

## REGULAR JOINT TOWN AND VILLAGE ZONING BOARD OF APPROVALS MEETING

November 2nd, 2023 at 7:00pm | 103 Main Street, Mount Morris NY

Present: Zoning Board of Approvals Members Shawn Forrester; Chad Woodworth; Lauren Berger; Kevin Fahey

Others Present: Kitt Ceronie, Transfer Station Manager; Amy Ceronie; Jim Olverd; Dave Disalvo, Town Supervisor; Mark Mullikin, Village Code Enforcement Officer

The meeting was called to order by Kevin Fahey at 7:00 PM.

Kevin Fahey inquired as to whether all members have taken oaths of office with both the Town and Village of Mount Morris. All board members confirmed.

Chad Woodworth presented a motion to nominate Kevin Fahey as Chairperson of the Joint Town and Village Zoning Board of Approvals, seconded by Shawn Forrester, and was voted on by members as follows:

Aye: 3 (Berger, Forrester, Woodworth)

No: 0

Abstain: (Fahey)

The motion was carried.

### COMMUNITY FORUM

Chairman Kevin Fahey opened the floor to any present who wished to speak and asked that each person keep their comments or questions to no more than three minutes. No attendees presented any comments or questions.

### APPLICATION FOR AREA VARIANCE

Chairman Kevin Fahey summarized an Application for Area Variance submitted by applicant Jim Olverd for a property at 28 Mill Street in the Village of Mount Morris.

Chairman Fahey reviewed those who have been notified: Sonya Roberts; 3LLC; Kitt Ceronie, ARK Energy LLC; Russell Golisano; Joy Gutsel; Roy McKenzie; James Bray; Crystal Moss; Steven Bartholomew; O'Connell Organization; Susan Hess; and Sergio Perez.

Chairman Fahey opened questions to the board. Board Member Shawn Forrester asked if any structures have been torn down and inquired as to how close any new structures will come to existing buildings. Jim Olverd explained that the structure will sit three feet away from Yankee Loft [sic] (perhaps meaning the old Mills Race restaurant) and will leave plenty of room between

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the structure and the existing auto building. Mr. Olverd further explained that the two-story barn was already five feet onto the NYS Greenway Trail as it stood.

Chairman Kevin Fahey explained that there are five criterium to consider for area variance. Chairman Fahey further explained that these are guidelines, and as such do not strictly need to be adhered to when determining one's overall assessment as to whether an application for variance should be approved or denied. Chairman Fahey explained that these are different than the four rules that need be considered for use variances which must be strictly adhered to. Chairman Fahey asked each board member to comment on each of these criterium:

1. Will an undesirable change be produced in the character of the neighborhood, or a detriment to nearby properties be created by the granting of an area variance?

Board Member Berger: No

Board Member Forrester: No

Board Member Woodworth: No

Chairman Fahey: No

2. Can the benefit sought by the applicant be achieved by some method feasible for the applicant to pursue, other than an area variance?

Board Member Berger: No

Board Member Forrester: No

Board Member Woodworth: No

Chairman Fahey: No

3. Is the requested area variance substantial?

Board Member Berger: No

Board Member Forrester: No

Board Member Woodworth: No

Chairman Fahey: Yes

4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or school district?

Board Member Berger: No

Board Member Forrester: No

Board Member Woodworth: No

Chairman Fahey: No

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5. Is the alleged difficulty for the applicant self-created? (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance)

Board Member Berger: No

Board Member Forrester: No

Board Member Woodworth: No

Chairman Fahey: No

Chad Woodworth presented a motion to vote on Jim Olverd's Application for Area Variance, seconded by Shawn Forrester. The motion was carried. Ms. Forrester introduced a motion to approve Mr. Olverd's Application for Area Variance, seconded by Mr. Woodworth, and was voted on by members as follows:

Aye: 4 (Berger, Fahey, Forrester, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Fahey congratulated Jim Olverd on his approved application.

#### CODE INTERPRETATION REQUEST

Chairman Fahey stated that Lamplighter Ministries International has approached the board regarding Application 1123-002. Lamplighter Ministries is seeking clarification on the permitted usages for two buildings in the village of Mount Morris, and whether exceptions to these permitted uses could be made with variances.

