

**Mexico Zoning Board of Appeals
Minutes of the Regular Meeting
Held August 19, 2024 at the Town Hall
Commencing at 6:30 P.M.**

Present: Ned Waterbury, Chairman
Mathew Bryant, Counselor
Dan Yawman, Counselor
Ron Marsden, Code Enforcement Officer
Graham Seiter, Town Attorney

Absent: Lori Behling, Counselor
Marty Trey, Counselor

And 2 in the audience.

Chairman Waterbury called the meeting to order with the Pledge of Allegiance at 6:31 pm.

Attorney suggested waiting until the following meeting to approve the July minutes.

Old Business-

New Business

The Space Place Storage Expansion – 2914 ST RT 104

Applicant: John Constanza

Waterbury introduced the application to the board; A1 district and request is to build two additional storage buildings. Waterbury stated the mission of the board is to approve that the application is complete in order to forward it to the planning board. The ZBA's opportunity to address the matter will be after the planning board has a chance to review. Waterbury said they need to navigate the path forward on this application. Waterbury said this kind of business of short-term storage is not listed. Constanza said the project began over 20 years ago, expanded every few years after that; first couple additions were easy and after the local law changed, a special use permit was used; it has been 8-10 years since the last expansion.

Waterbury said it appears that a precedent was set since the current law was passed and expansions were approved; use variance or "other" category which would allow a special use permit. Seiter said the "other category" seems to fit and, in this case, there are already existing storage units there; it would be different if there were no storage units and it was a neighborhood but there are already storage units there so the character of the area is not being changed. Waterbury said he would like to be cautious. Yawman read a section of the law and wondered what would be similar. The board discussed possible business categories. Waterbury suggested that ministorage as a category could have been an oversight in the current zoning law but thinks that the "other" category is used in order to proceed with a special use permit.

Yawman asked if something is not restricted by the law, what stops someone from doing that thing? Seiter said the reason for the "other" is for that purpose; the board has the

possibility to make a determination; there's law and there's practical; at some point storage buildings were allowed and it makes no practical sense to say it's not allowed now. Marsden said the law is difficult but originally thought it was under "warehouse" category but feels that it's actually "other." Waterbury said the history of the facility over time would indicate the "other" category. Yawman said he wants it to fit into a category but it doesn't. Seiter said the list is not exhaustive, which is why the "other" category exists. Waterbury said the board is granted the latitude as long as that category is used appropriately.

Waterbury said there's no sense in reviewing the application until they agree on the category. Waterbury said someone wanting to start a new ministorage business in that area would be different. Seiter said the "other" category could be used for a fresh ministorage business too but this is defensible because there are already storage units there that were built before the current law. Waterbury said there is a logic to applying the "other" category. Yawman said more businesses is a positive thing and doesn't see a material difference between a new application and this one. Seiter said they were permitted at one point and you can make the argument that adding to an existing business is not the same as a new business. Yawman feels that this could go under the category "other."

A motion was made by Waterbury and seconded by Bryant to proceed with review of the application reflecting the fact that the board has had a thorough and vigorous conversation regarding the application and the "other" category.

The motion was approved by a unanimous vote.

Waterbury urged the board to review the application for completeness. Yawman said the property deed is missing. Constanza said he does have a copy of the deed. Waterbury said they could pass it along to the Planning Board with the stipulation that a deed is included. Marsden will send the deed to the planning board once he receives it. Waterbury said the list of items is often read aloud while the board determines the response. Section 340 was read aloud by Dan Yawman. Yawman asked the height of the building. Constanza said they will be 20x40 for larger items like boats and height will be 16'. Yawman asked if dirt has to be brought in; Constanza said yes for one building closer to the property line. Lacele said swales will be used to direct drainage. Constanza said the driveway is gravel. Constanza said they would be built in 2025 if approved. Waterbury asked the board to consider if the application is in compliance. Yawman said yes, with the exception of the deed.

Waterbury moved to the short environmental assessment form. Seiter suggested to designate it as an unlisted action with notices sent out to NY DOT, County Planning Board, historical and DEC agencies notified. Seiter suggested scheduling the public hearing for September 16th at 6:30.

A motion was made by Yawman and seconded by Waterbury to deem the application complete as long as the deed is included as well as designate it as an unlisted action with lead agency notices going to the appropriate agencies.

The motion was approved by a unanimous vote.

Seiter asked if the board wanted to notify neighbors. Waterbury said the board has typically required notification of neighbors within 500 feet.

Other Business

A motion was made by Yawman and seconded by Bryant to adjourn at 7:33pm. The motion was approved by a unanimous vote.

Respectfully submitted,

Nicole Wild
Town Clerk