

**Zoning Board of the Town of Mexico
Minutes of the Regular Meeting
Held November 15, 2021
At McAuslan Hall.**

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

Absent: Marty Trey, Board Member
Ashley Smith, Board Member
Ron Marsden, Code Enforcement Officer

And 10 in the audience.

Chairman Waterbury opened the regular meeting at 7:03 p.m. with The Pledge of Allegiance.

A motion was made by Waterbury and seconded by Yawman to approve the October ZBA minutes. The motion was adopted by a vote of 3 ayes: Waterbury, DeLong, and Yawman, and 0 nays.

Old Business

Harvey Miller – sawmill permit

Waterbury gave the board time to review the Planning Board meeting minutes from November 11th. Waterbury read the memo from the Planning Board to the ZBA regarding their approval with conditions of Miller's application. Yawman asked for specific business hours. Waterbury said the ZBA can set conditions on the permit. Waterbury asked Seiter if his office will prepare the resolution. Seiter said yes. Yawman raised concerns regarding noise and said that appropriate start and stop times may alleviate noise concerns from neighbors. Waterbury recalled a sawmill permit that was issued about three years ago with the conditions of operating between the hours of 8:00 a.m. and 5:00 p.m., which, to the best of his knowledge, has received no complaints. However, Marsden would know if official complaints have been filed regarding noise. Waterbury asked the board if there were any elements to the site plan that needed clarification. Waterbury noted that a structure covering the mill has been a part of this site plan since the beginning; the driveway entrance and shape, as well as the safety of the traveling public have been sorted by the state DOT.

Waterbury noted the Planning Board conditions and listed the following list of conditions regarding Miller's sawmill permit:

- Sheds will be built to order; sheds will not be on display
- Lumber/board sales will be only occasional and infrequent
- Only one log pile will be allowed at a time
- Only one truckload of logs may be delivered at a time, not to exceed 30 logs
- The physical elements of the site should be clean, safe and organized
- The use for the sawmill will not run with the land; it is specific to Mr. Miller

- No open fire burning of sawmill waste materials will be allowed but scraps may be used for home heating purposes
- A yearly review and inspection by the code enforcement officer to ensure ongoing compliance is required

DeLong asked if hours of operation would be consistent with the Planning Board's recommendation of daylight hours with a 6:00 p.m. stop time. DeLong noted that she appreciated the Planning Board's concern for log harvest location, citing concerns about invasive species. Mr. Miller explained that he does not know exactly from where the logs are harvested but that he would be surprised if they came from too far away or from out of state. Ladd added that the logs are purchased from Miller Lumber. DeLong asked if Miller Lumber follows business practices or standards from the DEC and said this should be researched. DeLong asked how many truckloads Miller would be receiving in a given timeframe. Miller said possibly three to four truckloads a month maximum depending on how busy he is. Ladd was hesitant to limit the amount of business Harvey can do. DeLong said the number of shipments is important as the board moves ahead and suggested this be part of a sawmill checklist.

Yawman asked what the purpose was of limiting employees. DeLong clarified that the question of employees is part of the application and not a limitation placed upon the business. Weber added that bathroom facilities are required if a business has employees. DeLong asked if the business would have a sign. Miller said no signage is requested. Seiter read back the list of conditions for the permit. Waterbury added that the log pile will be parallel to the road with proper restraints in place. Waterbury asked the board and Miller their thoughts about hours of operation, suggesting 8:00 a.m. to 5:00 p.m. Miller said that 8:00 a.m. is a good start time but said that 6:00 p.m. would be better as long as his neighbors don't mind. Ladd asked if the hours of operation pertained to the saw mill or to all building operations. DeLong suggested 5:30 p.m. Waterbury said the board's focus is specific to the saw mill and he had not considered noise from building. DeLong said noise from building should be considered as the board moves forward and that this could be revisited as part of Miller's annual review. Yawman asked if hours could differ in the summer to allow for extended hours. Waterbury encouraged the board to reach a reasonable middle ground. DeLong said that building should be able to be continued after the saw mill business hours but that noise disturbances be revisited at Miller's annual review. Seiter asked about delivery times. Miller said that all truckloads of logs are delivered during regular business hours.

A motion was made by DeLong, and seconded by Yawman to approve the saw mill permit application with the conditions listed as follows:

- Sheds will be built to order; sheds will not be on display
- Lumber/board sales will be only occasional and infrequent
- Only one log pile will be allowed at a time
- Only one truckload of logs may be delivered at a time, not to exceed 30 logs
- The physical elements of the site should be clean, safe and organized
- The use for the sawmill will not run with the land; it is specific to Mr. Miller
- No open fire burning of sawmill waste materials will be allowed but scraps may be used for home heating purposes
- A yearly review and inspection by the code enforcement officer to ensure ongoing compliance is required
- The log pile stored parallel to the road will have proper restraints in place
- Hours of saw mill operation will be 8:00 a.m. to 5:30 p.m.

