

TOWN OF ALDEN

ZONING BOARD OF APPEALS

(716) 937-6969
Relay/Dial #711
Fax 937-9817

ALDEN TOWN HALL
3311 Wende Rd.
Alden, New York 14004

Paul A. Alessi Jr.
Chairman
Lisa A. Lista
Secretary

Members
Colleen Rogers
Randy Crist
Robert Fetzer
Colleen Pautler

Monthly Activity Report to the Alden Town Board

Date: February 21, 2012
Hearing# 12-01
Applicant: Bernadine Metz

Meeting was called to order by Chairman Paul Alessi at 7:30 pm.
Chairman Alessi announced that two of the board members were on vacation and not present for the hearing. Chairman Alessi opened the hearing stating that this hearing is for Bernadine Metz of 12704 North Road, Alden, New York, 14004 seeking a Use Variance for a contractor's yard in an RA zone which is not allowed according to town code. Originally, this variance was before the board on May 17, 2011. At that time approval was granted with a six month time frame to start the project. Since no work was started within that time frame the variance expired. Chairman Alessi stated that at the time of the original hearing the board was different, due to recusal requirements in 2011, any board member having any personal or business relationship had to recuse themselves. Chairman Alessi then read the minutes from the last hearing:

"Meeting was called to order by Chairman Paul Alessi at 7:30 pm
Mr. Saskowski from Sokowski and Markello LLP Attorneys at Law sat in to represent Mrs. Bernadine Metz (due to illness) along with Mrs. Metz's son, Mark Metz. (see attached letter). Mr. Sokowski spoke saying that the premises has been used to run the family business since 2003, until 2010 without any kind of objection. He also stated that Mark Metz was running the family business out of this location and was not aware of any problem with the building structure on the premises and that the Building Inspector in 2003 gave no indication that there was any kind of problem. Mr. Metz says that his equipment has been there since 1963 and that there has never been any issues with the property, he also states that the property has never been split up, it has always been one parcel. The applicant said that his equipment for his business was kept in Cheektowaga, and he moved everything to Alden in 2008, because of cost. Questions were turned to the audience, all audience members were in favor of the variance. The board voted 4 members approved and one denied. Variance is approved with STIPULATION: the premises must be brought up to existing Town Code and that the owner of the business will comply with all applicable town regulations and requirements in going through the process. Tom Kirszenstein: Approved, Robert Dumbke: Approved. Paul Alessi: Denied, Charles Gaffney: Approved, Robert Fetzer: Approved. Meeting adjourned 8:20 pm."

Chairman Alessi stated that Building Inspectors have changed several times since 2003 and that the current Building Inspector is Chris Snyder. Chairman Alessi noted that one of the Building Inspectors duties is to follow town law without exemption or favoritism. Something that one Building Inspector may have done or ignored does not carry through to the next Building Inspector. Chairman Alessi also stated that at the time of the original hearing the board was different, due to recusal requirements. Chairman Alessi then submitted a copy of an email from Jennifer L. Strong, Esq. from Neill & Strong, PLLC, 13166 Main Street (PO Box 395), Alden, New York 14004, Town

Metz Hearing continued:
February 21, 2012

Attorney, clarifying the rules of recusal for ZBA Members; "ZBA Members may only recuse themselves from a hearing if a member has a direct pecuniary or property interest (meaning the board will gain financially by the project being voted on) with the applicant and/or application or are direct relation of the applicant. Chairman Alessi then reviewed the rules for a Use Variance request: "A Use Variance is an authorization by the ZBA for an owner to use his property in a manner not allowed by the use regulations applicable to the property. Chairman Alessi then reviewed the four standards used to make this decision. Chairman Alessi also stated that the board will continue to allow Attorney Saskowski to represent Mrs. Metz as per the letter that was submitted during the original hearing in 2011. Chairman Alessi than opened the hearing for board members to ask questions. Member Crist asked what the original stipulations were on the approved variance. Chairman Alessi re-read the original stipulations from the hearing in May of 2011.

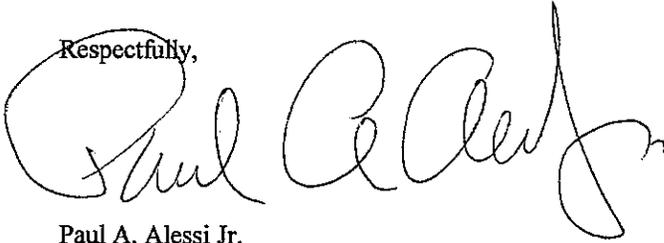
Attorney Saskowski stated that Mr. Metz has passed away since the original variance and that Mrs. Metz is now the sole owner of the business. Engineers were contracted to start the construction, but never completed the project. Chairman Alessi asked if they could provide any financial data showing what it would cost to move this business elsewhere. Attorney Saskowski stated they again do not have any estimates on the cost of moving the business because the Building Inspector at the time allowed the building on the property to be used for business in 2008 and there was never any objection for the use until 2010 when they were notified of the violations. Chairman Alessi asked Mr. Metz if he had any plans to show the board. Mr. Metz stated he wasn't told to bring them so he didn't. Member Crist asked Mr. Metz how close he was to starting any work on the property. Mr. Metz stated he didn't know. Chairman Alessi noted that Mr. Chris Snyder the Town of Alden building inspector was present and asked for his input; Mr. Snyder stated that the building department was told that the building added to the property at the time was for personal use only. Chairman Alessi noted that Mr. Flemming a member of the Planning Board was also present and asked for input; Mr. Flemming verified that the Planning Board approved the building for storage, not for a business. Mr. Metz stated he applied for a building permit and was never in front of the Planning Board, nor was he asked to appear before the Planning Board. Member Pautler who lives across the street from the property stated that she remembers the business being there and equipment being on the premises since at least 1996, when Metz used his equipment to dig out the basement for her house and prior to 1996 they also used Metz equipment to haul away debris from another location that they owned. Chairman Alessi then opened the hearing to the floor; Audience member Alex Koschuk, who is also a neighbor of the Metz's stated that the equipment has always been on the property since he has lived there since 1978. Chairman Alessi stated that to prove hardship the applicant needed to provide financial data and that has not been done. For a Use Variance to be approved you need to provide financial evidence. Attorney Saskowski stated that when they moved the business from Cheektowaga it was not a problem at the time. Chairman Alessi then proceeded to go through the Criteria for the Variance. Chairman Alessi then moved for a vote adding that the original stipulation must be adhered to if the Variance is approved - Bringing the property up to Town Code WITHIN a six month time period. And the Variance goes with the business, if the business is dissolved the variance is void.

