

Walter Russell, Chairman of the Town of Peru Zoning Board of Appeals, called the meeting of August 19, 2009 to order at 7:15 pm.

ROLL CALL:

WALTER RUSSELL, CHAIRMAN	: PRESENT
ROB BASHAW	: PRESENT
LEON BLAIR	: PRESENT
FRANK DENCHICK	: PRESENT
JAMES FALVO	: PRESENT
TOM FUSCO	: ABSENT
ROY ZALIS	: PRESENT
LAWRENCE BOSLEY (ALT)	: EXCUSED
DON MCBRAYER (ALT)	: PRESENT
ATTY. THOMAS MURNANE	: PRESENT
CEO. PAUL BLAINE	: PRESENT

APPROVAL OF JULY MINUTES:

MOTION: Mr. McBrayer made a motion to approve the July minutes. Second by Mr. Blair.

ALL SO MOVED.

MOTION APPROVED.

PUBLIC HEARING:

1. APPLICATION:

DONALD THEW
Special Permitted Use for an Auto Repair Shop at 3458
Route 22

Mr. Russell read a letter submitted by Mr. Thew stating that he would like his application tabled until the next meeting. Mr. Falvo stated that the tabled applications should be set to a date so there is no longer any confusion.

MOTION: Mr. Blair made a motion to table the application. Second by Mr. Denchick.

ROLL CALL: Mr. Denchick- yes, Mr. Zalis- yes, Mr. Falvo- no, Mr. Blair-yes,
Mr. McBrayer- yes, Mr. Bashaw- no, Mr. Russell- yes.

MOTION CARRIED.

**ZONING BOARD OF APPEALS
AUGUST 19, 2009**

2. APPLICATION: SCOTT WEIGHTMAN
Use Variance for a Hunting Camp on Mud Pond Rd.

Mr. Blaine stated that there are no changes to the application tabled at last months meeting. A building permit for the structure has been submitted. Mr. Rice was present on behalf of Scott Weightman. Mr. McBrayer stated the reason it was tabled the previous month was due to lack of financial data.

MOTION: Mr. Bashaw made a motion to approve the application. Second by Mr. Zalis.

ROLL CALL: Mr. Denchick- yes, Mr. Zalis- yes, Mr. Falvo- yes, Mr. Blair-yes,
Mr. McBrayer- yes, Mr. Bashaw- yes, Mr. Russell- yes.

MOTION CARRIED.

3. APPLICATION: HENRY DASHNAW
Area Variance for a 120ft Tower at 336 Rock Rd.

Mr. Russell stated that Michael Dashnaw, acting on behalf of Henry Dashnaw submitted a letter requesting that the application be tabled until the September 2009 Zoning Board of Appeals meeting.

MOTION: Mr. Denchick made a motion to table the application. Second by Mr. Bashaw.

ROLL CALL: Mr. Denchick- yes, Mr. Zalis- yes, Mr. Falvo- no, Mr. Blair-yes,
Mr. McBrayer- yes, Mr. Bashaw- yes, Mr. Russell- yes.

MOTION CARRIED.

4. APPLICATION: MICHAEL SULLIVAN
Area Variance for an Agricultural Use at 110 Jabez
Allen Rd.

Mr. Bashaw recused himself. Mr. Russell read letters submitted by The Peru Church of God and Susan Drapeau, both neighbors of Mr. Sullivan. Mr. Sullivan stated that he believes his land has always been used as an agricultural use. Mr. McBrayer asked how many ducks there are on the property. Mr. Sullivan stated that there are about fourteen ducks on the property. Mr. McBrayer asked how many ducks he planned to have on the property. Mr. Sullivan stated that he has another property he would like to have the ducks on however he is using his home to learn how to raise them first. A neighbor that was present at the meeting stated that the fence is 12ft. from his property line and only 80ft from his home. Mr. Sullivan stated that when he applied for the area variance the fence was only 5ft from the property line and since he has moved the fence back to 12ft from his property line. Mr. Murnane asked Mr. Blaine what Mr. Sullivan is proposing as his nighttime structure. Mr. Blaine stated that Mr. Sullivan is proposing to use the existing garage.

