**Village of Aurora Zoning Board of Appeals Meeting Minutes, August 12, 2015**

**Present:** Chair John Dentes, Karen Hindenlang, Laura Holland (alternate), Ann Tobey, and Jeri Vargo

**Absent:** Marie Taylor

**Others Present:** Village Clerk Ann Balloni**,** John Langey, ESQ special counsel to the ZBA,Matt Bianconi, Alexis Boyce, Marie Dentes, Robin Driskel, Peggy Dupee, Jodi Gunderson, and Tom Gunderson

**Call to Order:** Chair Dentes reconvened the July 8, 2015 public hearing for Application #14-43 at 7:00 pm.

Chair Dentes asked for any additional public comment and there were no comments.

On motion by Vargo, seconded by Tobey, the ZBA voted to close the public hearing at 7:02 pm.

AYES: Dentes, Hindenlang, Holland, Tobey, and Vargo

NAYS: None

Motion carried unanimously.

Chair Dentes then called the regular meeting to order at 7:03 pm.

**Changes to the Agenda:** Chair Dentes noted that the public hearing for Application #15-26 would precede New Business.

**Approval of Minutes:** On motion by Vargo, seconded by Hindenlang, the ZBA voted to approve the July 8, 2015 meeting minutes.

AYES: Dentes, Hindenlang, Holland, Tobey, and Vargo

NAYS: None

Motion carried unanimously.

**Announcements:** No announcements.

**Old Business**

**Appeal from Tom Gunderson on the Village of Aurora Planning Board denial of Application #14-43**

Upon consultation with special counsel to the ZBA, John Langey, ESQ, the ZBA acknowledged the complexities associated with Application #14-43. Mr. Langey explained that due to conflicts between the current village zoning law and New York State law, and the precedent established through case law, any decision rendered by the ZBA would be invalidated in court. Therefore in recognition of the ZBA’s role as a quasi-judicial board with no jurisdiction over the Village Planning Board decisions, the ZBA asked Mr. Langey to draft a resolution based on the facts associated with the Gunderson’s appeal and the board’s desire to provide non-binding guidance to the Gundersons. The resolution is as follows:

**VILLAGE OF AURORA**

**RESOLUTION OF**

**THE ZONING BOARD OF APPEALS**

**MATTER OF THE APPEAL OF**

**THOMAS H. GUNDERSON AND MARALEE E. GUNDERSON**

**PURSUANT TO VILLAGE OF AURORA CODE §1103(D)(1)**

 **August 12, 2015**

Chair Dentes moved and J. Vargo seconded the following Resolution:

**WHEREAS**, on or about June 28, 2015, Thomas H. Gunderson and Maralee E. Gunderson, residing at 43 Cherry Avenue, Aurora, New York (the “Applicants”), did file an appeal of a determination of the Village of Aurora Planning Board dated May 27, 2015, which Planning Board determination denied the request of the Applicants to locate a train car (specifically a discontinued caboose) as an accessory structure upon premises owned by the Applicants at 287 Main Street, Aurora, New York (more commonly known as Tax Map No. 182.17-1-4.2) (the “premises”); and

**WHEREAS**, a public hearing, on the question of the appeal to the Zoning Board of Appeals relating to the Planning Board’s May 27, 2015 decision, was held on July 8, 2015, at which public hearing the Applicants and all interested members of the public were heard; and

**WHEREAS**, the public hearing was thereafter continued to August 12, 2015 for further consideration, review and to obtain the advice and assistance of Special Counsel to the Zoning Board of Appeals; and

**WHEREAS**, the Applicants have duly submitted a written application with a Notice of Appeal, along with other various submissions including letters from the Applicants’ legal counsel, all in support of the Applicants’ Appeal; and

**WHEREAS**, the Village Zoning Board of Appeals has duly reviewed all of the materials submitted by the Applicants, the May 27, 2015 determination of the Planning Board; the minutes of the applicable Planning Board meetings associated with the application; correspondence from the Applicants’ attorney; correspondence in opposition to the application; correspondence from the Village Engineer, dated March 25, 2015; copy of a Lehigh Valley Railroad Company - License for Undergrade Installation, dated November 26, 1968; the original submitted Zoning application; the determination of the Village of Aurora Code Enforcement Office, dated February 16, 2015, as signed by J. Patrick Doyle, Zoning Inspector and Michael Piechuta, Code Enforcement Officer; and all other submissions made by the Applicants and other interested parties, as well as the applicable provisions of the Village of Aurora Zoning Law and the New York State Village Law; and

**WHEREAS,** the Village Zoning Board of Appeals has consulted with special counsel as to procedural and substantive matters associated with the Appeal.

