

Draft
Town of Oneonta
Zoning Board of Appeals
Meeting Minutes
October 23, 2023

Present: A. Black, D. MacClintock, Chairman Prouty, R. Panasci (Attorney),

Absent: K. Wilde

Others: Peter Hill, esq. (Lower reservoir Community- council to atty Doug Zamelis), Eileen Hill (126 Lower Reservoir Rd.), Kim Downie (288 Lower Reservoir Hill), Tom Downie, David Koehn (Lower Reservoir Community), Jenny Koehn (Lower Reservoir Community), Gregory Farmer (Otsego Land Trust), Justen Golinski, Joseph Ballard (158 Lower Res. Rd.), Maggie Ballard (158 Lower Res. Rd.), Scott Dowden, (Lower Reservoir Rd.), Susan Blass (228 Lower Reservoir Rd), Edward Blass, Karen Rowe (137 Lower Reservoir Rd), Tom Rowe (137 Lower Reservoir Rd.), Heather Babbitt (274 Lower Reservoir Rd.), Rich Babbitt (274 Lower Reservoir Rd.), Fred Clapper (184 Lower Reservoir Rd), Dana Clapperr (184 Lower Reservoir Rd.)

A. Roll Call

- Chairman Prouty called the meeting to order at 7:00pm and called for the roll.
- The next meeting is scheduled for November 27, 2023

B. Minutes

- **September 25, 2023**

MOTION: A motion was made by D. MacClintock and seconded by A. Black to approve the minutes.

DISCUSSION: None **ABSTAIN:** D. Allison **VOTING:** 3 in favor Motion Carries.

C. New Application:

- **Clapper/Clapper Maple Ridge Farm LLC, Interpretation**

Tax Parcel No: 275.00-1-63.01

184 Lower Reservoir Rd., Oneonta, NY

Zoning: RA-40 (Residential Agricultural)

The applicants, Lower Reservoir Community, who allegedly live near the Clappers, represented by Douglas Zamelis, Esq., desire an interpretation of the code officer's decision regarding the Clapper's site plan application for a campground at the above tax parcel. The appeal to the Zoning Board alleges that a use variance should have been required by the code officer because the campground would be a second principal use on the parcel. The letter from the applicant's attorney further alleges that a complete site plan was not submitted and the code officer allowed the site plan review to begin with the planning board in error.

The code officer stated that the application submitted by the Clapper's was for a campground use of their property which is allowable according to Town Code 103-17 (A)(2), requiring site plan review approval from the planning board only. There is a single-family residence (SFR) (owner occupied) on the parcel, along with other accessory structures that are currently being used for personal storage only. The SFR is intended to continue to be used by the owner as their personal residence while they operate the campground. Portions of the accessory structures were proposed to be used for storage of machinery and equipment to operate the campground by the owners. This is no different than two other long-standing campgrounds in the Town of Oneonta. The owners also submitted an application for short term rental of their SFR, which was withdrawn during the first meeting with the planning board.

Peter Hill, an attorney representing the Lower Reservoir Community, neighbors to the Clappers appeared for the application. He read aloud a statement describing the objection to the code officer's decision to go ahead with the site plan for the campground without first requiring a use variance.

MOTION: A motion was made by D. Allison and seconded by Chairman Prouty to set a public hearing for November 27, 2023 at 7:15pm or as soon as possible thereafter for an interpretation of the zoning code to determine if a use variance is necessary to proceed with the campground.

DISCUSSION: None **VOTING:** Unanimous. Motion Carries.

D. Public Hearings:

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- **Justen Golinski, Use Variance**
Tax Parcel No: 309.00-1-50.01
180 St Hwy 28, Oneonta, NY
Zoning: RA-40 (Residential Agricultural)

The applicant desires a use variance to allow Retail Sales of cannabis at his parcel along St Hwy 28. Once this decision is made, we can proceed with the building permit items.

The public hearing opened at 7:20pm and Chairman Prouty read aloud the notice from "The Daily Star". Justen Golinski represented the application. He would like to open a CBD /Hemp business on his property. Mr. Golinski stated that he was evicted from his shop in Bainbridge which left him with no place else to go. He does still have a shop in in Cooperstown that is active but with the closing of the Bainbridge shop, has lost part of his income. He believes that this lot is well suited for the shop being close to agriculture and land and he is not seeking the hiking trails as he previously mentioned.

Mr. Golinski states that he contracted to purchase this lot on February 18 with the intention of personal recreational use, before the date of February 28 in which he lost the lease in Bainbridge. Since he lost his lease, he now wishes to use this property to run his shop. He has a license to sell CBD/Hemp and is applying to sell marijuana in the future. Mr. Golinski believes there would be about 3 customers at a time and would have about 8 parking spaces with enough room to enter and exit safely from his property. He also stated that there would be very little commercial delivery traffic as he has small boxes delivered to his home as well as his shop in Cooperstown and then brings the product to the shop. If any deliveries, there would only be UPS sized trucks, not Semis.

He believes that the hardship is unique because the parcel is located on top of the mountain and borders the Rod and Gun Club. He also cannot obtain a reasonable rate of return without this use as he has explored other options and had a real estate agent write a statement saying that some of the other options are not feasible. Some of the uses he has looked into include campground and golf courses which require a lot of space and would be cost prohibitive to set up and putting up a single-family house or hiking trails would not return enough income. He has also looked into farming, but the steep grade would limit the type of crops grown. Mr. Golinski does not believe that this use will change the character of the neighborhood as there is a farm business across the street and a small shop would not affect anything. He also says that the hardship is not self-created due to the fact that he lost his lease after he signed his contract and his intention was to use it for personal recreation. The board discussed whether he could have withdrawn from the contract before closing.

Jenny Koehn, a neighbor from 252 Lower Reservoir Rd, asked if the building was vacant and if there was a certificate of occupancy for it and if it was a retail and commercial use? Mr. Golinski answered that it had no C.O. and was not currently in use.

R. Panasci said the application has to be submitted to the County Planning Department so we need extend the hearing until next month.

MOTION: A motion was made by A. Black and seconded by D. MacClintock to continue the public hearing at the next meeting on November 27, 2023 at 7:30pm or as soon as possible thereafter.

There being no further business before the Board, the meeting was adjourned at 8:02pm.
Laura Sause,
Clerk of the Zoning Board of Appeals