

# Town of Homer Zoning Board of Appeals

Minutes for Tuesday, February 13, 2013

## Board Members (absent \*)

Gary Lawrence, Chairman

David Deasy

Gary Sweeney

Ken Poole

Zachary Young

Daniel Gustafson

Gerald Neuman

## Others Present

Lindsay Andersen, Recording Secretary

John Daniels, CEO\*

Pat Snyder, Attorney

**Public Attendance:** Michael Parks, Atty. Matthew Neuman, Stanley Birchenough, and Steve Burch

## **Public Hearing**

Chairman Lawrence opened the public hearing to consider **a request for an interpretation of the zoning law as it applies to property at 5224 Route 11, currently owned by Stanley and Donna Birchenough. The Zoning Board of Appeals has been requested to affirm a determination by the Code Enforcement Officer that the zoning classification of Business Use would allow the Homer Iron Works, LLC, to move its operations onto that premises.**

Michael Parks stated that he has spoken to the Town of Homer Planning Board and the County Planning Department in respect to a potential purchase of property owned by Mr. & Mrs. Birchenough at 5224 Route 11. He would be purchasing a total of 57 acres. Both the Planning Board and the County Planning Department felt that this was a permitted use but advised him to request the interpretation from The Zoning Board of Appeals.

Michael Parks stated that he started his business in 1976 and has been operating from his current location since 1984. He stated that he would like to expand his business but his current location does not have the space he would need for the expansion. He also stated that he has

not finalized any plans but has spoken to the closest homeowners and would be willing to create a buffer and plant trees.

Chairman Lawrence asked Mr. Parks what the plans would be for the current building once he was established at the new location. Mr. Parks stated that he would more than likely rent the building or possibly sell the property.

Acting CEO Kevin McMahon stated that has reviewed all of the proposed plans and feels that Mr. Parks plans are in compliance. He also stated that Burhans Trucking and Suit Kote are in very close proximity to the proposed location and they operate fairly similar business's and he does not feel that there are any issues as far as the zoning classification.

Attorney Matthew Neuman stated that he is representing Michael Parks and would like the board's clarification and affirmation of the proposed plans and zoning classification. This is requested prior to the purchase of this property.

Steve Burch owns the property directly to the north of the proposed building location and asked if anyone feels that this could create a decrease in his property value.

Attorney Snyder stated that the landscaping and quality of the building could impact the value of his property but there should be little or no adverse impact if a site plan is reviewed and approved by the planning board .

Mr. Burch also asked if there was a possibility for a privacy fence.

Attorney Matthew Neuman stated that there will be further meetings regarding setbacks and there will also be a site plan review.

Acting CEO Kevin McMahon stated that there could actually be an increase to Mr. Burch's property value if the building is constructed properly and has aesthetic appeal.

With no questions or comments from the public the public hearing was closed.

## **Regular Meeting**

Chairman Lawrence opened the regular meeting for discussion on **a request for an interpretation of the zoning law as it applies to property at 5224 Route 11, currently owned by Stanley and Donna Birchenough. The Zoning Board of Appeals has been requested to affirm a determination by the Code Enforcement Officer that the zoning classification of Business Use would allow the Homer Iron Works, LLC, to move its operations onto that premises.**

Attorney Snyder stated that a zoning interpretation is a Type 2 action under SEQR and not subject to environmental review. It is also not subject to review by the County planning board. He also stated that he was not aware of any legal reason not to accept the interpretation of the Code Enforcement Officer as the interpretation seems to be reasonable under the zoning law.

Member Gustafson made the motion to approve the use of the property as it was explained as an allowed use. Member Deasy seconded the motion. With all members in favor saying "aye", none opposed and none abstained. The motion was carried unanimously, 7,0,0.

## **Adjournment**

The meeting was adjourned at 6:20pm.

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Lindsay M. Andersen, Recording Secretary