**NOW, THEREFORE, BE IT RESOLVED** that the Zoning Board of Appeals, after due consideration, makes the following findings of fact and conclusions of law with respect to the appeal:

**FACTUAL BACKGROUND AND THE**

**JURISDICTION OF THE ZONING BOARD OF APPEALS**

* The premises are located at 287 Main Street in the Village of Aurora, New York and are jointly owned by the Thomas & Maralee Gunderson Irrevocable Trust;
* The premises are zoned Residential/Flood Hazard and consist of a converted train station structure now utilized as a seasonal single-family home with associated yards, totaling 0.35+ acres;
* The Applicants desired, by way of an application to the Village Planning Board, the right to locate a discontinued train car (caboose) as an accessory structure in one of the associated yards of the premises;
* The proposed accessory structure would include the placement of a decommissioned caboose on a section of railroad track on the premises to be located in the side yard, south of the existing structure;
* The Applicants received a Certificate of Appropriateness for the proposed use issued by the Community Preservation Panel (“CPP”) on or about January 7, 2015;
* The Village of Aurora Code Enforcement Office, by letter dated February 16, 2015, issued its written determination that:
1. The caboose meets the definition of an Accessory Structure according to the Village of Aurora Zoning Code (“Code”) as it is “a combination of materials to be erected on the same lot as a principal building and clearly incidental and subordinate to the principal building, the use of which requires location on the ground or attachment to something having location on the ground”. The caboose will be permanently attached to buried railroad ties and steel rails. Additionally, the caboose has been taken out of service, and is not intended for the transportation of people.
2. The caboose is 31 square feet and will require Site Plan Review and a Certificate of Appropriateness, according to Section 405-A3.b. of the Code. (A Certificate of Appropriateness was issued by the CPP on January 7, 2015).
3. The proposed location of the caboose is not in a Flood Hazard Zone. The height of the caboose does not exceed 16’, will not be located closer than 10’ to the principal structure, and does not exceed 20% of the floor area of the principal structure, which is in compliance with Section 405-A3. of the Code for Accessory Structures.
4. Permanent attachment of the caboose to the ground will require a Special Use Permit, according to Section 402. Regulated Activities of the Code, as excavation of earth will be required.
* No formal or informal appeal was taken from the February 16, 2015 determination of the Village of Aurora Code Enforcement Office.
* The premises are bordered on the north by the McGuire premises, on the east by the Gunderson and Dorie premises, on the south by the Arleo premises and on the west by Cayuga Lake.
* The stated purpose of the caboose is to be used as a playhouse with sleeping accommodations for up to four (4) individuals on the property.
* The proposed placement of the caboose and the portion of railroad track would be on, over or in the immediate vicinity of an existing Village sewer line, which sewer line is located approximately nine (9’) feet below grade.
* Correspondence from Neighbor McGuire had been received by the Planning Board which expressed concerns relative to impacts to the McGuire driveway and plantings within the right-of-way. Additional correspondence was received by the Planning Board regarding concerns of the Arleo property.
* Conflicting correspondence was received by the Planning Board from the Village of Aurora Superintendent of Public Works (indicating that there are no major concerns with regard to the placement of the caboose as proposed) and correspondence from the Village Engineer expressing concerns as to the placement of the caboose in the immediate proximity of the sewer main.
* A review of the Village’s existing Sewer Regulations reveals the regulations do not address the placement of structures above or within any recorded sewer easements.
* A review of the instrument titled “Lehigh Valley Railroad Company - License for Undergrade Installation,” dated November 26, 1968 (the “License” or “Easement”), reveals no express prohibition of the placement of any structures on, in or near the location of the sewer easement in question. However, the language of the License states that the Village is “granted the perpetual right . . . and easement to construct, use *and maintain* one 18” sanitary trunk sewer line” on the premises all in accordance with the easement map attached to the License. (Emphasis supplied).
* It appears that the installation of the sewer line was accomplished in accordance with the then-Railroad’s specifications and has existed since the late 1960s-early 1970s.
* It further appears that the easement provided to the Village remains fully vested and as of right on the premises and has not been extinguished.
* On or about May 27, 2015, the Village of Aurora Planning Board reviewed all of the above materials and facts; held a public hearing to allow for public comment, as well as input from the Applicants; and thereafter determined, in a 5-0 unanimous vote, to deny the application for the placement of the caboose on the premises at the stated location (being on or within the area of the easement) for the following reasons:
1. “that ‘Vehicles’ are not allowed in the Zoning Law Section 405 P1 #3-F: ‘An unattached accessory structure shall not be a building, structure, or other assemblage of materials designed for, or customarily used as, a principal structure allowed under this law; nor shall an unattached accessory structure be a vehicle or a container primarily intended for commercial storage or transportation of goods, animals or people.’
2. that the ‘vehicle’ would be too close to the Village Sewer Line, as in the written recommendations of Village Engineer Kenneth Teter dated March 25, 2015.
3. that the concerns of the adjoining neighbors’ complaints should be considered that were presented to them in the Public Hearing on February 25, 2015.”
* By written correspondence on or about June 3, 2015, the Village of Aurora Planning Board advised J. Patrick Doyle, Zoning Code Inspector, that the Board had reviewed and denied the proposed site plan and special use permit for placement of the caboose, stating the reasons for denial as follows:

“1) 03/25/15 letter from Kenneth Teter, PE, Village Engineer regarding the close proximity of caboose to existing Village sewer main line as it relates to Option I of Application #14-43. Mr. Teter recommends that no structure be placed closer than 10’ to existing village utility lines. In addition, the proposed location of the caboose is too close to the Village sewer main according to recommended Village water and sewer specifications.

2) That the caboose is not an accessory structure according to Section 405, 3.f of Village Zoning Code

3) Concerns of neighbors.”

* Thereafter, a letter of notification was provided to Mr. and Mrs. Gunderson on or about June 4, 2015 from J. Patrick Doyle, Zoning Code Inspector, advising the Gundersons of the denial of the application and further advising the Applicants that:

“Note that New York Village Law Section 7-725 provides that ‘any person aggrieved by a decision of the authorized board of the village may apply to the supreme court for review by a proceeding under article seventy-eight of the civil practice law and rules. Such proceeding shall be instituted within thirty days after the filing of a decision by such board in the office of the village clerk’ or such other relief as may otherwise be provided in Village Law.”

* In response to the denial and the notification from the Village, the Applicants filed a formal appeal of said denial to the Zoning Board of Appeals on or about June 26, 2015.
* The Village of Aurora Zoning Law, at Article XI (“Administration”) Section 1103 (“Zoning Board of Appeals”), provides for the enumeration of powers and duties of the Zoning Board of Appeals. Pursuant to Subsection (A) (“Power and Duties”), “The Zoning Board of Appeals shall interpret and apply the provisions of this Local Law on all matters assigned to it herein, hear appeals from adverse decisions, and grant variances.”
* Pursuant to §1103(D) (“Appeals”), the Code provides:

“1. Hearing appeals. The jurisdiction of the Board of Appeals shall be appellate only, and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the Zoning Officer, the Community Preservation Panel, *the Planning Board* or other administrative official charged with the enforcement of this or any local law. . .

2. Who May Appeal. Appeals to the Zoning Board of Appeals may be taken by any person or official aggrieved or affected by any provision of this Local Law or by any decision including any order to stop, cease, and desist *issued by the Zoning Officer* in enforcing the provisions of this Local Law.

3. Time of Appeal. Such appeal shall be taken within sixty-two (62) days after the filing of any order, requirement, decision, interpretation or determination *of the administrative official charged with the enforcement of such local law* by filing with the administrative official and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the actions appealed from were taken.”

(Emphasis supplied).

