

**Mexico Zoning Board of Appeals  
Minutes of the Regular Meeting  
Held September 19, 2022 at McAuslan Hall  
Commencing at 7:00 P.M.**

**Present:** Ned Waterbury, Chairman  
Lori Behling, Counselor  
Marty Trey, Counselor  
Dan Yawman, Counselor  
Graham Seiter, Town Attorney  
Ron Marsden, Code Enforcement Officer  
Nicole Wild, Town Clerk

**Absent:**

And 4 in the audience.

Chairman Waterbury called the meeting to order with the Pledge of Allegiance at 7:04pm. Chairman Waterbury gave the board time to review the minutes from the regular August meeting.

A motion was made by Behling and seconded by Yawman to approve the minutes of the regular ZBA August 15, 2022 meeting. The motion was adopted by a vote of 4 ayes: Waterbury, Behling, Trey, and Yawman, 0 nays.

**Old Business**

**Bait Shop/Sporting Goods Store- Special Use Permit Application**

Waterbury said the Planning Board reviewed the application materials and concluded that the application is complete. Marsden confirmed that there are no existing violations at the property and distributed copies of the updated site plan to the board members. Waterbury listed the outside agencies that have reviewed the project. Wild read the section of the Planning Board minutes to the ZBA. Yawman said a privacy fence is a good idea. Trey said the previous plan showed a driveway that is now a parking lot. Seiter said that is correct. Seiter said the parking will go into the back. Trey asked if there was enough room to park cars as well as drive cars through. The applicant said yes. Waterbury said the gravel parking area to the west is 46 additional feet. The applicant said the edge of the pavement plus 46 more feet. Waterbury asked for rough dimensions of the parking lot. Waterbury reviewed the size of the parking lot as 113 feet deep with 4 spots for standard size automobiles and the gravel extension was added to provide more room for larger vehicles to maneuver. Waterbury said the south lot line is 200 feet total from the corner to the road and wondered if that extra room is sufficient for a pickup with tow trailer. The applicant said yes. Waterbury asked what happens if the application is approved but then parking proves insufficient. Seiter said the property has to be laid out the way the plan is written; complaints will result if there is not sufficient room. Seiter said customers won't visit if parking and/or driving is difficult. Yawman said customers could take it upon themselves to park on the road. Trey said customers could back out. Seiter said "no parking" signs would not be allowed there without State DOT approval and that the applicant

would have to tell customers they couldn't park there. Seiter said that if problems resulted, the applicant would have to make the parking area larger. Waterbury asked if the septic engineer has given the applicant plans. The applicant said the engineer is still drafting the project. Waterbury suggested placing the septic in a way that will allow him to expand the parking lot in the future if necessary.

Waterbury listed sections of the local law that pertain to the ZBA's purpose tonight. Waterbury confirmed that there is no outdoor storage. Waterbury asked if the applicant planned to use traditional flood lights. The applicant will use motion sensing traditional flood lights. The board worked through section 345 and is satisfied. Waterbury said the Planning Board went through sections 350 and 355. The applicant said the sign will be placed on the side of the building. Seiter said the sign laws apply to free-standing signs and not painted signs on the side of the building. Waterbury asked the board members if there are any conditions the board would like to place on the permit. Trey asked if conditions needed to be placed on the permit to enforce parking constraints. Trey would like the condition added to the permit that the applicant is responsible for adhering to the county planning department constraints. Seiter said the applicant cannot stop individuals from parking on the street and considers it an unfair burden to the applicant because the applicant does not have the authority. Waterbury asked if the condition could be that the applicant communicate with the state DOT for no-parking signs. Seiter said the applicant could try and the board could ask the applicant to write a letter to the state requesting signage. Waterbury explained to the applicant that the board may request he ask the state for no parking signs. Trey said we have a duty to ensure public safety as much as possible.

A motion was made by Trey and seconded by Waterbury to approve the special use application with the condition that the applicant requests NYS DOT install "no parking" signs to the North and South of the entry. The motion was passed by a vote of 4 ayes; Waterbury, Behling, Trey, Yawman, and 0 nays. Waterbury told the applicant that he can contact Marsden to continue with the permitting process and suggested sending the letter to the Mexico branch of the State DOT. The applicant left the meeting.

### **New Zoning Application Form Review**

Waterbury introduced the new application for Special Use Permits created by the Planning Board and asked the board members to review the form. Yawman suggested something in the form referring back to the law or town code as a way to refer them to more information. Trey asked if section 340 attached is intended to be part of the application. Weber confirmed that it is like a packet as opposed to just the application. Waterbury said it prepares the applicant to have a profitable conversation with the code enforcement officer. Waterbury said it will help applicants grasp the steps necessary to make projects safe and official. Trey asked if stronger language should be included in the front page of the application regarding the acceptance of the application, section D #4: "Without a site plan and accompanying data, the site plan will not be accepted or considered." Seiter said the law is already established but this is a vehicle to help Marsden gather information about the applicant and his/her project. Seiter said this document could be a work in progress and amended at any time as needed. Waterbury said the gentle recommendation that the applicant read and understand the local law is essential. Trey said the application is just organized differently and doesn't anticipate

more complete applications as a result. Behling said the attachment of section 340 will help applicants understand what is expected. Trey suggested adding a sample application. Weber agreed that a sample application/site plan would be helpful. Weber noted that the Town Board expressed frustration at the timeline of the process.