The motion was adopted by a vote of 3 ayes: Waterbury, DeLong, and Yawman, and 0 nays.

RIC Solar Farm

Waterbury reviewed the RIC application progress and invited RIC representatives to make any initial remarks. Waterbury asked if the board has all necessary documents needed to comply with the application. RIC representative said yes; the decommissioning materials have been submitted and a workshop via zoom was held to bring the Planning Board up to speed with all materials for the application on the use variance. RIC representative asked if the public hearing could be scheduled in tandem with the Planning Board review. Waterbury asked the board if they have any questions regarding RIC's application. DeLong noted that her concerns regarding decommissioning materials and the letter from the property owner giving RIC permission to act on their behalf have been addressed.

DeLong said that this application is lengthy and contains a large amount of information. DeLong suggested scheduling the public hearing for two months from now in order to give the Planning Board time to prepare and notify the public. DeLong said the Planning Board would require their own public hearing and that it is important to be accurate and thorough. DeLong said time is needed to schedule a public hearing and notify all appropriate agencies. DeLong asked if neighboring towns were required to be notified. Waterbury clarified that neighboring municipalities do not need to be notified but that neighboring properties do need to be notified via certified mail. Waterbury said that neighbors with property within 1,000 feet need to be notified according to his understand of energy law. DeLong asked to use large-scale operation recommendations. Yawman asked how many properties are within 1,000 feet. An RIC representative stated approximately 10 properties.

Yawman asked about the amount of acres used for the project. DeLong explained that RIC did not originally count the land between the rows of panels as part of the total acres used but they have updated their application to include the total use of about 24.5 acres. Yawman stated that this is approximately 50% of the property. DeLong confirmed. Waterbury informed the board that the hiring of consultants is an option available to the board at the applicant's expense, stating that there are many elements involved with a project like this. DeLong encourages a workshop with the ZBA and attorney for a thorough review of the application and said that the board has 62 days after the public hearing to make a determination. DeLong said that reviewing early will allow time for a professional to be hired if the board chooses.

Waterbury said that the town could ask for accommodations through a PILOT and a consultant could provide assistance. Waterbury said that the town could ask for a host benefit for the community independent of taxation. Seiter said there could be a monetary agreement where the property remains taxed as if improvements have not been made but have a PILOT on improvements. DeLong added that a PILOT can be on a sliding scale. Seiter said a PILOT would need to be approved by the Town Board. Toth said the Oswego County IDA can help negotiate a PILOT.

Yawman said community notification is essential and specifically addressed the phrasing of the law stating that the Town of Mexico does not support the conversion of prime farmland to be used as grid supply land. Yawman asked if this property is considered prime farmland by the USDA. DeLong said the maps contained in the comprehensive plan may show USDA prime farmland designations based on soil composition. Weber invited everyone to attend the comprehensive plan meeting Wednesday night at the Town Hall. Weber suggested giving at least 90 days for the public hearing so that the public will have time to review and digest the information in the application. DeLong said that a decision would need to be reached by April then. Seiter said the

appropriate agencies to be notified are the DEC, County Planning Department, Department of Ag. and Market, Mexico Planning Board, and Historical Preservation. Seiter said the letters to notify all appropriate agencies go out within a week.

An RIC representative said, based on his experience as a DEC permit regulator, none of the other agencies will be eligible to act as lead agency and that the town or IDA will most likely act as lead agency. DeLong clarified that the board will send to all agencies in case there is a concern. Seiter agreed and said the town may not hear concerns from any other agencies.

Yawman raised concern for public awareness citing the conversion of farmland to grid output, lot size, and usage size of the project. DeLong suggested notifying all neighbors within 1,500 feet via certified mail. Yawman agreed to 1,500 feet and added that information should be posted in the paper and online. An RIC representative said that the environmental impact of the solar farm will be small and that the land underneath the panels will be largely untouched and will still be farmable upon the decommissioning of the solar farm. An RIC representative said that RIC does request a PILOT and they work with the IDA. An RIC representative said that they do have experience with host community agreements and explained that a solar field is less invasive as it is only panels on racking, which is easily removed at the end of the project's lifespan. An RIC representative said that about 20 acres of forested land adjacent to the panels is provided as a conservation easement, which can be used as a park or recreation area and can be considered as a host benefit.

Toth said the public hearing required from the IDA cannot be the same as the public hearing for the Planning and/or Zoning Boards. Weber asked if a copy of the completed application can be available to the public at the library. Seiter noted that soon, all information to be reviewed at public meetings will need to be available to the public at least 24 hours before the meeting and suggested that the town website say where the application and maps are available for viewing as well as publishing the as much of the application as feasible online. Waterbury said he would check with the town supervisor to make sure the information can be posted online.