**APPLICATION OF THE FINDINGS OF FACT AND**

**CONCLUSIONS OF LAW OF THE ZONING BOARD OF APPEALS**

* Upon a review of all of the findings of fact, the complete record before the Zoning Board of Appeals and upon a review of the applicable statutory provisions pursuant to NYS Village Law Article 7, it is hereby determined that the Zoning Board of Appeals in the instant matter is constrained to find that it lacks jurisdiction and authority to review, affirm and overturn decisions of the Planning Board thereby rendering the Gunderson appeal moot as a matter of law for the following reasons:
1. Pursuant to NYS Village §7-718, a Village Board of Trustees is authorized by Local Law to create a Planning Board. The Village of Aurora has duly authorized and created a Village Planning Board pursuant to Article IX and Article XI to hear and grant special use permits and site plan approvals, as well as pursuant to the authority under Village Law §7-718.
2. Pursuant to Article IX of the Village of Aurora Zoning Law, the Planning Board has been vested with the exclusive authority for granting special use permits and site plan approvals. Such authorization is not inconsistent with NYS Village Law §7-725-a (“Site plan review”) and §7-725-b (“Approval of special use permits”).
3. NYS Village Law §7-725-b provides that a Village Board of Trustees may delegate the power to grant special use permits to “the planning board or such other administrative body that it shall designate to grant special use permits as set forth in such local law.” Upon a review of the entirety of the Village of Aurora Zoning Law, there is no provision directly granting the power to issue special use permits to the Zoning Board of Appeals. Similarly, under NYS Village Law §7-725-a, the Village Board of Trustees may authorize the Planning Board “or such other administrative body” that it shall so designate, to review and approve site plans. No such powers are granted to the Zoning Board of Appeals through the Village’s local Zoning Law provisions.
4. It is further noted by the Zoning Board of Appeals that both NYS Village Law §§7-725-a and 7-725-b contain provisions relative to the challenge by an aggrieved person of a decision of the Planning Board (or such other designated body), that constitutes a final determination of said body. In those instances, the NYS Village Law provides that an aggrieved person may apply to the Supreme Court for review by a proceeding under Article 78 of Civil Practices Law and Rules. However, such challenge must occur within thirty (30) days from the filing of the decision by the Planning Board or such reviewing board with the Village Clerk. We are advised by our Special Counsel that failure to commence such a proceeding within the thirty (30) day time period is a prohibitive bar to any such challenge.
5. The Village of Aurora Zoning Law at §1103(A) - “Zoning Board of Appeals” - “Powers and Duties” -- contains a unique provision that purports to grant the Zoning Board of Appeals the general authority to interpret and apply the provisions of the Zoning Law on all matters assigned to it, to hear appeals from adverse decisions and grant variances. Pursuant to §1103(D)(1) (“Hearing Appeals”), the Zoning Board of Appeals is purportedly granted the following power:

“The jurisdiction of the Board of Appeals shall be appellate only, and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the Zoning Officer, the Community Preservation Panel, *the Planning Board* or other administrative official charged with the enforcement of this or any local law.” (Emphasis supplied).

1. We are advised by our special counsel that the inclusion of appeals from determinations of the Village Planning Board is unique to the Village of Aurora’s Zoning Law and would otherwise require a formal superseding of the NYS Village Law to potentially authorize such appellate powers over Planning Board decisions.
2. The purported power granted under §1103(D)(1) is not found in the parallel provisions of NYS Village Law at §7-712-b which limits the appellate review of the Zoning Board of Appeals to the following:

“1. Orders, requirements, decisions, interpretations, determinations. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by *the administrative official charged with the enforcement of such local law* and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.” (Emphasis supplied). (*See*NYS Village Law §7-712-b(1)).

