

Town of Groveland
Zoning Board of Appeals
October 19, 2009

Zoning Board of Appeals members present: Steve Willison, Chairman, David Doty, Tim Sullivan, Phil Livingston and Ron Merrick

Also present: CEO Ron Maxwell, Councilman Burt Lyon and Randy Meyer, Town Attorney

Chairman Steve Willison opened the meeting at 7:00 PM.

Review and Approval of minutes: The 9.21.09 meeting minutes of the ZBA were reviewed. Motion by Tim Sullivan to approve the minutes as corrected, seconded by Ron Merrick. Motion carried.

Tim Sullivan recused himself.

Chairman Steve Willison read the Public Notice for the appeal by Tim Sullivan of the decision of the enforcement officer to approve the issuance of a building permit to Charles and Gretchen Ippolito to install a trailer body for use as an accessory structure on their property located at 5988 Barber Hill Road. The building permit was issued in accordance with the provisions of the Town Zoning Ordinance. Chairman then read a letter from himself to the Board stating that prior discussions over the past few months at both the Zoning Board meetings and joint meetings make it impossible for him to render an impartial decision in this matter and excused himself from the proceedings. He then turned the meeting over to David Doty as acting chairman.

David Doty asked Tim Sullivan to explain the basis of his appeal. Tim handed out a booklet with a narrative and copies of documents and pictures. He read the narrative and explained the documents and pictures.

The following is a summary of his narrative: He stated that in May two neighbors approached him with questions concerning placement of 3 trailer bodies on the Ippolito property and stated that in subsequent conversations he learned that there would be 3 trailer bodies placed on the property, one for storage of craft supplies, one for storage of personal family items and one for a craft sales area. He referred to the approved building permit and asked the Board to examine and interpret the permit request and laws stating inaccuracies that he had previously discussed with the enforcement officer, who had no issue with. He also challenged the fact that there is no section of the building code that allows a trailer to be used as an accessory structure. He provided a definition of semi trailer and the NYS V&T law definition of a vehicle. He stated that the property is not in an agricultural district and has no protections under the Ag and Marketing Law. He also stated that they have been in violation of Article III, Sec 22 (f) listing 2 or more disabled /dismantled vehicles, and boats and boat trailers on the property at various times. He feels if the ZBA were to allow this permit it would set a very disturbing precedent as they have never heard an appeal by a home owner before allowing trailer bodies as accessory structures. Mr. Maxwell has interpreted that a trailer body devoid of running gear is a structure or building. He further stated that the Ippolito's have 3 sheds on their property and at least one of them is in excess of 144 sq ft. Tim Sullivan submitted a petition that he circulated opposing a conditional use permit for the placement of a trailer body on the property at 5988 Barber Hill Road. The petition is made a part of this record.

Mr. Sullivan explained how the motion must be done so the issue is clearly defined and answered by the vote of the ZBA and offered some possible voting results. The Town Attorney explained that the hearing is for an appeal of the decision of the code enforcement officer to approve a building permit and after the public hearing the Board members must vote on a motion to grant the appeal and overturn the decision of the enforcement officer. Since there are only three members the vote has to be unanimous, if not the decision of the enforcement officer will be sustained and the appeal will not be granted. Mr. Sullivan provided photos he had taken earlier in the year and current photos of Ippolito's property, photos of accessory structures currently on the Road, and two trailer bodies currently located in Livingston County. There were also additional photos of abandoned school buses with wheels & engines removed, an abandoned passenger train in Ontario Canada, freight train cars and army tanks in undisclosed locations that he obtained from the internet stating that if trailer bodies are allowed the town would have to allow these as structures also.

Mike Aten, a neighbor of the Ippolito's addressed the Board to correct the statement that the 1995 Subaru on the Ippolito property, mentioned by Mr. Sullivan, was not a disabled/dismantled vehicle. Gretchen Ippolito addressed the Board and handed out a booklet with a narrative and copies of documents she referred to in the narrative. She stated that the Zoning Law defines property in the residential use district as all those lands of less than 3 acres in any one parcel. Her property is 8.85 acres which is classified by definition in the Zoning Law as the agricultural district. She also refuted Tim Sullivan's statement that they were going to place 3 trailer bodies on their property. She said that they never considered placing 3 trailers on the property nor has she ever considered using a trailer for a craft sales area and has no idea where he got that information.

