

Regular Meeting of the Village of Newport Zoning Board of Appeals

January 18, 2016

In Attendance: Christine Shahin Wood (ZBA Chair), Tina Kulesa (ZBA), George Farley (Codes/Zoning Enforcement Officer), Patrick Vincent (Vincent's Heating)

Location: Newport Firehouse

Meeting called to order at 6:13 pm

Old Business: None

New Business: Variance request for outbuilding (fuel storage shed) at 7484 East St., Newport, NY

At issue: After the construction of an outbuilding intended for the sole use of storage for dry wood pellets for an energy efficient wood pellet furnace installed at 7484 East St., Newport, Vincent's Heating applied for a building permit, which was denied by Codes Enforcement Officer George Farley. The ZBA was asked to review the case to issue a variance after the fact so that Vincent's Heating could be reimbursed for expenses incurred in during the project which is, in part, funded by NYS grant money.

A letter of appeal, along with supporting documentation (commercial brochures for the furnace and fuel delivery system, copy of the blueprints for the fuel storage shed), was received prior to the meeting for review.

Discussion: Chair, Christine Shahin Wood, explained that new board member Tina Kulesa has completed all state required training and is now up to speed and has had an opportunity to review the appeal letter and supporting documentation.

The permit application was denied by Mr. Farley due to the distance the fuel shed was built from the home. Per Zoning regulations outbuildings must be a minimum of 10 feet away and this structure did not meet this requirement.

It was expressed by the Chair that an appeal was needed because process had not originally been followed, i.e. apply for the building permit prior to building the structure.

Mr. Vincent did explain that while ignorance was not an excuse for not following the proper procedure he explained that he did read the Zoning laws and found them vague, confusing, and poorly labeled. In all he read, it was his understanding that because the building was under 100 sq. feet there was no need for a building permit. He expressed his intent was not to create issues for Code and ZBA, he had thought he was following the correct process.

Ms. Shahin Wood thanked Mr. Vincent for the materials provided for review but wished, in hindsight that there had been actual photos of the building at issue included. The only photo included was of the pellet delivery truck.

She continued that while the easiest thing to do would be to grant the variance as she recognized our guidelines (i.e. Zoning Laws) were vague in areas and we would prefer updates to the language of the law. As she and board member Ms. Kulesa had not had a chance to discuss the appeal yet she asked if Ms. Kulesa had any other questions.

Ms. Kulesa advised that she had questioned Mr. Vincent regarding the required, or ideal, length of the auger and pipe that fed the furnace and was told by Mr. Vincent that it was 60-feet however the further away the furnace the feed is the more damaged the wood pellets became and therefore decreased the efficient of the furnace. Mr. Vincent also explained that while researching and discussing with NYS the volume that these buildings should hold it was “kicked back” to him saying that something more aesthetically pleasing was built. As it is NYS through this grant program which is requiring the fuel storage to be OUTSIDE the home, any outbuilding needs to fit into any community. He also brought up that as aesthetically pleasing as the building is, for all intents in is a fuel tank. If it were a propane or oil tank there would be no issue in regards to the building permit and thus, no issue for the ZBA. So his question or issue is, what is the intent of the building in question. It is intended to be fuel storage; it is not intended to be inhabited or house any other material.

Ms. Shahin Wood confirmed with Mr. Farley that the denial letter indicated that even if a variance was granted Mr. Vincent may still need to provide more information. Ms. Shahin Wood provided Mr. Farley with the stamped building plans for the building in question. Mr. Vincent also wanted it known that if the variance is granted, on a temporary basis with the condition that the building may need to be moved, if need be the building can be moved in the spring once the pellets had been used up.

Mr. Farley had also explained that he was unable to determine the origin of the 10-foot rule in the zoning laws and that the village fire department had no issues with the placement of the outbuilding. The ZBA is also unsure as to the origin and would like to research further.

Ms. Shahin Wood & Ms. Kulesa left for private discussion between 6:20 pm and 6:25 pm.

Returned to the meeting at 6:25 pm.

Ms. Shahin Wood asked if there were any other people within the village that have expressed interest in this type of furnace via the NYS grant program. Mr. Vincent states yes, they have done quite a few in the town of Newport, a system on West. St. near Schuyler but those are actually both further than 10-feet away because they couldn't get the outbuilding any closer to the house. He said they get quite a lot of phone calls regarding this and that he believes now that NYS has come down hard wood fired furnaces and with the grant money currently being offered by the state that interest will continue to rise.

Discussion was had regarding new technologies, businesses going out of business due to new heating technology and green energy. Mr. Vincent explained how their company was actually being used as a model for others.

Ms. Shahin Woods explained that the ZBA needs to work with the Planning Board regarding current codes in light of emergent technologies as these are not addressed or are addressed imprecisely within the current codes.

George Farley advised that any new furnace or boiler requires a building permit in NYS. If it is an upgrade or replacement to furnace or boiler (i.e. currently oil, upgrading to a new oil furnace) there is no permit needed, however if you are going from one fuel source to another a building permit is required.

Additional discussion was had regarding the process that Vincent's Heating goes through while developing a project, how the company interacts with NYS and what additional due diligence NYS performs, the scrutiny companies who are working with this grant go through.

Additional discussion had between ZBA and Mr. Farley regarding "Schedule A" in the current codes.

Decision: The ZBA has agreed to grant a temporary variance due to imprecise wording in our village code guidelines, Newport Codes Enforcement Officer George Farley can issue a building permit to Vincent's Heating and Fuel Service for the wood pellet storage shed at 7484 East St., Newport, NY. This temporary variance comes with the understanding that in the spring of 2016 the unit may or may not need to be moved. Once a final decision is made Vincent's Heating will be informed.

Meeting Adjourned: 6:33 pm

Respectfully Submitted
Tina Kulesa, ZBA member