A motion was made by DeLong and seconded by Yawman to deem the application complete pending the following:

- notification of neighbors within 1,500 feet from the property line
- the notification of all appropriate agencies
- the public hearing set for February 21st 2022 at the regularly scheduled ZBA monthly meeting
- all application materials made available to the Planning Board
- all application materials made available to the public for review via the town website, town office, and library
- the public notice posted in December as well as January

The motion was adopted by a vote of 3 ayes: Waterbury, DeLong, and Yawman, and 0 nays.

A representative from RIC asked if the Town would seek lead agency. Seiter said yes, the town would seek lead agency unless another agency seeks it. Waterbury said Marsden is the principle contact for RIC.

The board took a short recess from 8:39 p.m. to 8:41 p.m.

Levi Miller – sawmill application

Waterbury provided a brief overview of Miller's sawmill application on LaCasse Rd. Waterbury said the business is quite a way away from the road. Weber said the log pile is 200 feet from the road and that the saw building dimensions are 20'x40'x12' high. Waterbury proposed inclusion of the conditions of no open burning of waste materials and hours of operation. Weber explained that farms are exempt from open burn bans. Seiter read the list of conditions from the Harvey Miller sawmill application but noted that Levi Miller's log pile is far enough off the road to make the log pile parallel to the road without issue. Weber noted that keeping the log pile parallel to the road, makes the log pile perpendicular to the driveway, which is safer for customers and the general public.

A motion was made by DeLong, and seconded by Waterbury to approve the saw mill permit application with the conditions listed as follows:

- Sheds will be built to order; sheds will not be on display
- Lumber/board sales will be only occasional and infrequent
- Only one log pile will be allowed at a time
- Only one truckload of logs may be delivered at a time, not to exceed 30 logs
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- No open fire burning of sawmill waste materials will be allowed but scraps may be used for home heating purposes
- A yearly review and inspection by the code enforcement officer to ensure ongoing compliance is required
- Hours of saw mill operation will be 8:00 a.m. to 5:30 p.m.

The motion was adopted by a vote of 3 ayes: Waterbury, DeLong, and Yawman, and 0 nays.

Steve DeGone – Subdivision Variance

Waterbury gave the board time to review the Planning Board meeting minutes and memo regarding the application. Waterbury invited DeGone to address the board. DeGone said the LLC's intentions are to retain the majority of the property for the family. DeGone said the LLC wishes to subdivide the propane business section off to protect the rest of the property. DeGone said the funding will soon run out and without a lease for the propane business portion, the LLC is concerned that they may eventually need to sell that portion. DeGone said they would like to retain the rest of the property and potentially subdivide it for two residential homes for two grandchildren. DeLong said that if the subdivision variance is granted, the property cannot be subdivided again for 3 years. DeGone said that has no bearing on the LLC's decision. Seiter said he was unsure if the transfer of property from the LLC to a new buyer gives the new buyer the right to subdivide before the 3 year stipulation.

DeLong shared reservations citing the lacking 50 feet of road frontage as well as the side yard setback variance and said there are ways to reduce the size of the variance. DeLong said if the small lot is deemed residential only, the setbacks for the side yard would be met and the board would only need to grant a variance for the road frontage. DeLong said that granting a 50 foot variance for a residential property is less worrisome than granting a 50 foot variance for a commercial lot and the side yard setbacks would not be an issue. Yawman said that 250 feet of road frontage was generous at the time the land was developed and that if the subdivision line is moved, the setbacks for the garage will be impacted. DeLong added that the 600 foot lot

couldn't be subdivided without a variance if 50 foot of road frontage is added to the leased lot. Waterbury said a residential request would have more flexibility.

