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**UNION VALE ZONING BOARD OF APPEALS
Minutes of the Regular Meeting**

**February 5, 2019
7:30 pm**

Members Present: Chairperson Jane Smith, Board members Dennis Dunning, and Jeff Wimmer

Member Absent: Board members John Hughes and Ilana Nilsen

Others present: none

CALL TO ORDER / DETERMINATION OF QUORUM

Chairperson Jane Smith determined that there was a quorum to conduct business and called the meeting to order.

BUSINESS SESSION

- Review the Agenda
- Minutes

Chairperson Jane Smith asked for a motion to accept the January 8, 2019 regular meeting minutes, motion by Board member Dennis Dunning, seconded by Chairperson Jane Smith; approved unanimously by Board members present.

CORRESPONDENCE

Chairperson Jane Smith noted that two pieces of correspondence were received pertaining to Albert Behler, 1-111 Pheasant Ridge Farm Lane application.

PUBLIC HEARING:

None.

REGULAR SESSION / OLD BUSINESS

DISCUSSION:

DAWN SUN CORP., 3122 Route 82, Verbank, NY 12585

Chairperson Jane Smith stated that there have been no further developments or communications from the applicant or applicant's attorney since the January 8, 2019 meeting.

After brief discussion among the Board members present, Chairperson Jane Smith asked for a motion to defer this application until the March 5, 2019 meeting, for the reasons stated below, motion by Board member Dennis Dunning, seconded by Board member Jeff Wimmer.

- Direct the Town Attorney, James Nelson, to evaluate whether the SEQRA determination made by the Planning Board at its meeting on June 21, 2017, is valid or binding on the ZBA, and, in this connection advise whether the proposed action is an “unlisted action” under SEQRA;
- If it is determined that the Planning Board’s June 21, 2017 determination is not valid or binding on the ZBA,
 - Require the applicant submit a new application to the Zoning Board that includes not only the two variances identified in the application submitted on December 14, 2018, but also all variances required for the proposed project, a complete set of site plans, and a long form EAF;
 - Set up a meeting between the Planning Board Chairperson, Zoning Board Chairperson, Town Attorney, Town Engineer, and Applicant and Applicant’s representatives with the aim of determining whether the project is subject to SEQRA review and, if so, whether that review should be coordinated or uncoordinated.

OLD BUSINESS:

Behler, Albert 1-111 Pheasant Ridge Farm Lane, Lagrangeville, NY 12540, requesting a 4 foot fence height area variance to replace an existing 8 foot tall wooden fence with the same size and material in the side yard, in the RD10 district.

Chairperson Jane Smith welcomed Mr. John Hines, from Toolbox construction who is representing the applicant.

Chairperson Jane Smith read into the record the correspondence received: an email dated January 14, 2019, from Dutchess County DPW, William Trifilo, Engineering Division, stating after his site visit that the existing/proposed fence is not located in the County right of way; and a notarized letter dated January 14, 2019, from Jeffery Clum, caretaker of 1-111 Pheasant Ridge Farm Lane, stating that the existing fence was in existence for as long as he has been associated with the property from May 2000 to present.

Chairperson Jane Smith read code section 210-69, Noncomplying buildings and structures, the code’s “grandfather clause.” Noting that the existing fence preceded zoning restrictions on fence height (which did not come into effect until 2002, and that prior to that, evidently no permit for the construction of a fence was required), Chairperson Smith emphasized that noncomplying “structure may be continued indefinitely if maintained in accordance with all applicable codes, ordinances, regulations and other requirements, but shall not be enlarged or extended, maintained, altered or *reconstructed* in such manner as to increase the degree of existing noncompliance with the requirements set forth for the zoning district in this chapter or to create any new noncompliance”.

Board member Dennis Dunning questioned Mr. Hines as to the type of wood that the applicant intended to use to replace the locust posts. Mr. Hines stated he would like to use a pressure

treated rough-cut wood, preferably pine, and, if not, he was considering cedar. Mr. Hines stated that the owner wants to keep the fence “rustic” looking.

Board member Dennis Dunning asked if Mr. Hines intended to stain the fence. Mr. Hines said we could use a tinted, translucent stain with an earth tone, to give the proposed fence a more “aged” rustic look.

After brief discussion between the Board members, Board member Jeff Wimmer stated this application comes under the grandfather clause, and, therefore, may reconstructed if it is kept consistent with what is there currently.

Chairperson Jane Smith asked for the motion to not accept the application for a variance, and deferred action on this reconstruction of the proposed fence until the March 5, 2019 meeting to give the applicant time to submit additional materials, such as pictures depicting the proposed fence, specific to type of wood planks to be used, including dimensions width, height and length, color of stains proposed and any other materials that prove the proposed fence will adhere and comply with code section 210-69. Such motion was made by Jeff Wimmer, seconded by Dennis Dunning, and carried unanimously.

REGULAR SESSION / NEW BUSINESS

None.

OTHER BUSINESS

None.

ADJOURNMENT

As there was no further business, Chairperson Jane Smith moved to adjourn the meeting at 8:20 p.m; seconded by Board member Dennis Dunning, and unanimously accepted.

The next regular meeting of the Zoning Board of Appeals is scheduled for **Tuesday, March 5, 2019 at 7:30 PM.**

The agenda will close on **February 19, 2019 at 12:00 Noon.** Items for consideration at the **March** meeting must be received by that date.

Respectfully submitted,

Jean E. Miller

ZONING BOARD OF APPEALS CLERK

Annexed documents:

DPW email dated January 14, 2019

Notarized letter Jeff Clum, dated January 14, 2019