Members Vote

Colleen Pautler: Approved
Bob Fetzer: Absent (Vacation)
Colleen Rogers: Absent (Vacation)
Randy Crist: Approved
Paul Alessi: Denied

Meeting Adjourned at 8:18 pm

Respectfully,

A handwritten signature in black ink, appearing to read "Paul A. Alessi Jr.", written in a cursive style.

Paul A. Alessi Jr.
Zoning Board of Appeals Chairman

Cc: Supervisor
Council Persons (3)
Planning Board
Building Inspector
Town Clerk



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Monthly Activity Report to the Alden Town Board

Date: February 21, 2012
Hearing# 12-02
Applicant: Michele and Donald Stover

Meeting was called to order by Chairman Paul Alessi at 8:30 pm. Chairman Alessi opened the hearing stating that this hearing is for Michele Stover, 12805 Main Street, Alden, New York, 14004 from a Notice of Disapproval, issued by the Town of Alden Code Enforcement Officer/Building Inspector denying a request to harbor two horses at 12805 Main Street, Alden, New York 14004. Chairman Alessi stated that this is a Use Variance from the code of the Town of Alden. Chairman Alessi reviewed the criteria for a Use Variance. Chairman Alessi stated that Mrs. Stover is trying to harbor two horses in an R1 and R3 Zoning, which is zoning for single and multi-family residential. On review of the drawing submitted it was noted that there is an existing fence and barn. Mrs. Stover stated that they currently have two goats. Chairman Alessi polled the board to revise the variance request to include the two goats, the board concurred and motion to revise the original request was carried unanimously. Mr. and Mrs. Stover stated that they have seven acres of property and they wish to utilize the acreage to harbor two horses. Mr. and Mrs. Stover provided the Zoning Board with the dimensions and details of how they wish to fence in the horses. The applicants stated that it showed on the survey they submitted, Chairman Alessi noted that the Building Inspector had not attached this survey of the property for the Board to review. Upon reviewing the dimensions, the proposal to the Board is to erect two wood and electric fenced areas for rotating pasture areas. These fenced areas would measure approximately 100 feet by 300 feet and 100 feet by 600 feet respectively. There is an existing fence that is approximately 100 feet by 60 feet which is attached to an existing barn that will stay on the property that is used to house and pasture the two goats. The Stover's also provided financial information as to the cost of boarding the horses elsewhere compared to boarding them on their property, which they are already paying taxes on. There were no surrounding property owners or audience in attendance. A letter was given to the Board from the Building Inspector from one of the neighbors, Mr. and Mrs. Ertel, 12845 Main Street, Alden New York 14004, who are the property owners immediately to the east of the Stover's and was read into the minutes (attached) and was in favor of the variance request. Member Crist and Chairman Alessi stated that any fencing that is installed should be at least 10 feet from the west and east property lines and comply with all town codes, the Stover's agreed to these stipulations. Chairman Alessi reviewed the criteria for a Use Variance, the Stover's request passed all four. Chairman Alessi moved for a vote.

Mr. and Mrs. Stover Hearing continued:
February 21, 2012

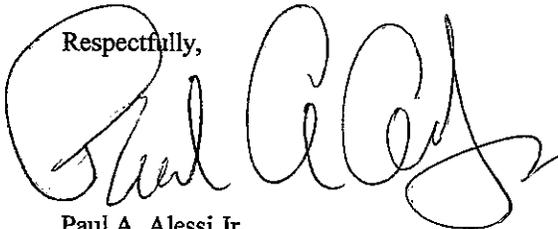
Members Vote

Colleen Pautler: Approved
Bob Fetzer: Absent (Vacation)
Colleen Rogers: Absent (Vacation)
Randy Crist: Approved
Paul Alessi: Approved

Variance approved to harbor two horses and two goats with no stipulations.

Meeting adjourned at 9:30 pm

Respectfully,

A handwritten signature in black ink, appearing to read "Paul Alessi Jr.", written in a cursive style.

Paul A. Alessi Jr.
Zoning Board of Appeals Chairman

Cc: Supervisor
Council Persons (3)
Planning Board
Building Inspector
Town Clerk