DeLong said she is leaning toward keeping the lot desirable for commercial use and that the granting of the most minimum variance possible is essential to preserving the neighborhood character of a mixed use zone. DeLong said that in mixed use zones, it is important to keep areas desirable for use as commercial areas to encourage and accommodate future growth and development. Yawman asked if there was anything preventing industry from buying the land if the variance is granted. DeLong said the lack of road frontage could potentially prevent a business from buying the property. Yawman said that residential lots are part of mixed use zones. Seiter said that a company could buy all the property and combine it. Yawman asked about moving the subdivision line for the least amount of variance. Seiter said this was discussed at the Planning Board. DeLong said that on a commercial property, a 50 foot setback is needed from the garage. DeLong said the turnaround driveway used by the business needs to be 50 feet from the property line for a commercial lot. Yawman said he does not see the subdivision as requested creating undesirable property, that no physical change is happening to the property but asked if the goal can be achieved by another method. Yawman asked if the requested variance is considered substantial. Waterbury views 10-15 feet as minor but 50 feet as more substantial. DeLong agreed that the degree of substantiality relates to the requirements and possible use of the property; 50 feet residential use is not as big a deal as 50 feet for commercial use. DeLong explained that this is why granting the variance would be easier if the lot was deemed for residential use only. DeLong said that the lot is currently in conformity with Local Law but that the request is self-created does not preclude the board from moving forward. Waterbury confirmed that the request or desire to make changes is self-created because the lot currently conforms. DeLong said the board is charged with granting minimum variances in order to preserve and protect the town. DeLong said a 35 foot setback is more favorable than a 50 foot setback. Weber said that 265 feet of road frontage would only require a 15 foot adjustment to the subdivision line. DeLong said that would create the need for a variance to subdivide the larger lot in the future. DeGone said he cannot speak to compromises without the LLC's input. Waterbury suggested tabling the matter to give DeGone time to talk to his family.

A motion was made by Waterbury and seconded by DeLong to table the DeGone variance until the December meeting. The motion was adopted by a vote of 3 ayes: Waterbury, DeLong, and Yawman, and 0 nays.

Waterbury requested that DeGone contact Marsden regarding the family's discussion prior to the December ZBA meeting.

New Business

Constanza Variance

Waterbury explained an overview of the application and site plan for an additional structure at the mini-storage business at St. Rt. 104. Waterbury said the building will be consistent with the other existing structures. Constanza said the property needs to be filled in first to bring it up to the same grade before the building can be put on the property. DeLong said this application needs to be for a use variance because the local law changed. Seiter said the project was originally approved with the granting of a special use permit but not a use variance is required because it is not considered a non-conforming use. Seiter said the expansions need a use variance application. DeLong said that previous paperwork involve an area variance and special use permit. DeLong said to keep the area variance application but the special use permit

should be a use variance application. Seiter agreed that a use variance application is needed, not a special use permit. DeLong said a determination cannot be made until the board receives the correct paperwork. DeLong commented that the new building is close to the bordering property and inquired about the setback. Constanza said he didn't want to leave 90 feet of unused space. DeLong suggested Constanza put an alternate plan in place in case his original plan doesn't look favorable. DeLong said the site plan cannot be changed once it goes to the Planning Board.

Seiter said a use variance was granted in 2005. DeLong said the approval is only good for one year. Seiter reiterated that a use variance was issued for the property in 2005. Constanza said he will obtain the use variance application from Marsden.

A motion was made by DeLong and seconded by Waterbury to deem the application incomplete due to having an incorrect application. The motion was adopted by a vote of 3 ayes; Waterbury, DeLong, Yawman, and 0 nays.

Shetler – sawmill permit

DeLong commented that the drawing for the site plan is deceiving because it is not drawn to scale. Weber said that the property has been subdivided upon sale and two houses are currently on one piece of property. Waterbury said there is a new house on the property that is a shop but that people are living in it until they can buy land. Waterbury said the timeframe is unknown. Waterbury said the board cannot take action. DeLong said the board needs to know if there is an official violation at the property.

A motion was made by DeLong and seconded by Waterbury to deem the application incomplete until a determination can be made regarding the existence of any official violations on the property. The motion was adopted by a vote of 3 ayes; Waterbury, DeLong, Yawman, and 0 nays.

Race – Quarry application

DeLong asked if there are any current violation on the property, specifically regarding junk vehicles. Waterbury said he had a phone conversation with Marsden and there are none that he knows of. DeLong asked if there is any illegal signage on the property. Waterbury asked if, based on photos submitted by the applicant, the board can take no action until a determination on the existence of current violations can be made. Seiter said yes, the board can do that. DeLong said the new owner wants a commercial quarry and that the site used to be a private bed with only 1,000 tons removed with the same usage since January of 2007. Waterbury asked if the designation of commercial quarry makes the history of the use of the bed irrelevant. Seiter said yes. DeLong said that property is taxed as commercial, not as the type of business it is. DeLong said the application doesn't provide all the necessary information. DeLong said that a site plan is needed.

A motion was made by Waterbury and seconded by DeLong to deem the application incomplete until a determination can be made regarding the existence of any official violations on the property. The motion was adopted by a vote of 3 ayes; Waterbury, DeLong, Yawman, and 0 nays.

Waterbury reminded the board of the yearly four-hour training requirement.

A motion was made by DeLong and seconded by Waterbury to adjourn at 10:55 pm. The motion was adopted by a vote of 3 ayes; Waterbury, DeLong, Yawman, and 0 nays.

Respectfully submitted,

Nicole Wild
Deputy Town Clerk