

**Zoning Board of the Town of Mexico
Minutes of the Regular Meeting
Held September 20, 2021
At McAuslan Hall.**

Present: Ned Waterbury, Chairman
Marty Trey, Board Member
Dan Yawman, Board Member
Marcia DeLong, Alternate Board Member
Graham Seiter, Attorney

Absent: Chuck Dimon, Board Member
Ashley Smith, Board Member
Ron Marsden, CEO
And 14 in the audience.

Chairman Waterbury opened the meeting at 7:07 with The Pledge of Allegiance.

Waterbury explained to the public that the public hearing for Eli and Levi Miller was postponed. The public notice did not make the newspaper prior to the deadline. DeLong suggested the board consider having a special meeting. Trey said the burden should be on the town due to the fact that it was the town's error. Seiter said it would be best to hold the public hearing at the regularly scheduled meeting on October 18th, 2021 because people were aware of the zoning meeting dates. Seiter said it was not necessary to send out registered letters again.

A motion was made by DeLong and seconded by Waterbury to schedule a public hearing for Eli and Levi Miller on October 18, 2021 at 7:00 pm. The zoning officer will send out registered letters. The motion was adopted by a vote of 4 ayes; Waterbury, Trey, Yawman, DeLong and 0 nays.

A motion was made by Waterbury and seconded by DeLong to approve the August 16, 2021 minutes as presented. The motion was adopted by a vote of 3 ayes; Waterbury, Trey, DeLong; 1 abstained, Yawman, and 0 nays.

Harvey Miller Special Permit

Waterbury asked if there were any developments from the DOT. Susan Ladd said that she contacted Will Barclay's office and Elizabeth Parmley. The Mexico DOT will be handling the application. Miller will not be required to have asphalt. Waterbury said that a copy of the original site plan will have to be sent to Miss Parmley. Ladd said she would drop off the site plan to the engineer at the Mexico DOT so he could evaluate the driveway. Waterbury said the application may not be required to go back to planning depending on the DOT's findings. DeLong asked about the public hearing deadlines. Waterbury said at the July meeting, Harvey Miller signed a letter agreeing to have the requirements for the 62 day post-public hearing extended. Trey asked if the planning board would have to review the site plan since they have sole control over site plans. Waterbury said yes and no. Waterbury said the site plan does not have to go back to the planning board unless the DOT makes corrections. Seiter agreed that if there are any corrections, it would have to go back to the planning board. DeLong agreed that it should go directly to the planning board's next meeting if there are corrections. It would then come to zoning. A motion was made by DeLong and seconded by Waterbury to send the site plan to the DOT and follow the suggestions that they make. The motion was adopted by a vote of 4 ayes; Waterbury, Trey, Yawman, DeLong and 0 nays.

Waterbury asked what the timeframe was for submission to planning board. DeLong said the timeframe is 7 days. Waterbury said the next planning board meeting is on October 4th.

RIC Variance

Waterbury said the application is for a solar farm on Co. Rt. 58. Waterbury said the mission of the board is to review the application and deem it complete. DeLong said the application has different figures for the percent of lot use. Regan said the total acres are 56.6. The percentage used would be 46.6% amounting to 24.5 acres. The local law states 20% is allowed for total use amounting to 13.8 acres. Regan is asking for a variance because he is over the allowed usage. He will be donating 20 acres for conservation. DeLong asked if he had a decommissioning plan. Regan said he did along with the decommissioning cost. Waterbury asked if the zoning officer gave him an outline of what was required. Regan said yes and he also has a copy of the local law. Seiter asked what the general cost of decommissioning was. Regan said between \$200,000-250,000. Yawman asked what the lifespan of a solar array was. Regan said between 25-30 years. Yawman asked if the array would be decommissioned and the rebuilt. Regan said no. Regan said a bond would be obtained for decommissioning. Waterbury asked if it was possible to get the decommissioning plan along with the complete application to the planning board. Regan said they would have it by the end of the week. DeLong said the application was acceptable except for the decommissioning plan. DeLong said the package along with the decommissioning plan would have to be submitted to the planning board one week prior to their meeting. Regan said a third party would prepare a draft bond and the plan so it should be able to be sent to the planning board on time.

