



Town of Olive Zoning Board of Appeals

P.O. BOX 513, Shokan, New York 12481

William Vilkelis
Chairman

Members
Sandy Friedel
Frederick Perry
Chet Scofield
Brian O'Rourke

MINUTES

April 7, 2022

1. Opening:

The Town of Olive Zoning Board of Appeals met on Thursday, April 7, 2022 at the Meeting Hall on Bostock Road, Shokan to hold a regular meeting and continued discussion on Application 22-01 of Karen Ranucci/Krumville Artist and Teachers Alliance, LLC, for property located at 1242 County Road 2, Olivebridge, NY 12461 for an Interpretation to determine if the Proposed Use of an artist studio and educational and community center is permitted as commercial recreation, or in the alternative, a museum in the R/E-1A zoning district. The meeting started at 7:30 p.m., with the Pledge of Allegiance to the flag.

2. Record of Attendance:

William Vilkelis
Chet Scofield
Sandy Friedel
Brian O'Rourke

Absent
Fred Perry

3. Approval of Minutes:

On a Friedel/O'Rourke motion the Board dispensed the reading of the March 3, 2022 minutes, and accepted them as written.

4. Discussion:

- 4.1 Application 22-01 of Karen Ranucci/Krumville Artist and Teachers Alliance, LLC, for property located at 1242 County Road 2, Olivebridge, NY 12461 for an Interpretation to determine if the Proposed Use of an artist studio and educational and community center is permitted as commercial recreation, or in the alternative, a museum in the R/E-1A zoning district.

Chairman Vilkelis started the discussion stating that the members of the Zoning Board of Appeals have held discussions with council and pointed out that there are four different concepts that the members of

the Zoning Board of Appeals (ZBA) has discussed with their attorneys, John Lyons and Kimberly Garrison. The first consideration would be as a commercial recreation use, the second as a museum, the third as a recreational facility, and then finally since the building is located in a Rural Residential 1-acre zone there may be another classification that is more suitable. This classification is under Business/Village.

Chairman Vilkelis said that the attorneys have provided the ZBA with definitions from other towns pointing out how the classifications are used. He asked the members their thoughts on the use as commercial recreational. Chet Scofield didn't feel that the proposed uses would fit into that definition. Brian O'Rourke feels that the use would be an educational, cultural theme which doesn't fall in the area of commercial. He pointed out that the applicants are suggesting such a broad spectrum of proposed uses that makes it difficult to find one classification. Chairman Vilkelis agrees and remarked that it doesn't really fit into the Town of Olive's code. Chet Scofield said that when the code was initially established the term recreational referred to outdoor activities. Chairman Vilkelis noted that the descriptions for recreational facility provided by the other townships pointed more towards outdoor activities.

Sandy Friedel feels that the proposed concept is wonderful, just not in that particular residential area. She feels it will grow because it is so popular, then they would have to move anyway. Chairman Vilkelis said that he doesn't disagree but the zoning board needs to stay on course with the task in hand to decide if the proposed use falls within the requested areas in the R/E-1A zoning district.

Chairman Vilkelis acknowledged that the ZBA members don't seem to feel that the proposed use would fall under commercial recreation. He asked what their thoughts are regarding recreational facility. Brian O'Rourke feels that the interpretation request doesn't talk about an outdoor recreational use and feels that the board can't classify it as such if they aren't planning on that type of use.

Chairman Vilkelis said that the museum classification is very interesting because there isn't a lot of definitions referring to a museum. However, there are a few townships that talk about displaying art work. Chet Scofield feels that the museum part may work for the displaying of art but feels it really doesn't cover the rest of the proposed uses. Mr. Scofield pointed out that other towns talked about a cultural center.

Chairman Vilkelis noted that the board is having a difficult time determining what one area the applicants proposed uses could fall under. He told the members of the zoning board that there will be another meeting with the attorneys prior to the board's May meeting when there will be a decision and vote. He remarked that there is a fourth option, which has been discussed with the attorney. He pointed out that whoever put together the town's zoning codes, they zoned different districts for different things. The chairman pointed out that there is a zoning district, Business/Village, and under 155-17 E, third paragraph...on 1/2-acre lots...cultural, social..., this seems to hit the nail on the head. He remarked that the zoning allows for something of this nature but not in the zoning area that the property is located in. Chairman Vilkelis pointed out that there are other buildings and structures available along Route 213 that has that zoning.

Brian O'Rourke wondered if a section of land in a residential zone could be reclassified to Business/Village. Chairman Vilkelis said it would take a long time and the community would be offered the opportunity to speak at public hearings and eventually the Town Board would have to vote to make a zoning change. Kimberly Garrison, a legal representative assisting the ZBA was present, she also pointed out that this would open up spot zoning which is not allowed.

Chairman Vilkelis reminded the audience that there will be no decisions tonight, this meeting is for the members to discuss the various options they may have. There was a brief discussion about the zoning codes and the initial adoption of the Ordinance in the mid-70's.

Brian O'Rourke asked what happens if the board can't come to a decision to find a code that this proposed operation would fall under. Kimberly Garrison explained that a zoning district has certain uses that are allowed and it could be that this use doesn't fit to any. She said that it may fit under cultural center in the Business/Village district. Chairman Vilkelis said that it appears that it would be allowed in the town, but in a different zoning district. Ms. Garrison noted that certain aspects of the proposed use may fall in the three other areas that have been discussed, but not as a whole. Chairman Vilkelis pointed out that the proposed project is trying to encompass a lot.

