

**PUTNAM TOWNSHIP
ZONING BOARD OF APPEALS
June 23, 2008
MINUTES**

CALL TO ORDER

Chairperson Press called the meeting to order at 7:08pm. There were 9 citizens in attendance.

ROLL CALL

MEMBERS PRESENT: Press, Kekes, Anderson-Field, Fordyce, Benedetti, Lester, Dolata.

OTHERS PRESENT: Linda Burtraw, Substitute Recording Secretary.

APPROVAL OF MINUTES

Motion by Kekes and supported by Anderson/Field to approve the June 9, 2008 minutes. MOTION APPROVED pending corrections to be completed as soon as possible.

CALL TO THE PUBLIC

Opened call at 7:12 pm

Closed call at 7:13 pm

APPROVAL OF AGENDA

An additional CALL TO PUBLIC after new business was presented.

Motion by Fordyce and supported by Kekes to approve the revised agenda. MOTION APPROVED UNANIMOUSLY.

OLD BUSINESS

- 1) The continuance to hear a request for a variance in C1 zoning concerning the construction of a miniature golf course tabled from the June 9th meeting:

Location: 4063 Patterson Lake Rd.

Owner: Anne C. Colone Trust and John Colone

Tax ID: 471432-200-051 and 4714-32-200-057 and 4714-32-200-049

The six points in question were quoted by Benedetti as follows:

- 1) A variance to permit a front yard setback of zero (0) feet instead of the required fifty (50) feet along Riverbank Drive, per Chapter 19, Article 9, Section 62;
- 2) A variance to the landscape buffer requirements in Chapter 26, Section 17.E.1 along Riverbank Drive, to provide scattered trees but not a continuous, six (6) foot high buffer consisting of earth berms and/or living plant materials.
- 3) A variance to permit expansion of a nonconforming parking lot without paving the lot, per Chapter 24, Section 14.A.
- 4) A variance to not provide landscaped curbed islands and trees within a parking lot as required by Chapter 26, Section 17.F.1.

- 5) A variance to not provide a wall or alternative landscape plantings along the perimeter of a parting aria where it is visible from a public road, per Chapter 26, Section 17.F.2.b.
- 6) A variance to permit a parking lot setback of zero (0) feet instead of the required fifty (50) feet per chapter 19, Article 9, Section 62.

Mr. Cooper, Attorney for Mr. Colone, presented a letter that was sent to the Township on June 19, 2008 about a legal analysis, the current procedure and the five identified variances are not reasonable or fair to either the Board or the applicant. He said he got a response from the Township attorney, but did not say what the attorney said. Then he said if we are not willing to accept that this is not self-created, then take a blanket vote to deny all the variances. Then he stated that this is a unique parcel and the new ordinance was created after the project was started and before the rescinding of the first Land Use Waiver by Ron Rau through a letter presented by Mr. Cooper proving that there was a Land Use Waiver granted to Mr. Colone to begin his project. The letter had no date but it was established that it was sent before August 07. A second letter was presented dated August 1, 2007 from the Livingston County Drain Commission Office, addressed to John Colone, referring to Putnam Township rescinding their Land Use Waiver concerning the miniature golf project. This action prompted the Livingston County Drain Commission to put a hold on the said project also, until compliance issues are resolved. A copy of both letters were made and passed out to the board members and the secretary. A copy of the Land Use Waiver was also presented to the board by Mr. Cooper. This waiver was not signed and stated landscaping only, no construction. This is Mr. Colones' argument that this mini golf contains no construction only landscaping, therefore the ordinances did not apply and the need for variances was not self created.

Fordyce explained that the ZBA does not object to a miniature golf course, but it is a business and therefore must comply with ordinances. C-1 zoning has always been in place for Mr. Colone's property and the setbacks have not changed. A special use variance is not within the ZBA authority to determine. The ZBA applies the C-1 ordinances for all C-1 district properties and reviews requests for variances based on the C-1 ordinances in place at the time of review.

Mr. Cooper stated that the Land Use Permit waiver granted, allowed Mr. Colone to proceed.

