

TOWN OF VIRGIL ZONING BOARD OF APPEALS
Public Hearing/Meeting Minutes - Monday, 23 March 2015 - 6:30 PM
Town Hall Meeting Room - Virgil, Cortland County, NY

Board Members

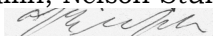
Mary Beth Wright, Chair
Jeannine Sprague
Linda Edwards
*John Coulter
*Sheila Morse
Jeffrey Hall, Alternate

(*absent)

Others Present

Joan E. Fitch, Board Secretary
Craig Umbehauer, Town CEO
Town Attorney Patrick Snyder

Public Present

Sheila & John Morse, Applicants; Applicant; Connie & Rick Horner, Doug Brown, Donald Dunham, Ron Stanley, Al Marcin, David Morgan, Celestine Hall, Jeff Stewart, Robin Chernow, Lori & Dan Allen, Chris Stull, Dale & Kathy Taylor, Rick McMullin, Nelson Stull, Steve Allen, Rose & Earl Stevenson, Town Board Member Jereme Stiles, Wyatt &  Malchak,

At 6:30 p.m., Board Secretary Fitch read aloud the Public Hearing notice as published in the Cortland Standard on 18 March 2015. Proof of Publication has been placed on file for the record.

PUBLIC HEARING

John & Sheila “Sam” Morse, Applicants/Reputed Owners - 2416 Stafford Road - TM #118.00-01-27.100 - Commercial Use in ARC (Agricultural/Residential/Conservation) District

(It is noted for the record that Sheila Morse, a member of this Zoning Board of Appeals, was recused from this meeting as she is an Appellant.)

Chairperson Mary Beth Wright recognized Sam Morse who explained to everyone present that she and her husband had purchased the former Blodgett Mills Rod & Gun Club property (28± acres improved with a single-story, concrete block building) at public auction in October 2014, with the intent to reopen it as a sportsmen’s club. The property has been a rod and gun club for at least 65 years, and is located across the street from a racetrack for motor vehicles; however, the subject property has not been used as a sportsmen’s club/shooting range for approximately ten years, and now is not a permitted use in the ARC District since the use has been vacated for over a year and has lost its status as a pre-existing non-conforming use. Therefore, to resume its previous use, a variance is required.

Mrs. Morse explained that the building was not suited for residential purposes, and they will not be selling any merchandise onsite. Further, sportsmen’s clubs are not covered in the Town’s Zoning Ordinance.

The facility would be used to educate persons in the safe and proper handling of firearms and archery equipment, utilizing shooting ranges located on the southern end of the property and firearms would be discharged toward adjoining State forestland. Chair Wright asked if they had notified the neighbors, and Sam responded that there was only one affected as far as shooting within 500 feet of his property and, since the shooting range was more than 500 feet away, no waiver would be required.

Chair Wright asked the appellants if they planned to serve alcoholic beverages. Sam stated that they had not decided yet but, if they do, they will have to apply **for** a license. Member Linda Edwards asked how many days would the club be open, and Mrs. Morse responded they are planning a “Sunday trapshoot,” and maybe one night during the week in the summer; they will

leave actual times up to the members — a schedule would be set up, and the club would be open year-round.

Member Jeannine Sprague commented that when the Morses purchased the property, they should have known it was a non-conforming use. Sam responded that she did not know it was such. She was under the impression that they would have to go before the Town Planning Board for Site Plan approval.

Chair Wright asked if there was anyone present who wished to speak regarding the use variance request; comments were received as follows:

Rick McMullin – 2285 Stafford Road – Lived here ten years and is involved in shooting sports. Member of other sportsmen's clubs. Subject property is ideal for this use which is needed in Cortland County. It will be of benefit to the Town of Virgil. Operating as a sportsmen's club will be **more** quiet than the racetrack. It's a good thing for the community and I welcome it in the neighborhood.

Jeff Stewart – 2472 Stafford Road – New owners came to him and asked him to sign a waiver allowing discharge of firearms within 500 feet. Not sure he wants to sign such a waiver. Not opposed to or for granting of variance, but not in favor of shooting within 500 feet of his property.

