



Zoning Board of Appeals
Department of Planning & Community Development
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Ernest D. Davis,
Mayor

Irwin S. Davison, Esq.
Chair

MINUTES

ZONING BOARD OF APPEALS

PUBLIC HEARING

A regular meeting of the Zoning Board of Appeals will be held on Tuesday **January 20, 2015 at 7:30 p.m.** in the City Council Chamber, Second Floor, City Hall, Mount Vernon, New York at which time and place the Board shall consider the following:

ITEM # 1 ROLLCALL

Present

Chairman Davison
Board Member Alfonzo
Board Member Lucinda Sloan-Fullan
Board Member Carl Scully

Absent

Vice Chair Anderson
Board Member Castillo

ITEM # 2 APPROVAL OF MINUTES

- 2.1** Approval of the minutes of the special meeting held on Tuesday, October 21, 2014.
Motion to approve by Board Member Fullan/ second Scully. All in favor
- 2.2** Approval of the minutes of the special meeting held on Tuesday, November 18, 2014.
Motion to approve by Board Member Fullan/ second Scully. All in favor.

All present at the meeting identified them selves.

ITEM # 3 ADMINISTRATIVE ACTIONS

3.1 Interpretations – On appeal from an order, requirement, decision or determination made by an administrative official charged with the enforcement of this chapter, or on request from any official, agency or board of the city, or on the Board of Appeals own initiative, the Board of Appeals is authorized to decide any questions involving the interpretation of any provision of this chapter. Interpretations shall be made in accordance with the intent of the particular provision being interpreted.

0 South Terrace Avenue (Section 164.83, Block 1059, Lot 13) Located in the I-

Industrial Zone. Per the Assessment Department the address is 0 South Terrace Ave, not 216 South Terrace Avenue

The Planning Board seeks clarification regarding the Zoning Codes definition of what qualifies as manufacturing, fabrication, finishing or assembling of products, in fully enclosed buildings.

Chairman Davison reads the item into record. The Zoning Board received an appeal from the Planning Board seeking an interpretation to the provision of the zoning code. He continues to explain to the public the responsibilities of the Zoning Board. The Zoning Board is here tonight to decide what a particular part of the zoning code means. Commissioner Warren, our Building Commissioner is here via phone who will review the points why were here.

Commissioner Warren – This was a matter that was presented before me a few months ago as a public review. It became more and more clear to us that this was a bit more complicated then just a Planning Board review. So I referred it to the Zoning Board for them to give us some clarification and help us with our direction in making a decision to move forward. Chairman Davison and Staff Long has prepared a memo that has been reviewed and will discuss each issue.

Chairman Davison - Explains a meeting was held with the Building Commissioner, Corporate Council, and the Planning Department. The conclusion of that meeting resulted in a memorandum drafted to the Building Commissioner dated January 15, 2015.

As the Chairperson of the Zoning Board of Appeals, I asked the MetroGreen interpretation to be placed on the Work Session Agenda for January 14, 2015. The applicant and their architect appeared. There were no members of the public to speak for or against the application. I asked our Law Department to conduct an examination of the relevant provisions of the Zoning Code as they apply to the above referenced interpretation and we conclude that the proposed use by Metro Green is a legal use that would be authorized in an “I” Zoning District. Accordingly, a variance from the City Zoning Board is not required.

Background -The applicant seeks to relocate a recycling facility to Mount Vernon; wherein, concrete, soil and gravel would be recycled. The applicant has been operating its business in the City of Yonkers on the Mount Vernon border for a number of years. The applicant has all the necessary and required permits and has not been cited with any violations associated with the site or its operation. The applicant wishes to file an application for a building permit.

The applicant’s desire to relocate within the City of Mount Vernon creates the need for clarification of the City’s existing zoning code regarding recycling

facilities. In order to facilitate this relocation, the applicant is purchasing the property to relocate this business.

The Law - The Zoning Code provides that any manufacturing is lawful in an “I” (Industrial) Zoning District but requires it to be performed in a “fully enclosed building”. The nature of the applicant’s business is characteristically performed outdoors (not in an enclosed building). The nature of the applicant’s business is recycling.

If you look at the zoning code the closest we have for recycling, is manufacturing, and recycling is not manufacturing.

The applicant wishes to obtain a building permit and certificate of occupancy for this site and for this purpose. According to Section 267-34B of the Zoning Code, the Planning Board is authorized to review the applicant’s site plan. The scope of this review includes noise, dust, fumes and any other potential nuisances that may be associated with this type of use, although not specifically recognized by the existing Zoning Code.

If you wanted to put up an asphalt use, you would have to get a Special Use Permit in the I Zoning District from the Planning Department, but there’s not Special Use Permit for a recycling facility.

Conclusion

The applicant wishes to engage in lawful activity (recycling); however, there is no zoning code provision that authorizes this activity. The Zoning Board recommends that the Planning Board remedy the void in the outdated zoning code by placing necessary conditions envisioned by special permit uses in applications dealing with materials such as asphalt and other similar applications which deal with similar potential nuisances.

It is recommended that the City update its zoning code in order to accommodate recycling and other green initiatives in the applicable zones etc.

Board Member Scully – Has concerns in terms of the process and procedural. We can make an interpretation based on what’s being proposed.

SEQRA Determination: This action is a “Type II” therefore, ending the SEQRA process.

Note: Work Sessions will be open to the public but closed to public participation subject to the Open Meetings Law, [§ 105 of the New York State Public Officers Law, Article 7].

Note: Items listed on the agenda are subject to change and amendments and/or additions may be placed on the agenda.

Note: The next regular meeting of the Zoning Board of Appeals, is scheduled to be held on Tuesday, February 17, 2015).

Note: The Zoning Board will host its work session on January 20, 2015 at 4:00pm in the Memorial Room, City Hall

Wendy Davis
Zoning Board Secretary

cc: Mayor Ernest D. Davis
Jaime Martinez, Acting Commissioner
Susanne Marino, Deputy Commissioner
George Brown, City Clerk
William Long, Planning Administrator
Hina Sherwani, Assistant Corporate Council

Building Department
Lobby
Press