

Town of Athens
Zoning Board Meeting
Wednesday, 3/09/22, (7:00 P.M. at the Athens Community
Center)

Agenda

- Nolan and Susan Pazin - Tax Map ID 121.00-4-24 275
Howard Hall Road
Issue: Proposed Celebrating Venue in Barn on residential property.

Town of Athens – Zoning Board of Appeals
Meeting Minutes (as revised)
March 9, 2022

A meeting of the Town of Athens Zoning Board of Appeals was held on Wednesday March 9, 2022, at 7:00 P.M. at the Athens Community Center, with Chairman Eric Nelson presiding.

The Zoning Board of Appeals Members Present: Eric Nelson, Chair, Chris Pfister, Helen Ihde, Christian Ames, and Renee' Meryman, Secretary. Member James Morabito was absent. A "Sign-in" sheet for the public was provided and is available in the Town Clerk's office.

Albert Gasparini, Code Enforcement Officer was present along with George McHugh, Esq. who attended by telephone.

The Chairman opened the meeting at 7:00 with the Pledge of Allegiance. The Chairman then proceeded with the one case on the agenda.

Nolan and Susan Pazin (Use Variance for a Proposed "Celebrating Venue")
275 Howard Hall Road, Tax ID # 121.00-4-24.

The Chairman began discussions by notifying the applicants that the application for a Use Variance dated January 31, 2022, needs to be fully completed. The applicants responded by stating that they were unclear as to the overall Zoning Board Process and why the timetable to this point has taken three and a half months.

The applicants then asked for a description of the process to determine what the next steps will be. The Chairman indicated that he received a copy of the notice dated March 7th from the Athens Planning Board which referred the applicants to the Zoning Board. The Chairman further explained that he felt it would be in the best interest of the applicants to retain Legal Counsel which will provide them effective representation and guidance for a Use Variance application.

Discussion ensued about the overall process to obtain a Use Variance. The Chairman cleared up some misconceptions and handed out a step-by-step overview of the typical Variance Process, and requested that the Pazin's review that document, which he noted was excerpted from the existing Zoning Code, a copy of which follows:

Town of Athens, NY: Zoning Board of Appeals – Process Timeline

Refer to ECode: C Conduct of Business. 180: 117-123

STEP 1:

Applicant reviews a completed Application with the Code Enforcement Officer; the Code Enforcement Officer confirms that the Application is complete. See: <https://www.townofathensny.com/government/planning.html>

STEP 2:

Applicant is added to the next ZBA Agenda, the Application is reviewed between the Applicant and the ZBA

STEP 3:

Public Hearing shall be held within 60 Days of the ZBA receiving a Completed Application

Notice of Public meeting: Notice to Applicant at least 10 days prior to public hearing

Notice to property Owner's within 500' of the subject property:

Not less than 10 days before the date of the hearing (not counting the date of the hearing), written notice of the public hearing shall be mailed to the owners of all property abutting the exterior boundaries of the land involved in the application, and to all other landowners having property located within 500 feet of exterior boundaries of the land involved in the application, as the names of said owners appear on the last completed assessment roll of the Town. The notice shall include the name of the project, the location of the project site and the date, place, time, and subject of the public hearing at which the site plan will be reviewed. A description of the proposed project and its location shall be provided.

Notice to Public shall be provided at least 5 days prior to public hearing vis the Newspaper of Record.

STEP 4:

Public Hearing:

Opportunity for the Public to provide input on the Application

STEP 5:

Decision:

Approval, Approval with conditions, Disapproval of an Application shall be made within 62 days of the close of the Public Hearing; this duration may be extended with mutual consent of the Applicant and the Zoning Board of Appeals.

Prior to the regular meeting the Code Enforcement Officer shall determine whether the application is complete (including the scope of the project) and may issue a denial based upon the permitted uses within a particular zone. A variance may then be required, and - if the Variance Application is deemed to be complete – the applicant will be placed on the agenda for the next scheduled meeting.

Once the Zoning Board hears the initial case, they will determine the timing and date for a Public Hearing when applicable. When a Public Hearing is required, a separate Public Notice will be placed in the legal notice site of the newspaper. The Public Hearing is then opened at a subsequent ZBA meeting, members of the public are invited to speak, and the Public Hearing will remain open until all members of the public had a chance to speak. The Zoning Board may then close the Public Hearing and will move to a vote based on the criteria/elements for the variance, this vote shall occur within 62 days of the close of the public hearing, or later with mutual consent of both parties to extend past 62 days. In the event a Variance is approved, the applicant may proceed to the next step(s) such as the Planning Board.

The applicants repeated their claim that the process was taking too long, and the Chairman encouraged them to read the outline provided to them (and included above).

The Chairman then reviewed the application and reiterated to the applicants to complete the section by responding to the four tests/criteria covering Economic Use/Reasonable rate of Return, Uniqueness, Character of the neighborhood, and Self-created Hardship. The Chairman also cleared up the fact they were asking for a Use Variance “because the use is not a permitted use in the rural district.”

The Chairman further explained that within the nature of a “Use Variance” exists a “high bar” for successfully proving a Use Variance by satisfying all four elements/criteria. The Chairman then went over each of the criteria on the application. Once an applicant presents their responses to each of the four tests, then the Zoning Board would review those responses and decide whether they meet or satisfy the tests on their merits. All the testimony would then be discussed at a scheduled Public Hearing. The neighbors within 500 feet and the Town are notified, and they may come to the meeting and express their opinion.

If the Zoning Board has all the needed information, and all voices were heard; then the Public Hearing will be closed, and a vote will be taken within the timeframe prescribed by the code. A decision may be rendered at that same meeting or the next scheduled Zoning Board meeting.

Attorney McHugh assisted by saying the actual lead agency would be the Planning Board who would be doing a Site Plan Review and any other required reviews. If an applicant fails to get a Use Variance there would be no reason to continue with the Planning Board.

The Chairman explained that this is the process and that everything he is explaining is in the Code and on the Town’s website. The Chairman then said they need a completed application that addresses the four criteria, again suggesting they get an attorney for guidance as he could not give legal advice.