

**TOWN OF NORTH HARMONY
ZONING BOARD OF APPEALS
WEDNESDAY, 1/25/2012, 7:30 PM**

ZBA MEMBERS PRESENT: **Dan Thomas** **Dick Barton** **Paul Silzle**
 Louise Ortman **Greg Michalak** **Roger Vaillancourt**
 Helen Emick (Alt.)
 Brad Lawson, Zoning C.E.O.
 Dave Stapleton, Attorney

Others Present: **Gary M. Olson** **H. Robert & Beverly L. Butts** **Stephanie & Caleb Butts**
 Clayton Emick **Ronald Saxton** **Peter & Rose Stark**
 Chrissy Smith **Barbara Hoyt** **Gayle Martin**
 Tad Wright **Randy Gleason**

In the absence of Chairman Levesque, Mr. Michalak opened the hearing at 7:30 PM. Mr. Stapleton swore in all present who expressed intent to speak regarding the applications.

- 1. H. Robert & Beverly Butts requesting a Special Permit to replace a single wide mobile home with another single wide mobile home at property located at 2496 Carpenter-Pringle Road, Ashville, NY, Specifically Section 366.00-1-31 (Old #14-1-17.1).**

Mr. Michalak asked what the applicants would like to do. Mrs. Beverly Butts stated that there is currently a 1970's model 12 x 60' mobile home located on their property and they would like to replace it with a newer 14 x 70' model for their son, wife and child to live in. Mrs. Butts indicated that the property that the mobile home is located on (1 acre lot) belongs to their family as well as the adjoining acreage. She said the current home extends over the property line but onto their acreage. Mr. Silzle asked if the property will be deeded as one or two properties. Mrs. Emick asked if there are two deeds for the properties. Mrs. Butts said she did not know and they have never seen the deed. Mr. Silzle said on the drawing it appears to be two separate properties and the applicants may need to have the property on which the home sits expanded to meet code requirements. Mr. Barton asked how the old mobile home will be removed. Mrs. Butts said they had contacted Goodman's Scrap and been told they would not accept it as a whole unit. She said they have discussed it with other people in similar situations and what they will do is crush it and remove it in dumpsters. Mr. Lawson said he wanted to make sure the Butts understood the NYS Building Codes will not allow the trailer to be buried on the property and the entire unit has to be removed. Mrs. Butts said currently the back bedroom of the trailer runs through the property line. Mr. Thomas asked about the distance of the trailer to the road. Mr. Lawson said if he remembers correctly the elder Mr. Butts had come to the ZBA to apply for an Area Variance for the substandard lot size (2 acres required in AG District for buildable lot) and a Special Permit to place the current trailer on the property. He said those were granted but he believes the mobile home sits too close to the road (50' required). Mrs. Butts said they had measured from the edge of the road to the trailer and the distance is 52'. Mr. Barton asked Mr. Stapleton what the legal requirements would be. There was general discussion of how to increase the size of the lot so it complies and the financial implications of doing that. Mr. Lawson said according to the GIS maps it is two separate parcels. Mrs. Ortman asked if there is any logical way to keep the trailer on one property. Mrs. Butts said she thought there would be difficulties because of other building on the lots as well as the location of the septic and well. Mrs. Emick said the letter from Mr. Lawson included in the packet indicates that the property is in Caleb Butts' name. Mrs. Butts said the property is in her husband's name but her son has lifetime use. Mrs. Emick asked if there is some way to give them an easement, etc. Mr. Stapleton said yes, but documents still have to be filed and it appears that Mr. Lawson wants the property to comply with the two acre requirement. Mr. Lawson said either the 1 acre parcel needs to be dissolved and brought back into the larger piece of acreage or it needs to be enlarged to 2 acres. Mr. Silzle said the easiest solution would be

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to dissolve the 1 acre lot and bring it back into the 30 plus acreage. Mr. Stapleton said the deeds still have to go on legal record and that requires funding. He said the Butts should discuss that with their attorney. Mr. Stapleton asked Mr. Lawson what the time frame on this is. Mr. Lawson said they would want to do it as soon as possible and he has explained to the Butts' that his part of it will not happen until the property is totally cleaned up and the property size is cleared up. Mr. Michalak referred to the section of zoning on manufactured homes and the requirements that the applicants must meet for compliance. Mr. Lawson indicated that the health department will also have to review the septic and efficiency as far as handling the new trailer size. Mr. Stapleton said it seems with health department approval and perhaps cutting off a piece of the larger acreage to make the smaller property compliant (which could be done without a survey) the matter would be less difficult.

Mr. Michalak requested on behalf of the board that the Butts' address the 2 acre requirement to comply with zoning and obtain County Health Department certification that the septic meets the health code. It was also requested that the requirements indicated in Mr. Lawson's letter to the Butts' be addressed. The application was tabled until the Butts' request the clerk to include it on the ZBA agenda.

2. Ashville Fire District requesting a Special Use Permit to convert an existing structure located in an R-1 District and owned by Chautauqua County into a fire station to house a fire truck and miscellaneous equipment at property located at 2009 S. Maple St., Ashville, NY, Specifically Section 384.10-1-47 (Old #31-6-9).