MOTION: Mr. Blair made a motion to approve the applications. Second by Mr. Falvo.

ROLL CALL: Mr. Denchick- no because it is an undesirable change in the neighborhood, it is a substantial variance and it is self-created, Mr. Zalis- no because it is a substantial variance, it will have an adverse effect on the neighborhood, and that it is self-created, Mr. Falvo- no because the request is to substantial and it will negatively impact the environment, Mr. Blair-no because it is a substantial variance and it will change the immediate neighborhood, Mr. McBrayer- no because it will negatively impact the neighborhood, Mr. Russell- no because it is a substantial variance and it will negatively impact the neighborhood..

MOTION CARRIED.

**ZONING BOARD OF APPEALS
AUGUST 19, 2009**

5. APPLICATION:

LINDA COVEL

Expansion or Change of Non-Conforming Use at 842
Mannix Rd.

Mr. Sweenor stated that a letter has been submitted to the board by Mrs. Covell allowing him to be the representative for the project. Mr. Sweenor stated that there are no changes being done to the building itself. Mr. Sweenor stated that when a request to distribute water cooler and coffee makers was made, the Code Enforcement Officer determined the use was going to be a business which is not allowed in an RL-1 zone. Mr. Sweenor stated that Mrs. Covell and he believe it not to be a business but for it to be an accessory use that is part of the water bottling facility so they would like an interpretation done in regards to that. Mr. Sweenor stated that after going before the Planning board for Site Plan Review they are no longer interested in receiving a Use Variance because they feel the uses are allowed. Mrs. Covell stated that after the fire of the Frosty Springs Bottling Co. they came before the board and it was still considered an agricultural use. Mrs. Covell stated that they also started a tree farm in 1968 which is also an agricultural use and they sell accessories to go with their Christmas Trees. Mr. Murnane stated that until he reviewed the application he did not realize there was a problem with the Christmas Tree Operation. Mr. Murnane asked Mr. Blaine if there was an issue regarding the Christmas Tree Operation. Mr. Blaine stated that there was not any issue with the Christmas Tree Operation. Mr. Murnane stated that the Christmas Tree Operation sounds like it has been there prior to Zoning so it is a Pre-existing Non-conforming Use. Mr. Sweenor asked if Mr. Murnane could put that in a written letter for Mrs. Covell to put in her records. Mr. Murnane stated that he believes there is no need for discussion with the Christmas Tree Operation because there is not a problem with that. Mr. Murnane stated that as far as the Bottling Facility goes, it was ruled as an agricultural use. Mr. Sweenor stated that the only thing that had been ruled on was the Zoning District that it was in. Mr. Russell stated that it is an agricultural use. Mr. Sweenor stated that the only change was the change in the Zoning District. Mr. Russell stated that was a different issue and the application has been brought before the board several times. Mr. Murnane stated that in the letter Mr. Sweenor submitted dated July 13, 2009 it states that approval from the board also included the Covells Christmas Tree Farm. Mrs. Covell stated that Mr. Blaine had also turned them into the APA. Mr. Blaine stated that the Use Variance was requested due to the sale of coffee and other miscellaneous products which had not been previously approved with the approval of the Frosty Springs Bottling Co. Mr. Blaine stated that as far as accessory use, he does believe that a water bottling facility can have incidental uses such as the sale of water bottles. Mr. Blaine stated that there is not an application for interpretation before the board in his opinion but there is an application for an Expansion of Non-conforming Use and a Use Variance. Mr. Blaine stated that he had spoke with Mr. Sweenor and asked him if he was interested in having an interpretation heard and Mr. Sweenor stated that he did not want an interpretation so one was not advertised. Mr. Blaine stated that there is a sixty day time line for the appeal of the decisions of the Zoning Officer. Mr. Blaine stated that he did not report the Covells to the APA however he did contact the APA and asked if there is anyway possible that they could expedite the application to help the applicant out. Mr. Blaine stated that he had never been provided a complete application to act on. Mr. Murnane stated that Mr. Blaine is correct that the Zoning Board cannot act on an interpretation because it had not been requested in the original application, therefore it was not advertised. Mrs. Covell stated that they have never sold doughnuts either. Mr. Murnane stated that on the original application submitted by Mr. Sweenor it states that they sell juice, drinks, brownies, doughnuts and other supplies purchased in bulk. Mrs. Covell stated that they have never sold those items that's just in case they would like to sell those items. Mr. Murnane stated that that is not what it is saying on the application, it is saying they are currently selling those items. Mrs. Covell stated that the website does need to be updated and there are items listed on the website that are no longer being sold. Mr. Sweenor stated that if the interpretation could not be done because it had not been advertised then they would like to have the application tabled

