

**Mexico Zoning Board of Appeals
Minutes of the Regular Meeting
Held Monday, May 19, 2025 at the Town Hall
Commencing at 6:30 P.M.**

Present: Ned Waterbury, Chairman
Lori Behling, Counselor
Marty Trey, Counselor
Dan Yawman, Counselor
Graham Seiter, Town Attorney

Absent: Mathew Bryant, Counselor
Ron Marsden, Code Enforcement Officer

And 1 in the audience.

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

Old Business-

Square Rule Frames, LLC- Salvetti

Chairman Waterbury reviewed the application; the ZBA needs the updated site plan. The board reviewed the updated site plan. Salvetti said he shifted the building location but followed a 50' setback. Chairman Waterbury asked if a large boulder would still be placed and the applicant agreed to place one in the corner of the lot.

The board reviewed the application and section 345 and there were no comments from the board.

A motion was made by Waterbury and seconded by Yawman to approve the special use permit with conditions as per the planning board. All ayes.

Chairman Waterbury said he will need a building permit, and Officer Marsden will issue special use permit; construction can begin under Officer Marsden's advisement.

Salvetti left the meeting at 6:36 pm.

New Business-

Steven & Christine Garrett, 6633 ST RT 3, Special Permit for Ground Mounted Photovoltaic System

Chairman Waterbury introduced the application and gave the board time to review. The applicant said it's for residential use; the line from the array to the meter will be buried. Councilor Yawman said the solar array is next to the pole barn; applicant said there are no batteries planned at this time. The engineer said battery backup is becoming more common. National Electric Code has very specific requirements for lithium-ion batteries; lead acid gases are explosive but existing guidelines address that; the grid tied system will be putting electricity back into the grid and the net meter will give them credit in the future for excess energy.

Chairman Waterbury cited the town of Orleans fire in a large system in the town of Lyme; engineer said that was a commercial solar site. Attorney Seiter said he recommends it to be a type II action given the size and its location on his personal property which does not require further coordinated review by any other agency.

Councilor Yawman read through section 340 aloud for the board to review; questions and concerns were:

Attorney Seiter asked if they made sound and the engineer said no. Attorney Seiter said a public hearing needs to be scheduled. Councilor Yawman said section 345 can be reviewed at the next meeting. Councilor Yawman said they asked the applicant to notify neighbors within 1000 feet, but Attorney Seiter said for this application, adjoining properties is most likely sufficient. Chairman Waterbury told the applicant to work with Officer Marsden to notify adjoining neighbors of the day and time of the public hearing which will take place at the Town Hall on June 16th at 7pm and mailing certified notification to neighbors.

Councilor Yawman made motion; deemed complete, seconded by Councilor Behling. Councilor Trey asked if the application falls under small energy systems section 402 paragraph 2 referenced, which labels it up to 10 kw. Councilor Yawman asked if it's considered a large-scale farm, because it will be allowed if it is NOT large scale. Attorney Seiter said he considers it a small-scale ground mounted, noted height and setback requirements, lot coverage requirements. Councilor Trey said that 12.6 kw is more than 10kw and 10kw is what denotes a small-scale farm section 402 paragraph a2. KWDC is wattage of panel times number of panels and that's 12kw, but KWAC is typically less (about 8 AC). Councilor Trey said the definition does not go into explicit detail, but the engineer said most typical residential units are over 10kw. Attorney Seiter said the specificity of the 10kw of the law is problematic. Attorney Seiter said the applicant could make the argument that it is under 10kw given the KWAC. Councilor Behling asked the board to review 402 number 6. Engineer said building-integrated pv is a term where solar shingles and solar siding are used instead of solar panels and that's called BIPV building integrated pv and that is not common. Chairman Waterbury asked if a 10kw system is available and feasible and could the array be decreased to come into compliance? The engineer said they could make it smaller, but it wouldn't satisfy the needs of the residence; NYS says you can build the system based on the needs of the building plus 10%. Attorney Seiter said the board will need to make a determination about the allowability of the kw. Engineer said the electrical need is getting bigger so arrays are getting larger and larger. Councilor Trey said the idea of capping it at 10 was to confine the overall size and the question is appropriate; that you can now get more power out of a smaller footprint, and he feels the board is still meeting the intent. Attorney Seiter agreed that a smaller array will now provide more electricity, and the scale should focus on the size of the array as opposed to the KW stipulation. Attorney Seiter said if the main goal is to reduce the size of the farm, this is clearly a residential type of system.

Attorney Seiter said systems have become more efficient and the original intent of the law to maintain small arrays is still being met despite the 10kw cap; suggests keeping a size cap but not a kw cap.

The motion is carried, all ayes.

The applicant and engineer left the meeting at 7:24pm.

Other Business-

Chairman Waterbury reminded the board of a June 16th, 2025, appeals hearing preparation.

Executive session entered at Attorney Seiter's request regarding possible litigation; 7:32pm. Attorney Seiter said the sawmill on ST RT 3 has been a problem for town residents, specifically the daily burning but also several violations that have not been remedied and the original site plan not being followed. Attorney Seiter said there is nothing stating he cannot burn scrap; it was not stipulated at the time of his application. Attorney Seiter said the DEC is not citing the property owner for burning during burning bans. Attorney Seiter said the ZBA can revoke the special use permit if the original site plan is not being followed. Attorney Seiter said the burning pit was not put on the site plan and there are other existing violations. Councilor Trey said building and selling of sheds was not permitted and that is a clear use in our law that he is not authorized to do. Attorney Seiter said he would need to stop building and selling sheds and should apply for a separate special use permit. Councilor Trey asked if Officer Marsden has taken measurements of the log storage. Councilor Trey said if he's in violation and has been asked to cure it, the ZBA can pull his permit and he would have to file within 90 days; a special use permit since 2017 originally issued to Yoder, but the special permit ran with the land and transferred to the next owner. Councilor Yawman asked for copies of the original application from Officer Marsden. Attorney Seiter said a metal bin for burning was never on the original site plan and is the size of a big dumpster. Chairman Waterbury wondered why the DEC isn't following up on burning outside of a burn ban. Attorney Seiter said Chairman Waterbury can turn the meeting over to him and he will conduct the hearing. Chairman Waterbury said the property is in the M1 zone. Attorney Seiter said he has the original SEQR application as well. Attorney Seiter said the board went through part II SEQR and indicated small or no impact on air quality because they did not anticipate the burning of scraps. Attorney Seiter said we do SEQR for DEC purposes, but they are not issuing violations. Councilor Trey said there's nothing telling the applicant that they can't make and sell sheds. Attorney Seiter said the original agreement on which the town issued the has been violated. Attorney Seiter clarified that the applicant will receive 90 days to appeal any decision. Attorney Seiter said the board can give him a certain number of days to correct before revoking the permit. Attorney Seiter said the law does not mandate a certain amount of time to remedy. Councilor Trey said he has received notification and latitude to correct the problem. Attorney Seiter said the board needs to thoroughly review the information that is presented at the hearing before arriving. Councilor Trey asked if there are any other artifacts that the board should review. Attorney Seiter said he will present whatever he has. Chairman Waterbury said the appeal process requires careful consideration and a very thorough review. Exited executive session at 8:03pm.

A motion was made by Councilor Yawman and seconded by Councilor Trey to adjourn at 8:03pm. The motion was approved by a unanimous vote, all ayes.

Respectfully submitted,

Nicole Wild
Town Clerk

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