Trey asked that the future version of this be posted on the website.

## **New Business**

### **Shutt Interpretation**

Waterbury asked the board members to review the information for the interpretation; each ZBA member received a copy of the application for the interpretation. Code 524 prohibits placement of additional dwellings on the same property. Waterbury noted that the applicant wishes to place 1-5 cabins on the property in addition to the primary residence. Waterbury said the zone is A-3, a portion in C-3. Waterbury asked Shutt of his understanding of the zoning. Shutt said the front portion appears to be C-3 but may not be if the zoning follows property lines but that the bulk is A-3. Waterbury said Shutt is considering a cabin and/or camp not the same as a dwelling. Waterbury suggested the board review definitions in section 110, page 6, "dwelling unit" and "camp." Waterbury shared that the intent of the law is to enforce one dwelling per parcel and a camp is a form of dwelling. Trey asked if length of stay is used to determine the type. Seiter said camp is seasonal in nature and dwelling is permanent. Shutt suggested that the intermingling of "dwelling" and "residence" is problematic. Shutt read section 524 and asked if a camp is a residential building. Shutt said the lot is 144 acres. Seiter said "cluster development" is geared toward complexes. Yawman asked how many camps Shutt wanted to build. Shutt said he would start with one. Yawman read the definition of "camp" and pointed out no more than one, per lot, for temporary use. Yawman said more than one is not a camp, it is a campground. Trey said it does not fall under accessory use. Seiter said he would have to apply for a subdivision. Seiter said the intent was that a parcel can contain a camp or a house and that a camp is a temporary seasonal dwelling. Seiter said the difference between a camp and a dwelling is meant to convey seasonality. Shutt is asking if he can have a camp and a dwelling on the same lot. Trey said following that logic you could also put a hotel there, which is not in the spirit of the law. Seiter confirmed the lot is a single lot. Seiter said road frontage will be more of a concern when subdividing.

Seiter said a case law does exist that if the ROW has not been maintained, it constitutes abandonment of the ROW. Seiter said there are separate laws relating to camps, they have their own rules and regulations and more than one camp constitutes a campground. Seiter said the provision would apply after the ZBA takes a first look at the application.

The applicant said there are three accessory use buildings (sheds) on the property and asked if the camp is considered an accessory use, which would put him over the limit of 4. Seiter asked the board to consider if the camp is an accessory use. Trey said the use chart said the uses are permitted as one per lot. Yawman said the dwelling and the Ag use farm can exist on the same lot. Seiter said agricultural permits you to have a farmhouse with the land. Seiter reiterated that camps have their own regulations, a special permit and subdivision would be required. Trey said you can't have a camp and a house on the same lot. Behling said campgrounds are regulated separately as well.

A motion was made by Waterbury and seconded by Behling to sustain Marsden's decision in denying the application for a camp on the same property as a dwelling. The motion was passed by a vote of 4 ayes; Waterbury, Behling, Trey, Yawman, and 0 nays.

Waterbury told the applicant that Marsden's decision is appropriate to the local law and encourages him to consult with Marsden to determine if another route is possible. Waterbury said the permitted shed is considered an accessory use building. Seiter said the building is considered an accessory use building. Trey said Section 548 is for residential districts (R-1 or R-2), which this is not, so there is no limit to the number of accessory use buildings in A-3. The applicants left the meeting at 8:45pm.

## **Other Business**

### **Accessory Use or Building**

Waterbury reviewed the request of the Town Board to research the accessory use or building section of the zoning law. Waterbury explained that accessory use buildings currently cannot exist legally without a dwelling unit. Waterbury said the Town Board suggested changing the law to allow accessory use buildings without primary use buildings (dwellings). Waterbury asked the board members to review the information presented for the next meeting. Trey said section 420 has accessory use listed as permitted in all zones. Seiter said the definition of accessory use precludes the chart- ie: yes you can have it but not without a primary dwelling unit.

The next ZBA meeting will be held October 17, 2022 at 7:00pm at McAuslan Hall.

A motion was made by Yawman and seconded by Waterbury to adjourn at 8:51 pm. The motion as adopted by a vote of 4 ayes: Waterbury, Behling, Trey, Yawman, and 0 nays.

Respectfully submitted,

Nicole Wild  
Town Clerk