**ZONING BOARD OF APPEALS
AUGUST 19, 2009**

until the September meeting. Mr. Zalis asked Mr. Sweenor if he is looking to table the Use Variance. Mr. Sweenor stated that he would like the board to discuss his letter dated August 13, 2009 and the information that it contains. Mr. Murnane stated that the applicant is looking for the board to table the application and address the interpretation before the board reviews that Use Variance. Mr. Russell asked why they could not vote on the Use Variance. Mr. Sweenor stated that Mr. Blaine mandated that they come before the board for the Use Variance and that he had placed another item on the application which was never put on the agenda. Mr. Sweenor stated that he was looking for an interpretation of his decision or an interpretation of the Zoning Ordinance because he and Mrs. Covell feel that they do not need a Use Variance. Mr. Sweenor stated that Mrs. Covell would also like the board to make a ruling on the accessory uses to her Christmas Tree Farm. Mr. Zalis asked Mr. Sweenor if they would prefer the interpretation over a positive vote on a Use Variance. Mr. Sweenor stated that that is correct. Mr. Blaine stated that he had never been told that they were looking for an Expansion of Non-conforming Use or an Interpretation and there are separate applications for each individual item. Mr. Blaine stated that he was told that Mrs. Covell was looking for a Use Variance and the first application that Mrs. Covell had submitted was for an Area Variance. Mr. Murnane asked why they are looking for a pre-existing non-conforming use because the bottling facility was not prior to zoning and that is what a pre-existing non-conforming use is. Mr. Sweenor stated that Mr. Blaine allowed Mrs. Covell to submit an Area Variance even though he knew there was no Area Variance needed. Mr. Blaine stated that Mr. Covell had approached his office with several projects and several applications were given to Mr. Covell, one being the Area Variance application. Mr. Murnane stated that the applicant is looking to table the application and address the interpretation.

MOTION: Mr. Falvo made a motion to table the application. Second by Mr. Blair.

ROLL CALL: Mr. Denchick- yes, Mr. Zalis- yes, Mr. Falvo- yes, Mr. Blair-yes, Mr. McBrayer- yes, Mr. Bashaw- yes, Mr. Russell- yes.

MOTION CARRIED.

6. APPLICATION:

LINDA COVELL

Use Variance for Frosty Springs Bottling Co at 842 Mannix Rd.

MOTION: Mr. Zalis made a motion to table the application. Second by Mr. Blair.

ROLL CALL: Mr. Denchick- yes, Mr. Zalis- yes, Mr. Falvo- yes, Mr. Blair-yes, Mr. McBrayer- yes, Mr. Bashaw- yes, Mr. Russell- yes.

ANY FURTHER BUSINESS:

There was no further business discussed.

CEO REPORT:

Mr. Blaine reviewed the July Code Officers report with the board. Mr. Blaine stated Planning Board applications are down by almost half from the previous year and Zoning Board applications are up.

ADJOURNMENT:

Motion Made by Mr. McBrayer. Second by Mr. Falvo. All so moved.

Date filed with Town Clerk _____