

Minutes of the Meeting of the Zoning Board of Appeals of the Village of Rouses Point, New York held on April 24, 2017 at the Village of Rouses Point Village Office 139 Lake Street, Rouses Point, NY commencing at 4:30PM

Present: Patricia Birkett
Pamela Gadway
Karin Thone
Mike Casey
John Mott

Others Present: Thomas Murnane, Village Attorney

Recording Secretary: Donna J. Boumil

CALL TO ORDER:

Chair Pat Birkett called the meeting to order at 4:37PM and began with the Pledge of Allegiance.

REGULAR SESSION:

MINUTES:

Motion by Pam Gadway to approve the March 13, 2017 minutes; Seconded by Karin Thone; AYE CARRIED

COMMUNICATIONS:

There are no communications

OLD BUSINESS:

Use Variance submitted by Rouses Point Yacht Club (Mr. Justin Roberge).

- There have been two (2) public hearings regarding this Use Variance

Village Attorney Thomas Murnane led the Zoning Board of Appeals through the SEQR Process.

- Mr. Roberge submitted Part 1 of the SEQR with the Use Variance application (attachment 1)
- Karin Thone made a motion that the Village of Rouses Point be the lead agency for the SEQR and it is an unlisted action; Seconded by Pam Gadway; AYE CARRIED
- Attorney Murnane provided an explanation and overview of the SEQR Part 2 form.
- Attorney Murnane explained what a Full Environmental Assessment Review is.
- OGS has not notified the residents located near the proposed mooring site. Their approval is pending the outcome of the decision provided by the Rouses Point Zoning Board of Appeals.
- Attorney Murnane read through the SEQR Part 2 Impact Assessment as the Zoning Board of Appeals completed each question. (see attachment 2). Mike Casey made a motion that the proposed action will not result in any significant adverse environmental impacts; Seconded by Pam Gadway; AYE CARRIED

Clinton County Planning Board Decision

- Discussion regarding the Clinton County Planning Board Decision on 239M Referral (23-17) received April 13, 2017. This referral was resubmitted with additional documentation supporting the parking issue. The County Planning Department stated that it is a local issue. (attachment 3). This leaves the Zoning Board free to vote on the issue.
- Previous Clinton County Planning Board Decision on 239M Referral (7-17) received February 6, 2017 (attachment 4) cited disapproval meaning that the Rouses Point Zoning Board of Appeals could approve the variance only with a majority plus 1 vote.

Board member John Mott asked to recuse himself from voting on this Variance. He stated that he is a business owner (marina) and some of the boats being moored/docked at the Rouses Point Yacht Club may use his marina for service.

Motion by Pam Gadway to approve the Use Variance submitted by Rouses Point Yacht Club to expand the existing marina from 30 – 41 vessels; Seconded by Karin Thone;

Review of the Use Variance pursuant to the Village of Rouses Point Zoning Law, Section 120.53. Chair Pat Birkett led the discussion and completion of the Findings & Decision Form.

- The Yacht Club is in Zone C1 (which is not zoned for a marina). A Use Variance must be submitted each time there is a change in operation. The criteria for a Use Variance must be met each time before the variance can be approved.
- §120.53 A A use variance may be granted to allow land to be used for a purpose which is otherwise not permitted by this chapter.
- §120.53B No such use variance shall be granted by the Board of Appeals without a showing by the applicant that the zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals **all** of the following:
(The Zoning Board of Appeals read and completed the Use Variance Findings & Decision form – attachment 5)
 - 1. The Applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial.
 - Financial documentation has been submitted by the applicant to support the alleged financial hardship.
 - That document makes the case that without an increase of boat moorings, the investment cannot be recouped in a timely manner

No – X (Requiring additional time to recoup an investment does not meet the standard established in the law that the applicant cannot realize a reasonable return. The case made is much weaker than the standard provided in the law)

Pam Gadway, Karin Thone, Mike Casey – agree; John Mott – recuse

- 2. The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the zoning district or neighborhood)
 - Yacht Club is unique because of the cement jetty
 - Not similar to other things in this zone