Sam Morse commented that property has plenty of room and there will be no shooting within 500 feet of Mr. Stewart's parcel.

Dale Taylor – 2193 Kypriotis Drive – Grew up in Town of Virgil. Town needs business. Is little concerned for the neighborhood. Would be interested in learning days/hours of operation. Hopes there is no liquor license as guns and alcohol do not go together. Facility should be used for hunters' education. Has no problem with gun club, but would like some restrictions.

Kathy Taylor – 2193 Kypriotis Drive – Has a real problem with alcohol being served there. Not against the club, but would like restrictions implemented.

John Morse commented there should not be shooting at 7 a.m. The club "is not about liquor." "It's not gonna be a bar per se." Private parties should be allowed to have beer. Plan on having Boy Scouts use the facility. Members should be allowed to have a beer; "it will not be a booze joint."

? Malchak – 2502 Ridge Road (McGraw) – Has a son who would like to shoot, but there's no place like this one. We need places for kids to learn fundamentals of shooting and gun safety. Supported granting of variance.

Chris Stull – 2553 Holler Road – This club could continue the education and training regarding guns. It's important people know how to use guns the right way. Understands people's concerns. Will make Virgil a better place. As far as liquor goes, I think you have to have a permit for that.

Donald Dunham – 2532 Holler Road – Looking forward to learning to shoot and to get my hunting license for the first time. This is an opportunity to be safe and do it right.

Rick Horner – 2804 Carson Road – Former VP of gun club in 70s and 80s. Something always going on. Dances on Saturday nights with a band. Had a shoot on Sundays and Wednesday nights. Had a certified instructor to teach shooting/gun safety. Never had trouble there with anything. Supported granting of variance.

Jeff Stewart – Same as above – Not opposed to gun club coming in. I moved in my property knowing there was a gun club there; it's been closed for years. There are five operating clubs in Cortland County. Boy Scouts don't need a place to go as they have the Izaak Walton property for camping and programs.

Wyatt Malchak – 2502 Ridge Road – Started shooting around 11 years old. There's no problem with having one more gun club.

Earl Stevenson – 3121 Clute Road – This will be a great thing here to have a club where people can get together and shoot and get to know each other. I'm new here; moved here two years ago. Very interested in shooting sports and having everyone learn how to safely handle firearms. Sure boards will have regulations and good rules regarding alcohol use.

Ron Stanley – 1748 Owego Hill Road – Used to play there for round and square dances every Saturday night. They had beer there, but never once did he ever see any disturbances. Always had a good time. Yes, there's other clubs, but one more isn't going to hurt anything.

David Morgan – 2836 West River Road - Lived here for 48 years. There's no place to really shoot. Looking forward to shooting at this place. Great place to have open. Really in support of having this club.

John Morse stated he'd been to other clubs and McGraw is over-run with members. Young people will eventually be the old people. Wants his facility to be "user friendly" to everyone.

Robin Chernow – 2472 Stafford Road – Lived in my house for 27 years. Gun club went out of use approximately 20 years ago. Racetrack started up the year we moved in which is not great, but it's only four or five months on Saturday nights. Knows what's going to happen up there at the proposed gun club. "It's going to turn into a restaurant and bar. Our life is going to change dramatically. Don't want to hear gunshots at 8 a.m. It's not just going to be a gun club. We are members of Izaak Walton Club. We go to Homer to do our shooting." People will drink and the drive. Please consider that it stay the way it is.

Lori Allen - 2891 Snyder Hill Road – Grandson goes to Dryden to shoot bow and arrows. Thinks it's a great thing to have a club closer.

Doug Brown – No Address Given – If applicants wanted to have a bar, they could have bought the bar property that's available, but it's not what they are looking for.

Al Marcin – 200 Tower Road; Connie Horner 2804 Carson Road – Spoke in favor of granting the variance. If granted, would have a place to shoot.