Mr. Michalak asked the applicant what their intentions are. Mrs. Hoyt, Chairman of the Ashville Fire District stated that the district is in the process of negotiating the purchase of the old Parks garage owned by Chautauqua County and located on South Maple Street. She stated they are requesting a Special Use Permit to house Fire District equipment in the building and the sale is contingent upon obtaining that permit. Mr. Thomas asked if neighbors all around had been contacted and were OK with the plans. Mrs. Hoyt said she believed so. Mr. Lawson gave some background on the application. He said the District had come to him and asked how they could do this. He said the building is located in the R-1 District which is our most restrictive district. He said in the R-1 District via a quasi-public Special Use permit for a quasi-public entity (i.e. telephone, gas, fire department) it can be done. Mr. Barton asked if the building is fully functional (electric, water, sewer). Mrs. Hoyt said yes. Mr. Barton asked if it would be used for bingo or public gatherings. Mrs. Hoyt said no. Mrs. Ortman asked what the current use of the building is. Mrs. Hoyt said currently the building is closed, but it was previously used to store County Parks Department equipment until they moved out on 5/1/11. Mr. Michalak asked what type of equipment the building would house. Mrs. Hoyt said the District will work with the Department Chief to see what will work best there. Mrs. Emick asked if the sale is final. Mrs. Hoyt said no. Mr. Lawson said the County (George Spanos) had signed off on the application. Mr. Lawson indicated that the building would have to be ADA compliant before a certificate of occupancy could be issued. Mr. Thomas noted there are actually 2 buildings there and asked what the second building would be used for. Mrs. Hoyt said she does not know at this time. Mr. Barton asked if the District has so much equipment that they need the extra space or if this more of a geographic thing. Mrs. Hoyt said it is more of a geographic thing. She said they still own a small pole barn in Ashville and they will not need that in the future. Mrs. Emick asked if there had been a Public Hearing on the actual use of the building or was it only on the purchase of the building. Mrs. Hoyt said no. Mrs. Emick said then there has been no Public Hearing in accordance with Sec. 202 of the Zoning Ordinance under Special Use Permit which requires a public hearing to occupy the building. Mrs. Hoyt said not specifically. She said the vote was to purchase the building from the county. Mrs. Emick asked Mrs. Hoyt when she signed the Special Use Permit application if she had used her personal address or the District's. Mrs. Hoyt said the District's

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address. Mrs. Emick noted that Mrs. Hoyt had not indicated in what capacity she was signing the application under. Mrs. Emick asked Mrs. Hoyt if there was a resolution from the District Board authorizing her to sign the application. Mrs. Hoyt stated that as Chairman of the District she is authorized to sign checks and contracts. Mrs. Emick said usually there is a resolution in the board minutes authorizing someone to go before a board and present the application. She asked if Mrs. Hoyt has that resolution. Mrs. Hoyt said she does not have that resolution. Mrs. Emick stated that the ZBA needs to have all the information on the record with everything dotted and crossed. She said this has been an issue that has crossed borders and she would not like to have anything come back on the ZBA. Mr. Stapleton said we document everything we need to document when we can and if the board feels they need a copy of that resolution they can make it a condition before the Special Use Permit is effective. Mr. Lawson said that Section 202 of the Zoning Ordinance Definitions; Special Use Permit, that is what this board is doing right now at this public hearing. Mr. Michalak asked about sirens, lighting, etc. Mrs. Hoyt said there would probably be a siren. She said there is currently a mercury vapor light and no intent for further lighting. She said any signage would be right on the building and nothing near the road. There was discussion of the pole barn also located there. Mr. Barton asked about the old building located in Ashville. Mr. Lawson said the building had been essentially condemned and Mrs. Hoyt indicated that their insurance company would no longer insure the old building and it was demolished. Mr. Michalak asked if there were any drainage issues at the building. Mr. Lawson said there is drainage, but he is not aware if there are any issues with it. Mr. Michalak asked if anyone wished to speak regarding the application. Rose Stark stated she lives next door to the building on College Street and is in support of the proposed Special Use Permit. Peter Stark stated that they would rather have the Fire District there than to deal with what might be an unknown alternative use of the building. Gary Olson said he lives on Hoag Road and he and his wife and neighbors are very much in favor of the permit. He also stated he has lived in his home for 30 years and has never noticed any type of drainage problem near the building. He also stated that they have no issue with the fire whistle. Mrs. Emick asked if there are any stipulations for the purchase of the building that the ZBA should know of. Mrs. Hoyt said no. She said the Legislature had voted overwhelmingly in favor of the sale to the Fire District. Mr. Michalak asked Mr. Stapleton if there is anything further, paperwork, etc. that is needed. Mr. Stapleton said no, not at this time. Chrissy Smith said that she lives on College Street and is favor of the proposed permit. She also stated that there are no drainage issues on the property. Mr. Barton said it is reassuring to hear that neighbors have no problems. Mr. Saxton said he is in favor of the permit. Mrs. Emick said she wished we knew what type of equipment will be housed there. Mr. Lawson said he doesn't believe it would be wise for the ZBA to weigh in on what is housed there. Mr. Saxton said previously there had been one fire truck and an ambulance located in Ashville.

Mr. Michalak motioned to approve the application for a Special Use Permit of the Ashville Fire District to convert the existing structure located in the R-1 District and owned by Chautauqua County into a fire station to house a fire truck and miscellaneous equipment at property located at 2009 S. Maple St., Section 384.10-1-47 (Old #31-6-9) under R-1 quasi-public entity status with the following conditions:

- **No public gatherings (i.e. bingo, dances, etc.)**
- **Mrs. Hoyt will provide authorizing paperwork as Commissioner Chairman**
- **Septic must be inspected and approved by the County Health Dept. for requested use**
- **No use of the building(s) for private or personal storage**

Mr. Barton seconded and the motion was carried unanimously.

The hearing was adjourned at 8:45.

Nancy Thomas, Town Clerk