1. The language utilized pursuant to NYS Village Law relative to the Zoning Board of Appeals’ limited power to reverse, affirm, etc. decisions of the “administrative official” relates to the Code Enforcement Officer or Zoning Official’s *initial* determinations regarding the applicability of certain zoning regulations and the issuance of building permits, etc. We are advised that there is no authority within the confines of Article 7 of the NYS Village Law specifically granting powers to a Zoning Board of Appeals to review, overturn or otherwise comment on the final determinations of a *Planning Board*.
2. The earlier references to §§7-725-a(11) and 7-725-b(9) of the NYS Village Law clearly indicates that individuals dissatisfied or aggrieved with final Planning Board decisions must pursue those grievances solely by way of an Article 78 proceeding in New York State Supreme Court.
3. The Zoning Board of Appeals has engaged special counsel to review and provide legal assistance and analysis with this appeal. The Zoning Board of Appeals has been provided with legal advice and legal analysis, including interpretive case law, which constrains and dictates a finding that the Zoning Board of Appeals may not exercise appellate jurisdiction over a final determination of the Village Planning Board. (*See* *Matter of Viscio v. Town of Wright*, 42 A.D.3d 728, 839 N.Y.S.2d 840 (3d Dep’t 2007) (Where Appellate Court rules that provision contained in Town of Wright’s Zoning Code (similar to that found in Village of Aurora) purporting to grant “appellate” powers to the Zoning Board of Appeals over Planning Board subdivision decisions, is void since at the time of the creation of such purported power, the Town Board did not expressly supersede that portion of the Town Law which gives the Planning Board exclusive jurisdiction over such applications or that which requires an aggrieved party to file an Article 78 to appeal a Planning Board determination)).
4. A review undertaken of the adoption of the Village of Aurora Zoning Law fails to provide any stated notice by the Village Board of Trustees at the time of such adoption of its intent to supersede the provisions of the NYS Village Law relative to the purported expanded jurisdiction of the Zoning Board of Appeals or any intended supersession of the NYS Village Law as it relates to the powers of the Planning Board, the Zoning Board of Appeals or the right and obligation of parties to intercede through an Article 78 proceeding.
5. Additional case law further supports the finding that the Zoning Board of Appeals lacks jurisdiction in this matter. (*See Katz v. Board of Appeals of Vil. of King’s Point*, 21 A.D.2d 693 (“Board of Appeals has no jurisdiction to entertain an appeal of a Village Board of Trustees’ determination on a permit.”); *Boxer v. Town Board of Town of Cortlandt*, 60 A.D.2d 913 (2d Dep’t 1978) (Court holds that pursuant to §274-a of the Town Law, a Town Board may not reserve appellate jurisdiction over site development plans approved by the Town’s Planning Board); *Marx v. Zoning Board of Appeals of the Village of Mill Neck*, 137 A.D. 333 (2d Dep’t 1988) (Court held that the Zoning Board of Appeals lacked appellate jurisdiction to modify conditions imposed on subdivision plans approved by the Village Planning Board, holding that the Planning Board had been delegated with the power to control the review for subdivisions and upholding the lower Court’s determination that “The Zoning Board may not trespass upon the functions or duties of the Planning Board”)).
6. In addition to the quoted case law above, the overall framework of the Village of Aurora Zoning Law §1103(D) demonstrates that the Zoning Board of Appeals could not and should not exercise generic appellate power over decisions of the Village Planning Board as there is no additional guidance provided to the Zoning Board as to such appeals. For example, there is no timeframe provided for taking an appeal to the Zoning Board of Appeals in the instance of a challenge to a Planning Board decision. While it is noted that Subdivision (3) of Subsection (B) provides for a sixty-two (62) day filing period from a determination of the administrative official charged with enforcement of the local law, there is no similar time period guidance provided for the decisions of the Planning Board.
7. Further, there are no standards or criteria upon which to review and consider an appeal of a Planning Board decision contained anywhere within the Village of Aurora Zoning Law. This is all in addition to the lack of any supersession language as required under the *Matter of Viscio* court holding referenced above.
8. It is noted that a comparison of the Village of Aurora’s Zoning Law tracks the provisions of NYS Village Law in near identical fashion with regard to the powers and duties of the Zoning Board of Appeals.
9. While it is noted that the Applicants have merely followed the language contained in §1103 of the Village of Aurora Zoning Law in filing their Appeal to the Zoning Board, due to all of the above-referenced reasonings, including the interpretative case law, the lack of supersession language associated with the purported power of the Zoning Board of Appeals to take appeals over decisions of the Planning Board and the failure of the balance of the Ordinance to provide any useful framework for such appeals, this Zoning Board of Appeals is constrained to acknowledge its lack of jurisdiction over such Planning Board decisions, including the instant Appeal by the Gundersons.
10. However, it should be further noted that at the time of the notification of the determination by the Code Enforcement Office on June 4, 2015, the Applicants were notified of their right to commence an Article 78 proceeding pursuant to the provisions of Village Law §7-725; and

**BE IT FURTHER RESOLVED** that the Zoning Board of Appeals, based upon a full review of the record, a review of the Village Code, all of the documents submitted and based upon legal research and advice provided by special counsel to the Village Board, the Zoning Board of Appeals is hereby constrained to determine that the Zoning Board of Appeals lacks the requisite jurisdiction to overturn, affirm or modify the May 27, 2015 decision of the Village of Aurora Planning Board; and

**BE IT FURTHER RESOLVED** that in light of the above and acknowledging that the Applicants had merely attempted to follow the provisions of the Village’s own Zoning Law, the Zoning Board of Appeals recommends to the Applicants and all other parties associated with this matter, that a meeting occur between the Applicants, Neighbors, the Code Enforcement Office, the Village Engineer, the Chair of the Planning Board and the Village Superintendent of Public Works to determine if the Applicants should make a *de novo* revised application to the Planning Board for reconsideration of placement of the caboose in a location less objectionable to the Village’s concerns regarding the right-of-way, the potential impacts to neighboring properties and the potential granting of such application upon addressing the criteria of the Zoning Law.