Nelson Stull – 2571 Holler Road – Lots of people don't like change. Supports the club. "Sometimes we have to live with it."

With everyone wishing to be heard having been heard, Chair Wright closed the Public Hearing at 7:15 p.m.

DISCUSSION/DECISION

Chair Wright acknowledged receipt of the Cortland County Planning Department and Board's report, recommending granting of the use variance, with contingencies, which were read aloud to those present.

Chair Wright then read aloud Part II of the Short Environmental Assessment Form. Answers provided by the Board members were recorded on the form which was signed by the Planning Board Chair and placed in the Town's file folder for this application. The Board, at the conclusion of completing the form, indicated that the second box under Part III should be checked. **A motion was then made by Member Jeannine Sprague that the action will not cause any significant adverse environmental impact, resulting in a Negative Declaration. The motion was seconded by Member Linda Edwards, with the vote recorded as follows:**

**Ayes: Chair Wright
Member Sprague
Member Edwards**

**Nays: None
Absent: Member Coulter**

Member Hall

Recused: Member Morse

Motion carried.

This becomes Action #1 of 2015.

The Board then proceeded with the required questions (balancing test), with the responses being given by the ZBA members, as follows:

1. Is the applicant substantially unable to make a reasonable return from the property, as shown by competent financial evidence?.
 Finding: Member Sprague – no; Chair Wright, Members Edwards and Jeff Hall – yes.
2. Is hardship somewhat unique?
 Finding: No. All Board members present agreed.
3. Has the hardship been self-created??
 Finding: Yes, it was self-created. All Board members present agreed.
4. Will the requested variance alter the essential character of the neighborhood?
 Finding: All members present felt that it would.

Regarding Item 3 above, Town Attorney Patrick Snyder read aloud a statement found in a NY Appellate Division Report IN RE JONES, 90 A.D.3d 1280 [3d Dept 2011] in the Matter of Rodney Jones et al., Appellants, v. Zoning Board of Appeals of the Town of Oneonta et al., Respondents, as follows:

“As to the final element, ‘[a] hardship is considered self-imposed if the variance applicant purchased the property subject to the restrictions and was aware of the zoning restrictions at the time that it purchased the property’ (Matter of Ctr. Square Assn. v Bd. Of Zoning Appeals, 19 AD3d at 971). At the time Clark purchased the property, Place had a valid use variance to operate the sand and gravel mine which, absent a specific time limitation, runs with the land until revoked (see Matter of St. Onge v Donovan, 71 NY2d 507, 520 [1988]);”

Member Sprague commented that appellant is a ZBA member and should have known about any proposed use; she should have done her homework.

At the conclusion of the discussion, a motion was made by Member Edwards to grant the requested use variance incorporating Items 1 thru 10 of the Cortland County Planning Board’s Resolution No. 15-3 of 18 March 2015. The motion was seconded by Chair Wright, with the vote recorded as follows:

Ayes:	Chair Wright	Nays:	Member Sprague
	Member Edwards	Absent:	Member Coulter
	Member Hall	Recused:	Member Morse

Motion carried.

This becomes Action #2 of 2015.

APPROVAL OF MINUTES – 27 OCTOBER 2014

A motion was made by Member Sprague to approve the Minutes of the 27 October 2014 Town of Virgil ZBA meeting, as submitted. The motion was seconded by Member Edwards, with the vote recorded as follows:

Ayes:	Chair Wright	Nays:	None
	Member Sprague	Abstain:	Member Hall
	Member Edwards	Absent:	Member Coulter
		Recused:	Member Morse

Motion carried.

This becomes Action #3 of 2015.

ADJOURNMENT

A motion was made at 8:03 p.m. by Member Sprague to adjourn the meeting, seconded by Member Edwards, with all members present voting in the affirmative.


Joan E. Fitch, Board Secretary

Submitted via e-mail to Town Supv., Town Clerk,
Town Attorney, CEO, ZBA Members &
Co. Planning on 4/01/15.
Corrected & approved on 5/18/15.