot fence. Waterbury asked if the board had any more questions. Trey said no. DeLong said if the letter of authorization from the Klebs and the clarification of the acreage is made, then the area variance application would be complete.

Waterbury said the application is for an area variance and a special use permit. DeLong suggested hearing the area variance and the special use permit at the same time. Reagan said it would be easier to answer questions at the public hearing for the whole project. Reagan said if the area variance is denied, the plan could be adjusted. Reagan asked if the changes that were requested are made, if the applications could be heard next month. Prosachik said the SEQRA will have to be sent out but the files are very large. Prosachik asked if the files could be condensed. Prosachik suggested sending a link of the maps electronically and a hard copy of the applications. A motion was made by DeLong and seconded by Trey to table both applications until the August meeting and to run both the area variance and the special use permit together. The motion was unanimously adopted by a vote of 3 ayes, Waterbury, Trey, DeLong, and 0 nays.

Prosachik said she would check with agencies to see who will accept electronic maps. Reagan asked if the application is deemed complete, would it be sent to the planning board. Prosachik said a public hearing would be scheduled. Reagan asked if the area variance is not approved, could the special use permit still be approved. DeLong said no. Waterbury asked if RIC holds and operates the solar farm. Reagan said the LLC could change.

A motion was made by Waterbury and seconded by Trey to adjourn at 9:27 pm. The motion was unanimously adopted by a vote of 3 ayes; Waterbury, Trey, and DeLong, and 0 nays.

Respectfully submitted,

Elizabeth Dishaw, RMC
Town Clerk