Upon a canvass of the Board, the votes of its members upon the Resolution were as follows:

|  |  |  |
| --- | --- | --- |
| **John Dentes, Chair** | **Voting** | **Aye** |
| **Karen Hindenlang** | **Voting** | **Aye** |
| **Ann Tobey** | **Voting** | **Aye** |
| **Jeri Vargo** | **Voting** | **Aye** |
| **Laura Holland (Alternate)** | **Voting** | **Aye** |

The Chair, John Dentes, then declared the Resolution to be duly adopted.

**JOHN DENTES,** Chair of the Zoning Board of Appeals of the Village of Aurora, hereby certifies that the foregoing Resolution was duly adopted at a meeting of the Board duly convened and held on August 12, 2015, a quorum being present.

**JOHN DENTES, CHAIR**

**Village of Aurora Zoning Board of Appeals**

**ANN BALLONI**, Village Clerk of Village of Aurora hereby certifies that the foregoing Resolution was duly filed in her office on August 12, 2015.

**ANN BALLONI, Village Clerk**

ZBA member, Karen Hindenlang, asked counsel what the impact of the findings contained in the above resolution have on the current village zoning law. Mr. Langey indicated, in his opinion, the ZBA is legally barred from hearing appeals of a planning board decision, as allowed under current village law. Mr. Langey recommended that the ZBA strongly urge the Village Board to promptly remove or revise the portion of the village zoning law, section 1103 D (Appeals), that do not comport with New York State law.

**Public Hearing**

Chair Dentes called the public hearing for Application #15-26 from Matt Bianconi for a request for an area variance at 403 Main St (Tax Map #181.16-1.4) to order at 7:45 pm.

Chair Dentes noted that Mr. Bianconi’s mother is the owner of the property and that she has submitted a letter of authorization for Mr. Bianconi to speak on her behalf.

Mr. Bianconi explained that the area variance is due to the non - conforming lot, close proximity to State Rt 90, and the extension of the porch along the northwest elevation 6.17’ into the setback.

**Public Comment:** Chair Dentes read a letter from Jim and Kay Burkett (attached), Mr. Bianconi’s neighbor to the north, requesting that the ZBA adhere to the 10’ setback requirements per the Village of Aurora Zoning Law with regard to the porch addition and the planned retaining wall between the two properties.

Mr. Bianconi noted that retaining walls are exempt from the setback requirements per the Village of Aurora Zoning Law and that the Community Preservation Panel approved his project at their August 5, 2015 meeting.

On motion by Tobey, seconded by Vargo, the ZBA voted to close the public hearing at 7:55 pm.

AYES: Dentes, Hindenlang, Holland, Tobey, and Vargo

NAYS: None

Motion carried unanimously.

**New Business**

**Application #15-26 from Matt Bianconi for a request for an area variance at 403 Main St (Tax Map #181.16-1.4)**

While reviewing Mr. Bianconi’s plans and attempting to answer the five standard questions relating to Area Variances, the ZBA noted that the East elevation plans were only submitted that afternoon and that there were no measurements provided for the north side of the built structure from the property line which is the area encroaching the furthest into the setback.

The ZBA agreed to reserve decision on application #15-26 until definitive measurements for all elevations are submitted and the committee members have had an opportunity to visit the property. Dentes and Hindenlang expressed their concern that the encroachment was significant and that alternative designs may be necessary.

**Adjournment:** On motion by Vargo, seconded by Tobey, the ZBA voted to adjourn the meeting at 8:40 pm.

AYES: Dentes, Hindenlang, Holland, Tobey, and Vargo

NAYS: None

Motion carried unanimously.

**Next Meeting:** September 9, 2015

Respectfully submitted,

Ann Balloni

Village Clerk