Yes – X

Pam Gadway, Karin Thone, Mike Casey – agree; John Mott – recuse

- 3. The requested use variance, if granted, will not alter the essential character of the neighborhood.
 - Moorings proposed by the Yacht Club not located at the Yacht Club
 - The proposed moorings would be between the Sportsman Pier and the Scenic Montgomery St. Pier in front of the only public beach available to local residents.
 - Residents argued moorings would affect the neighborhood
 - Considering all comments, placing the moorings in this location would alter the essential character of the neighborhood

No – X

Pam Gadway, Mike Casey, Karin Thone – agree; John Mott – recuse

- 4. The alleged hardship has been self-created.
 - purpose of the small yacht club was to distinguish them from the other marinas
 - the physical space is impractical for other services such as sale of gas, pump out of boats
 - has increased moorings from 14 – 30 (almost doubled from initial application)

- It was foreseeable from the outset that without the other services provided by most marinas the applicant could not rapidly recoup his investment with the rental of 30 slips and moorings that were approved by the Board. In this sense his financial hardship is self-created.
- this was realized from the beginning

Yes – X

Pam Gadway, Mike Case, Karin Thone – agree; John Mott recuse

Once the Use Variance is approved, it cannot be revoked. If the moorings alter the characteristics of the neighborhood, it is too late to cancel the variance.

The only way to prevent a negative impact is to refuse the variance.

Parking is a separate issue. Reference is made to the Clinton County Planning Board Referral. Chair Pat Birkett read the response provided by the County Planning Board. “The Village should carefully consider requests that do not provide adequate off-site parking, especially when expansions of non-conforming uses are involved. If the Village has been assured that 41 parking spaces are available on the site (which should be demonstrated on a surveyed and properly scaled

site plan map), then in most instances there will be adequate off street parking for the use. If the fire department and other emergency responders have concerns about adequate access/exit to the site, there may not be an adequate parking design on site. On peak use days, the agreements made with neighboring businesses to share parking may work. However, these agreements are not long term permanent contracts, and a use variance cannot be made conditional on short term contracts. Use variances run with the land and are permanent”.

- The law provides that each marina provides a parking lot that is 1 ½ spaces per docking or mooring
- Mr. Roberge has secured agreements with Gaines Marine for valet parking and with Chauvin Agency (weekend use); however, in the event that changes occur these agreements could be cancelled and there could be a problem with parking. The parking issues have not been satisfied.

Zoning Law §120.21 Off Street Parking was cited and explained.

G. In commercial, industrial or mixed-use districts, off-street parking may be supplied on a different lot with parking spaces that are located within 400 feet of the use and if the owner of the use either owns or leases the property upon which the parking space is located.

- > The Chauvin Agency appears to be within the 400 feet
- > Gaines Marina is further away

It is the job of the Zoning Board to decide if the parking requirements have been met.

Chair Pat Birkett stated that this application stimulated a passionate debate in the Village through public hearings and a petition, which was submitted to the Village. Also, she believes that Mr. Roberge only wants a positive contribution to the Village. The decision made tonight is based on the requirements of the law.

There is a motion on the table by Pam Gadway to approve the Use Variance; Seconded by Karin Thone; ROLL CALL VOTE:

Pam Gadway – NAY
Mike Casey - NAY
Karin Thone – NAY
John Mott - abstain
Pat Birkett – NAY

Motion does not carry (4 nays, 1 abstain)

NEW BUSINESS:

No new business

COMMENTS FROM THE PUBLIC:

Tom Marlow - Thank you to the Board

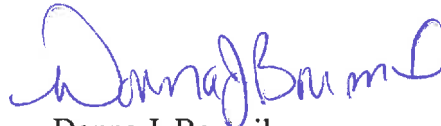
NEXT MEETING:

May 8, 2017 at 4:30 pm which is an Organization Meeting

ADJOURNMENT:

Motion by Mike Casey to adjourn at 5:12pm; Seconded by Pam Gadway; AYE CARRIED

Respectfully submitted,



Donna J. Boumil
Zoning Board Secretary