

## **(DRAFT) Meeting of the Town of Pawlet Development Review Board**

June 6<sup>th</sup>, 2018

### **Members in Attendance:**

Keith Mason, Brian Rawls, Gary Baierlein, Jonathan Weiss, James Glick  
Sarah Ludlam (alternate, acting clerk of the Board)

### **Others in Attendance:**

Gary Ameden, Cameron Perham, Ashley Waite, Frank Nelson

Meeting returned from recess at 7:01 PM. The Board has received a copy of the deed belonging to Mr. Perham into evidence. The deed describes the right of way in question to be used for one residence and agricultural use, and Mr. Ameden suggested this excludes it from the Unified Bylaws definition of a traveled way and thus the storage barn in question requires only a 25 foot setback.

Mr. Baierlein discussed the process of addressing other potential zoning issues at the site and suggests Mr. Perham apply for a conditional use permit for operating a contractor's yard. Mr. Perham's original zoning application requested a permit to erect a storage barn for personal use. Mr. Waite suggested that the deed's language describing agricultural use would define a right of way rather than a driveway. Mr. Mason pointed out that in the Unified Bylaws the number of lots accessed supersedes the agricultural use. Mr. Waite suggested the right of way is a pre-existing condition. He further stated that Mr. Perham perjured himself at the last meeting and had submitted his zoning application under false pretenses by describing the measurement from Maple Grove instead of from the driveway. Mr. Waite stated that he felt the original permit should be considered null and void because of this. Mr. Waite said that over the years his right of way has been blocked several times by vehicles. He noted that the Town of Pawlet has a history of two setback violations of structures too close to a road or right of way, which had been removed. Mr. Mason noted that in both cases this involved the traveled roadway. In previous bylaws, Mr. Waite states the right of way was not been defined by single family or otherwise.

Mr. Waite would like to see the zoning laws enforced according to what was active in 2014. The Board reviewed the revision history to the Unified Bylaws from 2014 to present and noted that these changes did not impact definitions of right of way or setbacks in this zoning district. Mr. Ameden expressed that he took exception to Mr. Waite describing his client as a liar. He stated that Mr. Perham no longer needs to apply for a variance because his building is in compliance with the 25 foot setback from a driveway requirement.

Mr. Waite stated the right of way definition has changed since the deed and development was created in the 1990's.

Mr. Weiss pointed out the difficulty of making a determination based on the unclear use of the term "right of way" in the Unified Bylaws in this case. He noted that though Mr. Waite's deed described this accessway as a "right of way," in the Unified Bylaws, this same language seemed to refer to a roadway right-of-way and not a driveway. The Board discussed the intended definition of a right of way, private road, traveled way, and driveway in the Unified Bylaws. Mr.

Glick and Mr. Mason discussed other examples of deeded rights-of-way in the community. The Board reviewed other descriptions of road setback requirements elsewhere in the Bylaws to try to determine the intention of this language.

Mr. Weiss moved that the Board find that the 40' setback requirement refers to a right-of-way for a traveled way, whereas this constitutes a driveway which has no specific setback requirement, and therefore the structure in question is compliant. Seconded by Mr. Baierlein. Voted, all being in favor, the motion carried.

Mr. Weiss further moved that the Board recommend the zoning administrator conduct a site visit to determine if Mr. Perham requires a conditional use permit to bring his property into zoning compliance. Seconded by Mr. Glick. Voted, all being in favor, the motion carried.

Mr. Mason described the process for appeal and a conditional use hearing, the latter being the venue for Mr. Waite to request visual barriers or other conditions to Mr. Perham's use of the property.

Meeting adjourned at 8:13 PM.

Respectfully Submitted,  
Sarah Ludlam