She also wanted to set the record straight with regard to Tim's statement that there were 3 sheds already on the property. They have one shed, 10 x 12' and one 10' x 13' and the third shed is not a shed at all but a tent that comes down and goes back up and due to the size none of them require a building permit but added that the hearing is not about those sheds. She read the narrative and explained the documents she submitted. The following is a summary of her narrative: She listed the time line of events starting 5/17/09. Complaint by Tim Sullivan was dated 5/21/09. Received correspondence from Ron Maxwell on 5/29/09 stating they needed a variance from the Town and submitted a variance application on 6/1/09. Appeared at ZBA meeting on 6/15/09 and answered questions about the trailer and other vehicles including boats that used to be on the property. At that meeting Mr. Sullivan questioned her as to when she was going to register the trailer to which she referred him to Section 156 of the NYS V&T Law which does not mandate that storage trailers be registered. The Chairman told her that a vote would be tabled until they got a response from the County Planning Board. 6/20/09 Mr. Sullivan spoke to Mr. Ippolito in his front yard and stated that there were two other trailers in Groveland that were okay because one was not visible and another one was over 800' off the road and continued to tell Mr. Ippolito that he had no options and their trailer had to go. Mrs. Ippolito referred to definitions of "structure" and "use, accessory" on page 33 of the Zoning Law. At the ZBA meeting on 7/20/09 the Town Attorney stated that a building permit application would have to be filed first before any action could be taken. On 8/3/09 she contacted Ron Maxwell to meet and complete application and he told them what they were required to do. On 8/24/09 received an order to remedy violation to paint the trailer which they did on 8/30/09. On 9/10/09 the building permit was approved. Received a call same day from Town Clerk stating that the permit was issued but that there was an appeal by Tim Sullivan so it would not be given to them. She asked for a copy of the appeal and the case law allowing

it. The town clerk stated she could get information from a book entitled "All you ever wanted to know about zoning". Mrs. Ippolito provided information from that book including powers and duties, ethics (which states an applicant for a matter requiring the board's approval must

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disclose any interest in the application possessed by a board member) and procedure. She questioned the ethics of Mr. Sullivan being a complaining member of the ZBA and not recusing himself. Also included in the presentation were copies of letters of support, complaint by Tim Sullivan, order to remedy, permits, definitions, and meeting minutes.

Maria Lombardo addressed the Board and read a letter she wrote on 7/20/2009 stating that she was not sure if the Board had seen it and felt it was important. The following is a summary of the letter: She expressed a deep concern for what has happened and described Groveland as a great place to live because it is a diverse and independent farming community and that residents enjoy not being heavily regulated. She spoke about the conditional use permit the Ippolito's were required to obtain for their storage trailer which was later rescinded because it is not defined either way in the Zoning Code according to meeting minutes from 6/15/09 ZBA meeting. She made reference to other homes in Groveland with a variety of vehicles or items in various states of repair that are permitted to remain in their various states of repair and believes that the Ippolito's are being singled out. She stated she had confidence that the Town has the best interest of Groveland at heart and that they will assure adherence to the law and protect the rights of its citizens. She said we don't have to be the same to live together peacefully and respect and accommodate each other's differences and accept the trailer as a structure.

Mark Sullivan addressed the Board stating that they are dealing with a trailer which may or may not be a structure or a vehicle and the Board is here tonight decide which one it is.

Karol Thomas addressed the Board and read a letter she submitted. The following is a summary of the letter: She referred to the definition of the agricultural and residential districts stating that according to the Zoning Law property 8+ acres in size, by definition, places them in the Ag district and that the trailer body is a permitted use in the Ag district thereby making the CEO's decision to approve the building permit correct. She also emphasized that Groveland is a rural agricultural community and hoped that the residents could embrace that and allow their neighbors to peacefully enjoy their property as they choose. The letter also acknowledged the patience and willingness on the part of the Ippolito's to cooperate with the Town throughout the process for which it has taken over 3 months to get approval of a building permit. She also expressed her view that Mr. Sullivan wants to control what his neighbors do with their property and suggested that instead he should be more tolerant.

Millie Aten addressed the Board and clarified a statement Tim Sullivan made. She said that she had only heard of the placement of 2 trailers and not three as Mr. Sullivan stated. She stated she is a neighbor of Ippolito's and has complained about the sheds on the property and personally did not want to see trailers allowed on the property. She also stated that a land owner that lived down the road (Malcolm Cook) had a trailer body on his property and was told by the Board to remove it after a complaint so he moved it to the next door neighbors where it was out of sight.

Mike Aten, a neighbor to Ippolito's made a statement that he was in favor of the building permit approval and expressed disappointment that it has come to this.

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Public comments were finished and the Acting Chairman said they would now have to address the appeal.

Motion by Ron Merrick to close the public hearing at 8:00 pm, seconded by Phil Livingston. Motion carried.

David Doty stated that he finds that the existing zoning code does not define trailer bodies one way or the other and supported the enforcement officer's decision; he added that trailer bodies may be addressed in the zoning law in the future but that is not part of the discussion now. He stated that Tim is an aggrieved party because he is a neighbor and has the right to appeal the enforcement officer's decision. Ron Merrick agreed with Dave based on what the zoning code says. Phil Livingston also agreed with the finding of Dave and supported the decision of the Enforcement Officer

Motion by Ron Merrick to deny the appeal of Tim Sullivan and uphold the decision of the Enforcement Officer, seconded by Phil Livingston. Vote was unanimous, motion carried.

Motion by Ron Merrick to adjourn the meeting at 8:30 PM; seconded by Phil Livingston. Motion carried.

Submitted by,
Karol Thomas
Recording Secretary