Chairman Fahey explained that Lamplighter is in the process of purchasing Hillside Properties on Main Street and Trumble Street in the Village of Mount Morris and are planning to use these facilities in the same ways that they use their current properties on State Street in Mount Morris, which includes daily bible study and devotions, prayer, Sunday worship, radio broadcasting, recording studio, bookstore, café, library, bindery, shipping, offices, and educational classes.

Village Code Enforcement Officer Mark Mullikin explained that Lamplighter Ministries' current properties sit within an R1 district, whereas the properties in question sit within a B2 district. Mr. Mullikin explained that the current Village code restricts certain operations listed by Lamplighter Ministries from being conducted, and further explained that if the current district does not permit certain uses that Lamplighter can apply for a special use permit. Mr. Mullikin also

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explained that the current use permit for the Main Street and Trumble Street properties will likely soon expire as the building has been unused for more than a year.

Additionally, Mr. Mullikin is concerned that using one of the facilities for book binding may trigger certain fire codes that require sprinklers to be installed. Lauren Berger stated that Lamplighter's desired broadcast/recording studio usage wasn't listed anywhere in the permitted uses for the zone, to which Mr. Mullikin stated would be a reason for Lamplighter Ministries to utilize code's caveat that might allow such usage via a special use permit.

Chairman Fahey brought up his concern regarding Sunday worship hampering other business from coming to Main Street as it can create issues with future business getting variances. Lauren Berger inquired as to what Lamplighter's plans for the inside of their building would look like for so many uses and what a worship space is defined as. Shawn Forrester stated that Lamplighter can ask for a special use permit, and Chairman Fahey added that he believes that they should try for a use variance. Mr. Mullikin added that the proposed floor plan appears to be mixed-use.

Shawn Forrester pointed out that numerous uses listed by Lamplighter Ministries fall into different use categories (café, theater, storage facilities). Chairman Fahey inquired as to whether a minimum amount of people need to be gathered for a property to be considered a place of worship. Shawn Forrester inquired about where participants would park and wondered if street parking and/or municipal parking spaces would be enough. Chairman Fahey stated that Lamplighter Ministries will need to get a use variance for Sunday worship. Mark Mullikin requested that the board gather a consensus on what uses listed by Lamplighter Ministries International would need use variances/special use permits.

Café – Board members Berger, Forrester, Woodworth, and Chairman Fahey all agree that this use would be permitted under current Village code.

Bookstore – Board members Berger, Forrester, Woodworth, and Chairman Fahey all agree that this use would be permitted under current Village code.

Bindery – Shawn Forrester pointed out that this use isn't permitted per the Village's current code and would require a use variance, and that this use should be considered as manufacturing. Chairman Fahey stated as that it sounds as though this use might require a sprinkler system to be added.

Offices, Shipping – Board members Berger, Forrester, and Chairman Fahey agree that that this use would be permitted under current village code. Chad Woodworth inquired as to whether a shipping dock would be needed for shipping uses. Mark Mullikin explained that

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he believed that the shipping services inquired about would include smaller parcels through UPS and USPS and not large enough to necessitate a shipping dock/bay.

Sunday Worship – Chairman Fahey stated that a use variance and/or special use permit would be needed for this use. Shawn Forrester stated the non-residential uses in an R1 district include Sunday worship. Mark Mullikin also stated that a site layout would be needed to include room sizes and exit doors to establish values used in formulas to determine maximum safe occupancy.

Educational Classes, Library – Chairman Fahey stated that these uses would be permitted under current Village code.

Radio Broadcasting/Recording Studio – Chairman Fahey as well as board members Forrester and Berger stated that this use isn't included under the zone's permitted uses and would require a use variance.

In summary, the board stated that at least three special use permits would be needed for Lamplighter Ministries International to adhere to the current code when considering these uses.

#### ADJOURNMENT

A motion for adjournment was presented by Shawn Forrester and seconded by Lauren Berger, and was voted on by members as follows:

Aye: 4 (Berger, Fahey, Forrester, Woodworth)

No: 0

Abstain: 0

This motion was carried, and the meeting was adjourned at 7:42pm.

Respectfully submitted,  
Kaylee R. Leone  
Deputy Town Clerk  
ZBA Secretary