

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

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

Absent:

And 5 in the audience.

Chairman Waterbury called the meeting to order with the Pledge of Allegiance at 7:00 pm. Chairman Waterbury gave the board time to review the minutes from the regular October meeting.

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

Trey entered at 7:01pm.

Old Business- None.

New Business-

Rosato Special Use Permit

Waterbury introduced the application for a Wedding & Event/Recreation Center on 102-108 Valley Road. Lacelle, engineer, presented the project to the board as a venue facility in an existing barn; a parking lot with 57 spaces, outdoor patio area, septic field system, which required a full DEC wetland delineation, existing well with testing completed. Lacelle said there are no new structures, the parking area meets requirements for ADA compliance, DEC and DOH has the applications and the Mexico Highway department has said that the road can handle this type of increase in traffic. Lacelle said parking is gravel, except ADA spots which will be stamped concrete.

Waterbury said section 340 of the local law was worked through by the planning board. Behling asked if there would only one event at a time. Rosato said yes. Rosato distributed the final design shared with Planning board to ZBA members. Yawman asked about the short environmental assessment form. Seiter said that part one is done by the applicant and we do part 2 tonight. Yawman asked what the planning board said. Waterbury said the planning board

thought the application was well done and approved the site plan without conditions. Lacelle said the turn accommodates a fire truck. Waterbury asked if landscaping will change much. Lacelle said no trees will be removed.

Seiter said it could be approved subject to SEQRA completion or do the SEQRA completion first. Waterbury said to do the SEQRA first Part 2 short form. The board addressed the following together as a group:

- 1-material conflict- no
- 2-change in use- no
- 3-impair character of community- no
- 4-environmental characteristics- no
- 5-adverse change in traffic- no
- 6-increase in energy- no
- 7-water supply, waste water utilities- no
- 8-impair historic resources- no
- 9-adverse change to natural resources- no
- 10-increase in erosion/flooding/drainage issues- no
- 11-create hazard to environment/human health- no

Seiter said part 3- recommends motion made that a negative declaration be entered on the map for SEQRA purposes.

A motion was made by Waterbury and seconded by Behling that, according to Parts 1 and 2 of the environmental study, a negative declaration be made. The motion was approved by a vote of 4 ayes: Waterbury, Behling, Trey, and Yawman.

A motion was made by Yawman and seconded by Behling to approve the Rosato application.

Trey suggested more rigor and formality in the communication from the Planning Board to the ZBA, for example, a memo from the chair, complete with all artifacts (ie: highway superintendent letter).

The motion was approved by a vote of 4 ayes: Waterbury, Behling, Trey, and Yawman and 0 nays.

Rosato & Lacelle left the meeting at 7:31pm.

Maynes & Souva Use Variance

Waterbury introduced the application for a double-wide manufactured home on 5247 State Route 3. Waterbury disclosed that he is a customer of the applicants and also friends with the applicants. Seiter said that if Ned feels that he can be unbiased, he does not need to recuse himself from the discussion. Trey said he doesn't have an issue if Ned feels he can be unbiased. Behling takes no issue. Yawman has no issue. Waterbury said there is a change in the application process as an appeal of the Code Enforcement Officer's ruling of a denial.

Waterbury shared that David & Karen's house was destroyed by a fire in an A1 zone and have been residents there the last 15 years but have been local their entire lives; the dwelling was a single-story, single-family home with detached garage, deck and above ground pool; the burned house was torn down after clearance from the owner's insurance company; the

applicants are asking to replace their home with a manufactured home measuring 26.8'x48'. The applicants passed a photo to the board.

Waterbury said an A1 zone does not allow manufactured homes. Waterbury said the request is for a manufactured home installed on permanent foundation, concrete block; municipal regulation regarding manufactured homes says manufactures homes should be considered single-family homes. Waterbury said Marsden reviewed the zoning law and determined that this home couldn't be put in place without ZBA approval. Waterbury said there is a hardship situation. Yawman asked if the NYS document from 2015 has regulations regarding single-family residence. Trey asked how this should be addressed. Waterbury said it sounds like all manufactured homes are to be built to certain standards as mandated by federal and state laws. Marsden said manufactured homes are built to the same standards as stick-built homes. Marsden said they come on frames and are set on a foundation but can be taken off; and this particular home will be fixed to a permanent foundation. Marsden said it's equivalent to a stick-built home from a construction perspective.

Trey inquired about the general aesthetic. Waterbury said it shouldn't unduly call attention to itself as far as general aesthetic. Waterbury said that the value of the insurance settlement is not sufficient to rebuild as a stick-built home and the applicants are trying to come up with an affordable solution. Waterbury brought up setting precedence; homes of this kind are allowed in certain zones but not A1; however, the new state law may override our zoning and could be a topic added to the updated version of the comprehensive plan in order to come into alignment with the state. Yawman said mobile home definition page 10 of the local zoning law said that the home in question does not meet the definition of mobile home.

A motion was made by Trey and seconded by Yawman that the interpretation of the board is that the applicant is seeking a permit for a manufactured, modular home, which is permitted in the A1 district and that the code enforcement officer issue the building permit.

Behling suggested looking at the definition to ensure it's not setting a precedence. Seiter read the term for mobile home and modular homes as defined as single-family dwellings. Behling said a single- or double-wide shall remain mobile homes. Seiter said the language is confusing but that the board needs to determine if it's a mobile home or a modular home. Waterbury reminded the board of the state mandate from 2015.

Seiter asked if single and double-wide homes come in pieces. Marsden said double-wide homes comes in two pieces. Trey asked what the distinction is between "double-wide" and "modular." Trey asked for clarification that mobile and modular are each a standard of construction and this home meets the higher standard of modular. Seiter asked if this home is fixed to a permanent foundation. Marsden said yes. Seiter said based on the NYS law, it's a manufactured home and doesn't think it can be denied. Trey said home definitions law for Mexico may need to be updated in the zoning law and use a table. Trey suggested amending the motion to strike **modular** and add **single-family**. Seiter suggests keeping modular instead of single-family. Marsden said modular is built to state standards. Seiter said based on NYS law, this building meets the requirements, and suggests the board use the original motion. The motion was approved by a vote of 4 ayes: Waterbury, Behling, Trey, and Yawman, and 0 nays.

Other Business

The next ZBA meeting will be held January 18, 2023 (due to the holiday) at 7:00pm at McAuslan Hall.

A motion was made by Waterbury and seconded by Behling to adjourn at 8:20pm. The motion as adopted by a vote of 4 ayes: Waterbury, Behling, Trey, and Yawman, and 0 nays.

Respectfully submitted,

Nicole Wild
Town Clerk