Benedetti stated that the hardship was not self created.

Fordyce stated that the C1 setbacks needed to be addressed according to the law.

Lester asked for Mr. Cooper's interpretation and whether a landscaping permit was the same as land use permit. No response was given.

Press had a copy of the land use permit that gave a waiver for grading and landscaping, but not for construction. Mr. Cooper said that he had not seen that permit. He would like a copy of it.

Press stated that miniature golf is a business, as stated by the state of Michigan and by Livingston County. It is not landscaping. He also stated that he talked to the Livingston

Building Planner about this and the planner said that he talked to Mr. Colone about this last year. Mr. Colone stated he did not talk to this person.

Press asked what Mr. Colone will do when the county gets involved. Mr. Cooper responded whatever the county requires we will have to work with but that is not the issue here. All work was done and money spent before the permit was rescinded in August.

There was much discussion on the issues of this miniature golf course being either landscaping only or a business which must comply with C1 ordinances. (Refer back to the six items referenced in the beginning). Also, the fact that Mr. Colone was granted a permit for landscaping and went ahead on that approval to put in the mini golf course, thus now creating a hardship.

CALL TO PUBLIC

Opened call at 7:52 pm

Al Machek, 11342 Riverbank Ln., P.O. Box 486, stated that if one point was going to be denied then all should be denied and Mr. Colone should take it to court.

Dixie Russell, 7070 Hinchey Rd., said that a miniature golf course is a good thing.

Ron Meyers, 11417 Weiman, urged the board to compromise to save money.

Al Machek, 11342 Riverbank, stated that Mr. Colone knows the rules and a compromise is out.

Closed to the Public at 7:56 pm

Mr. Cooper reiterated that Mr. Colone is willing to compromise but not about the 50 foot setback. That must be granted at 0 feet.

Anderson-Field stated that a 0 foot setback is too dangerous due to road & pedestrian traffic. Mr. Cooper replied that 20 feet is available and it is uphill with gravel to the fence. Members indicated that the 20 feet was a road right of way, not Mr. Colone's property.

Lester stated that a report from LSL in May noted that they recommended that the Township deny all 6 issues. All six standards must be met in order to grant the applicant's requests.

Benedetti stated that Section E of the old ordinance book was not similar to the new book.

Press stated that if Mr. Colone will not move from the zero setback, then all the variances should be denied.

Motion by Benedetti to approve all variances, supported by Fordyce for the sake of discussion. MOTION DENIED BY (Benedetti approved)

2. Approval of ZBA Bylaws

Motion by Press to approve ZBA Bylaws.

Benedetti explained that the bylaws state that a township board member must be appointed to the ZBA.

Fordyce stated that the Planning Commission nominates one of their members to the ZBA. The Township Board does not appoint; it only approves.

Benedetti challenged the Rule 4.3 stating that the Zoning Administrator collects all money for variances. This statement could be deleted. There was further discussion on this statement.

MOTION BY BENEDETTI AND SUPPORTED BY FORDYCE TO REMOVE SECTION 4.3 MOTION DENIED (FORDYCE, BENEDETTI, & ANDERSON-FIELD APPROVED)

Discussion ensued regarding Rule 13 questioning the ZBA power to grant a 6 month extension. Benedetti states that this is in the ordinances.

MOTION BY LESTER TO HAVE ATTORNEY REVISIT THE LANGUAGE AND CLARIFY RULE 13, SUPPORTED BY KEKES. MOTION APPROVED.

Kekes wanted the By-Laws dated when we review them.

MOTION BY LESTER SUPPORTED BY PRESS TO TABLE THE REVIEW OF THE BY-LAWS. MOTION APPROVED

REQUEST FOR COLONE FINAL DECISION

Anderson-Field read aloud all 6 variances.

Benedetti composed and printed out Final Decision to be signed by all.

NEW BUSINESS None

ADJOURNMENT

MOTION BY FORDYCE SUPPORTED BY LESTER TO ADJOURN AT 9:30 PM. MOTION APPROVED.

**Linda Burtraw
Substitute Recording Secretary**