

Town of Elmira
New York
ZONING BOARD OF APPEALS
MINUTES

Meeting February 27, 2024 7:00 pm EDT

PRESENT: Members: Joe Sullivan
Scot Gerould
Peter Peterson
Chris Longwell
Jennifer Moffe

ALSO PRESENT: Eric Crandall, Code Enforcement Officer
Scott Moore, Town Attorney
Christine Duvall, applicant

Chairman Sullivan opens the regular meeting and asks the clerk to call the roll. All members are present.

Chairman Sullivan then asks the members if they had any corrections to the minutes of the ZBA meeting of January 23, 2024, and if no corrections, a motion to approve.

MOTION by Chris Longwell to approve the minutes of the
January 23, 2024 ZBA meeting.

Second by Peter Peterson

Ayes: Gerould, Peterson, Longwell, Moffe and Sullivan

Nays: none

AGENDA ITEM – 101-A Morningside Dr. Use Variance Application

Chairman Sullivan asks the applicant, Christine Duvall, to explain her Use Variance application and the nature of the proposed business. Ms. Duvall says that she would like to use the building to operate a longarm quilting business. She explains in detail to the board how quilts are made by the machine and that it requires a minimum of 8 feet by 20 feet of space to operate the equipment. She also says that customers will only be at the shop when they are picking up or dropping off items.

The question is raised as to whether any retail sales will take place at this business and the applicant states that there will not be. Chairman Sullivan asks if there are any further questions for the applicant and hearing none, closes that portion of the meeting and thanks Ms. Duvall.

The board goes into discussion and notes that Code Enforcement Officer Eric Crandall has requested interpretations of sections 217-5 and 217-96 of the Code of the Town of Elmira. After conversations about the definition of a Professional Service Establishment in section 217-5, it is agreed upon that although a quilting business is close to the allowed uses as prescribed in that definition, it is different enough that a Use Variance would be

the appropriate manner to handle this application. Attorney Moore explains that section 217-96 regarding nonconforming structures, uses, and lots, was drafted to deal more with structures and lots and not necessarily uses. Section D of 217-96 only pertains nonconforming structures and should not be used as a basis for determining whether or not a use is more or less conforming.

Mr. Crandall notes that the square footage of the building is less than what is required for a residential dwelling, so an area variance would be required to convert the building to a single-family home. Further, there is no driveway, nor any room for a driveway, as is required by section 217-62 (B) Off-road Parking. It is understood that the applicant is required to provide proof to the board that they cannot realize a reasonable return before a use variance can be issued.

MOTION by Scot Gerould to accept the application as a Use Variance
Second by Peter Peterson
Ayes: Gerould, Peterson, Longwell, Moffe and Sullivan
Nays: none

MOTION by Scot Gerould to refer the Use Variance application to the Planning Board for Site Plan review.
Second by Chris Longwell
Ayes: Gerould, Peterson, Longwell, Moffe and Sullivan
Nays: none

MOTION by Scot Gerould to set a Public Hearing for the Use Variance application to be held on March 26, 2024 at 7 PM at Town Hall.
Second by Chris Longwell
Ayes: Gerould, Peterson, Longwell, Moffe and Sullivan
Nays: none

Mr. Longwell asks if the board should consider amending section 217-96 so that it more clearly distinguishes between nonconforming uses and nonconforming structures. After some deliberation, the consensus is to review similar municipal codes, consider what changes, if any, could be made, and discuss this at some point at a future meeting.

Chairman Sullivan asks if there is any other business up for discussion. Mr. Crandall tells the board that the Town of Elmira Solar Energy Law has been completed and approved by the Town Board. Each board member is given a copy of the local law to go with their zoning law materials. Attorney Moore explains Local Law 3-2016, which was an Opt out of Section 487 of the NYS Real Property Tax Law with respects to solar energy systems. He further details the use of PILOT agreements and Host agreements and their impacts on local municipalities. Chairman Sullivan asks if there is anything else to discuss and hearing none, asks for a motion to adjourn.

MOTION by Pete Peterson to adjourn the meeting.
Second by Chris Longwell
Ayes: Gerould, Peterson, Longwell, Moffe and Sullivan
Nays: none

Meeting adjourned at 7:52 pm EDT.