Trey asked if one week would be enough time for the planning board to review the application since it is a lot of information to review. DeLong said if the application is not deemed complete, it would not have to go to planning. Trey said the planning board sets their agenda and they could review the application at their November meeting. Waterbury asked Weber if they could have a workshop to review the large application. DeLong asked if the application could be forwarded to the planning board but not schedule the public hearing. Seiter said yes it was up to the planning board. Weber said she would canvas the planning board. DeLong suggested Regan go over the package to make sure that everything is complete then give it to the zoning officer to send to the planning board. Regan asked how many members are on the planning board. Waterbury said five. Regan said the landowner letter was added and he will add the decommissioning plan. Yawman asked what the power output was. Regan said 5 megawatts; enough to power 2,500 homes. Yawman asked where the power went. Regan said the power would be by subscription.

Waterbury asked if Regan would forward what he has or wait to get the new package from RIC. DeLong said she was uneasy deeming the application complete until it is actually complete. Waterbury asked if Regan could put together a complete package and send it to the zoning board along with the spiral notebook. DeLong said to leave the application open and forward it directly to the planning board. Regan asked if the SEQRA letters could be referred to the county. DeLong said not until the application is deemed complete. Seiter said he prepares the SEQRA letters after the ZBA deems the application complete. DeLong said agencies have 30 days to respond. Yawman agreed that the application is not complete without the decommissioning plan. DeLong said the board could deem the application complete pending the receipt of the decommissioning plan. Waterbury suggested leaving the application open. Weber said she would supply addresses for the planning board members and the application could be sent directly to them. Regan asked if the workshop could be set up electronically. Weber said a zoom workshop could be arranged.

Steve DeGone Area Variance

Waterbury said DeGone is applying for an area variance on St. Rt. 3. Waterbury said the mission of the zoning board is to review the application and deem it complete. Waterbury said the property is located in the M1 area. Road frontage in M1 is 300 feet. DeGone would like to subdivide the property but one parcel would be 250 feet of road frontage. DeGone said the property was developed prior to zoning. Trey said at an interpretation, the board decided a variance was needed. DeLong said the map looks to be complete. A motion was made by Waterbury and seconded by Trey to deem the application complete. The motion was adopted by a vote of 4 ayes; Waterbury, Trey, Yawman, DeLong and 0 nays. A motion was made by Waterbury and seconded by DeLong to schedule a public hearing for October 18th, 2021 at McAuslan Hall at 7:00 pm, to send to appropriate agencies, to be lead agency, and to notify neighbors 500 feet from the property line. The motion was adopted by a vote of 4 ayes; Waterbury, Trey, Yawman, DeLong and 0 nays.

Constanza Special Permit

Waterbury said Constanza would like to construct another storage unit. Waterbury said the mission of the board is to review the application and deem it complete. Constanza applied in 1998 for his storage unit business, which was prior to zoning. It was asked if it was an area variance or a use variance. DeLong said in 2001, it was a special permit. In 2005 Constanza was granted a use variance. He applied for three buildings but only built two. DeLong said he did not comply with the conditions of his last expansion. Waterbury said section 211 of the local law deals with nonconforming uses. Seiter said the board allowed previously and if you don't allow, you are contradicting yourself. DeLong said Constanza is in violation because he did not plant the trees that were a condition of the approval of his last variance. DeLong said it is self-created. DeLong asked if it was an area variance or use variance. Yawman said if the building needed a buffer then more buildings would need more buffers. Seiter said he could be in violation but the town failed to issue a violation since 2005. Seiter said, "Shame on the town for not noticing a violation." DeLong said this is going to bring up an interesting discussion. Trey said this is both an area variance and a special permit or an area variance and use variance. Seiter said it is not a use variance because the use variance was previously allowed. DeLong said this is an expansion and the future building were not approved. Trey said Constanza needs to comply with the conditions of his 2005 permit. Trey said that the application is not complete. A motion was made by Trey and seconded by DeLong to deem the application incomplete. The motion was adopted by a vote of 4 ayes; Waterbury, Trey, Yawman, DeLong and 0 nays. Trey said the board needs to be consistent with other buildings. Trey asked why Constanza is building so close to the property line when he has so much land.

A motion was made by Waterbury and seconded by Yawman to adjourn at 8:58 pm. The motion was adopted by a vote of 4 ayes; Waterbury, Trey, Yawman, DeLong and 0 nays.

Respectfully submitted,

Elizabeth Dishaw, RMC
Town Clerk