Chairman Vilkelis asked the members if there was anything else they wanted to discuss on this application at this time. With no further discussion at this time Chairman Vilkelis announced that the board will be meeting with the attorneys and will be reopening final discussion and decision at the May 5, 2022 meeting.

Janelle Perry reported that the members of the Zoning Board of Appeals received letters from Karen Ranucci and from the immediate neighbors that have been added to the file.

Kimberly Garrison told the zoning board members that her firm would be able to draft different resolutions for the members to consider and vote on. There was a brief discussion regarding the number of days for the timing that a decision needs to be made in, Ms. Garrison wasn't sure that this pertains to interpretations.

--Interpretation Request from the Planning Board regarding section 155-17-E in the Zoning Code and the terms, Dwelling and Dwelling Unit.

The members of the Zoning Board of Appeals reviewed the application that was received by the Planning Board from Matt Gillis that prompted this Interpretation Request.

Chairman Vilkelis read section 155-17 (E) Permitted principal uses in Business/Village B/V-1/2 Districts. (1) Single-family residences on lots of one acre per dwelling in size. It is noted that Matt Gillis's property at 5135 Route 213, Olivebridge is in the Business/Village zoning district. Currently there is a three-unit apartment house situated on 2.939 acres and the owner wants to subdivide leaving the 3-unit apartment house on 1-acre of land and the remaining acreage he wishes to build a home on. Chairman Vilkelis reviewed that the Planning Board would like the ZBA to determine if the Business/Village zoning area will allow for a three-unit structure on 1-acre of land.

Chairman Vilkelis read the definitions for dwelling and dwelling unit as they appear in the Zoning Code: DWELLING A detached building, designed or used exclusively as living quarters for one or more families; the term shall include "mobile home" but shall not be deemed to include automobile court, motel, boarding or rooming house, camp trailer, tourist home, cellar, or tent. DWELLING UNIT A building or portion thereof providing complete housekeeping facilities for one family. Chairman Vilkelis pointed out that the B/V-1/2 code states: 1 acre per dwelling unit. Chairman Vilkelis feels that the 3-unit apartment building would require three acres of land.

Janelle Perry reminded the ZBA members that she had forwarded to them a March 3, 2022 email from

Matt Gillis in which he explained that the structure in question has been run as a business since the building was constructed and would only require a ½-acre of land and the back parcel would be over 1-acre of land which is well over the requirement for residential use. Chairman Vilkelis doesn't feel that a rental unit is a business it would fall under the definition of a dwelling unit that provides for one family. Mrs. Perry pointed out that the Planning Board chairman, Steve Dibbell, noted in his March 3, 2022 email that Dwelling, Multifamily (three or more dwelling units) is listed in the Zoning Code definitions, but it is not called out as permitted in any of the districts as either primary or accessory. Chairman Vilkelis agreed that he did not see multifamily as allowed anywhere in the code.

Brian O'Rourke feels that the structure currently meets the zone code now, Chairman Vilkelis said that it is actually a little short on acreage as it is a little less than three acres of land but it is pre-existing. The moment there is a change to the property they would lose that grandfathered status. Brian O'Rourke referred to 155-7 (C) that points out that subdivisions can be done but each lot has to conform to the code. Chet Scofield agreed that once any subdivision takes place the property would need to comply to the zoning regulations. The zoning board does not consider this as a business, it is a residential use.

The members discussed the code and the use of the wording dwelling and dwelling unit in a Business/Village ½ acre zone. Chairman Vilkelis feels that the spirit of the code is to preserve the area to one acre per dwelling unit, per family. The board held a brief discussion regarding the senior housing development on Fox Lane in Olivebridge. John Ingram told the board members that he believes that Mr. Gillis approached Rupco to gain access to his proposed back parcel off of Fox Lane but they will not allow it. Mr. Gillis is now proposing access via a 25' right-of-way. There was a short discussion on the Town's requirement to have actual 25' access off of a public road.

After reviewing the Planning Board's Interpretation Request, and discussing the wording in the code, on a Vilkelis/Friedel motion it was determined that the Zoning Board of Appeals agrees with the Planning Board's interpretation of the code that requires one-acre of land per dwelling unit, one dwelling unit per family in the Business/Village B/V-1/2 zoning district. The Zoning Board of Appeals determined that the spirit of the zoning code is to preserve the area to one acre per dwelling unit, per family. This would require that the three-unit apartment house should be on three acres of land.

The pre-existing nonconforming use is currently allowed, any change to the property removes the allowed pre-existing nonconforming use.

A roll call vote was taken which resulted as follows:

- Sandy Friedel voted in favor of the Interpretation that one-acre of land is required per dwelling unit, one dwelling unit per family.
- Chet Scofield voted in favor.
- Brian O'Rourke voted in favor.
- William Vilkelis voted in favor.

5. Adjournment:

With no further business to discuss, the meeting was closed at 8:35 p.m. on a Vilkelis/Friedel motion.

6. Next Meeting:

The next meeting of the Board is scheduled for 7:30 p.m. on Thursday, May 5, 2022, at the Meeting Hall in Shokan. There will be further discussion on application 22-01 of Karen Ranucci.