

**TOWN OF BARRE
ZONING BOARD OF APPEALS
HEARING
OCTOBER 20, 2008**

CALL TO ORDER: 7:00 P.M.

BOARD MEMBERS PRESENT

Mark White
Charlie Swan
Jeanne Martillotta
Dale Laubacher
Steve Karas

BOARD MEMBERS EXCUSED

Also present: Andrea Rebeck, John Benriter, Willie and Joan Wraight, Dale Adamo, Larie Vagg

I. PUBLIC HEARING - 4646 OAK ORCHARD ROAD - REVOCATION OF VARIANCE

Mr. White called the hearing to order at 7 p.m. This hearing was held concerning the Larie Vagg property, located at 4646 Oak Orchard Road in the Town of Barre. Mr. Vagg was not present at this time. Mr. White read the legal notice, and explained a bit of history behind the issue.

On June 10, 1974, a variance was granted to Mr. Vagg for the above named property for the sole use of storing antique American Motors and Predecessor Companies automobiles. The variance was granted under the following conditions:

- There were to be no more than 80 cars.
- Cedar trees - planted by the fall of 1974 - must surround the parking area.
- The driveway to the north was to be 10 feet wide with an open entrance.
- Area must be kept in the same appearance as it was at that time.

Mr. Vagg was sent a letter, dated May 14, 2007, by Shellye Dale Hall, Codes Enforcement Officer, notifying him that his property was in violation. Upon inspection, it was observed that there were more than 80 vehicles; no visible parking area with cedar trees, and it was questionable whether the driveway was indeed 10 feet wide. The letter also stated that there were numerous car parts, doors and tires that needed to be removed. Mr. Vagg was advised that he had 30 days to respond.

Shellye Dale Hall notified the Zoning Board of Appeals of the violations in a letter dated June 25, 2007. Mr. Vagg had asked for a 60-day extension to comply; claiming to have removed some of the vehicles, and that he had put the others for sale on eBay. However, in addition to his continuing failure to comply with the condition of the Variance requiring that "area must be kept in the same appearance as it currently is", it was noted that he was also in violation of the Town's Local Law (No 1/2002), Property Maintenance, Section 301.3 as the property was strewn with junk lawn mowers, boat parts, campers, glass, car doors and parts, tires, and piles of lumber scattered around the premises.

The ZBA members agreed that Mr. Vagg had sufficient time to clean up the property, and it was time to consider revoking the variance. A letter dated June 26, 2007 was sent to Mr. Vagg, informing him that a Public Hearing was to be held on July 23, 2007 at 7 p.m. in regard to his property and the revocation of the variance.

Public Hearing was held on July 23; appealed and held again on August 20, 2007. Variance was revoked at that time. However, due to an error in the town's adoption of the "Revocation of Variance" section of the zoning code, the revocation was rescinded by the ZBA on November 19, 2007. Thereafter, the Town Board adopted the legislation using the proper process.

On June 16, 2008, Mr. Vagg was sent another letter by Shellye Dale Hall informing him of the same violations he was notified about a year before. A letter was submitted at the ZBA meeting on August 18, 2008, stating that Mr. Vagg's property was still not in compliance.

The board addressed the issue at the September 15, 2008 meeting and a public hearing was scheduled for October 20, 2008. A certified letter, return receipt was sent to Mr. Vagg on September 17, 2008 notifying him of the hearing. A legal ad was published in the Batavia Daily News on October 7, 2008; and letters were sent to 32 property owners within 500 feet of the Vagg property notifying them of the public hearing.

A fax was received from Mr. Vagg's attorney, Mindy Zoghlin, of the Bansbach Zoghlin P.C. firm, on October 20, 2008 at 2:37 p.m. requesting the hearing be adjourned because she was unable to attend. Since this was not sufficient notice to cancel an advertised public hearing, and the board did not want to inconvenience the property owners any longer, the request was denied.

Mr. White asked if any of those attending the hearing wished to speak.

Ms. Rebeck addressed the board first. She thanked the board for continuing to pursue the matter, and that she appreciated it.

Mr. Wraight stated that he felt the property had become a nuisance. It was a haven for rodents, who previously destroyed a soy bean field. The property had become in essence a junk yard, and was unsightly.

No one else wished to speak. Mr. White then closed the public hearing at 7:04.

RESOLUTION NO 7 10/2008

**Introduced by: Dale Laubacher
Seconded by: Jeanne Martillotta**

WHEREAS, the Board, with due deliberation, has reviewed the findings of the Code Enforcement Officer, heard the comments and complaints from neighbors, and thoroughly reviewed the historical timeline of the ongoing violations that exist at property located at 4646 Oak Orchard Road, and,

WHEREAS, the property owner has been given sufficient time to remedy the violations and given proper notice of the this Hearing, the Board hereby finds the property owner, Mr. Larie Vagg, has failed to comply with each and every condition of the Variance issued on June 10, 1974 heretofore delineated, such conditions imposed to minimize any adverse impact the Variance may have on the neighbors and community, be it

RESOLVED, that the Variance issued on June 10, 1974 for the property located at 4646 Oak Orchard Road, is hereby revoked.

UPON ROLL CALL VOTE:

Mr. White	Aye
Mr. Swan	Aye
Mrs. Martillotta	Aye
Mr. Laubacher	Aye
Mr. Karas	Aye

The resolution was thereupon duly adopted.

NEW BUSINESS

Shellye sent a letter requesting the deadline of completed applications be moved back to 10 days before the monthly meeting.

Mr. Karas didn't see a problem keeping the dates as is.

Mrs. Martillotta expressed that someone might apply shortly after the deadline, and then have to wait a significant amount of time until the next Zoning Board meeting. Mr. White stated that the board members need to have enough time to research the applications, and time constraints have occurred in the past.

As the board was discussing the new business on the agenda, Mr. Vagg appeared. This was at 7:06 p.m.

Mr. White: "Larie, you're a little late! But if you would like to speak, we will listen to you."

Mr. Vagg: "I can't hear you."

Mr. White asked him to please come forward.

Mr. White repeated that he was late, but if he wished to speak, the board will listen.

Mr. Vagg: "Uh, no. I'm not going to speak tonight due to the fact that my attorney requested an adjournment."

Mr White informed him that this wasn't a court; and that they did not receive the fax until late that afternoon.

Mr White: "It is way too late to adjourn this meeting."

Mr. Vagg: "What can I say? You'll have to take that up with my attorney."

Mr. White told him he was sure that would happen, and informed him that action was taken and his variance was revoked.

Mr. Vagg: "You'll have to take that up with my attorney."

Mr. White: "Again, I'm sure we will. I'm sure the town will."

Mr. Vagg: "I don't know how at two minutes after 7, you could have already taken a vote..."

Mr. White pointed out that only two people spoke, so it doesn't take long. He also stated that the meeting started at promptly at 7, as advertised.

Mr. Vagg: "You're running the show, but my attorney advised me that they were going to request an adjournment and I was not to say anything without them."

Mr. White: "They did, and we denied the request."

Mr. Vagg: "Oh, you did? Well, okay. Yup. Well, you'll have to correspond with them then."

Mr. White: "We will. We're all set then."

Mr. Vagg: "Well...for the moment."

Mr. Vagg left.

Back to the new business...Mr. White said that it was better to give themselves time to review applications.

II. APPROVAL OF MEETING MINUTES - 9-15-08

Mr. Swan made a motion to accept the September minutes as submitted, seconded by Mr. Laubacher and carried.

ADJOURNMENT

Mr. Karas made a motion to adjourn at 7:12, seconded by Mr. Laubacher and carried.

Lisa M. Tucker, Secretary