

**ITEM # 1:**

The meeting was called to order by Planning Board Chairman Kenneth Zittel at 7:00 p.m.

**ITEM #2: Roll Call**

**Present:**

Kenneth Zittel, Chairman  
George Donhauser  
Bruce Luno  
Joseph Edbauer  
James Jozwiak  
Julie Zybert

**Also Present:**

Darlene Schweikert  
Betty Sue Darling  
Daryl & Heather McEwan

**Out of Town:**

Gregory Waterman

**ITEM #3: Citizen Participation**

a) **Darlings re: ceramic business.** Chairman Zittel asked Mrs. Darling to describe what she wanted to do. Mrs. Darling noted that she and her husband have made pottery for many, many years and have sold it at art shows. It is not ceramics, it is pottery, hand-grown clay. Her husband would still be working full time and it will be his hobby but she is out of work right now and wanted to try to find a way to sell more pottery without having to lug it everywhere because it is breakable so they were hoping to be able to sell it right in their barn on their property. She showed pictures and their property survey for the members to view. The size of the showroom or sales room is roughly 12' x 36'. She would not be having employees. They did have it up and ready to go until they found out they could not do it without Town approval. They will be working on a website in the future. They were hoping to have store hours: Wednesday and Thursday, maybe Thursday evening; and Friday and Saturday. There are not a lot of neighbors in her area. The closest neighbor is on Route 240. Their parcel is currently zoned R-AG and our Town Attorney had stated in a letter that this business would not be allowed in that zone. Discussion as to whether it is considered a commercial business/wholesale and not a Home Occupation since it is under 600 square feet (in the home or an accessory building) and there would be no employees. One concern of the Board is that the door to the barn swings in and for a public building it should swing out. This is part of the Fire Code. It would also need a crash bar so that people could always get out of the building. The balance of the barn is used for their equipment and storage of their tractor.

The Board then discussed signs that Mrs. Darling could put up. She would like to have a sign on Route 240. The members checked their Codes books to see what kind sign might be allowed. It appears that in an R-AG district, she would only be allowed one sign; two square feet in size and she would not need a permit for this size sign. Discussion as to signs attached to her building, portable signs and free-standing signs. Discussion about applying for a variance through the Zoning Board of Appeals for a bigger size sign but she would have to prove a hardship which was not created by herself; the cost for the application is \$100. She could have a portable sign but it could not be illuminated and it would need Town Board approval. It would not be allowed to be permanent; there would be a time limit for the sign to be there. Signs would have to be 15 feet from the right of way. The members suggested that she talk to the Code Enforcement Officer about signs; see Section 150-133(d) of our Code.

Motion made by G. Donhauser, seconded by J. Jozwiak, to recommend to the Town Board that the Darlings be allowed to have their business in R-AG under Home Occupation since it is not over 600 square feet and there will be no employees. Darlings to contact the Code Enforcement Officer to make sure that the premises are fine for this intended purpose. The Planning Board notes that the door to the premises swings in and it should swing out for a public building. They also recommend that at this point she use the sign size allowed in R-AG which is two square feet. For this size sign, no permit is required. All in favor. Carried. Darlene will email her the Home Occupation form and see if this could be on the Town Board Agenda for this Thursday's meeting. Mrs. Darling left the meeting at 7:40 p.m.

**\*Amended 2/2/10.** J. Jozwiak asked that the Minutes be amended to note that the Darlings will need a crash bar for the door. A non-locking interior lever knob could be used instead of a crash bar because the cost of the lever knob is much less.

**b) McEwan Rezoning** – Chairman Zittel noted that the members basically know what Mr. McEwan wants to do. Discussion as to the distance where it goes behind the neighbors' parcel. Mr. McEwan noted that he currently uses this area as a parking area, about 50 feet. Discussion as to what Mr. McEwan would call this and Mr. McEwan noted that it would be "business as usual". Discussion about contractor's equipment yard and how the yard is supposed to be secure and what the meaning of secure may be (fencing, a gate, a sign noting private property, weapons). Most of the time the vehicles will in the building but if one is in the driveway or if he is working on a piece of equipment, he just wants to be in compliance. There are C-2 parcels in this area. Discussed whether his parcel would be "grandfathered" and it was determined that it was not a grandfathered lot since the building was built in 1999 and the Code change was in 1995. Discussion about McEwan's future plans of building a new home and the Code requirements to do so and his options. Discussed the possibility of adding an addition to his existing home with the set backs required. The Board members feel that this would

not be a spot zoning since there are other C-2 parcels there. They would like to have SBL#307.00-2-43 owned by Harold Holtz also rezoned C-2 for a continuation of the C-2 zone from Kassel. There was discussion about the 50 foot strip that McEwan would like rezoned to C-2 because some of the members felt that the rezoning should be a straight line back from SBL#307.00-2-44. Mr. McEwan noted the topography of the land. The Planning Board recommends allowing the McEwans to proceed with their rezoning request (12194 Sharp Street; SBL#307.00-2-44 and part of SBL#307.00-2-45 and #307.00-2-54) and would ask the Town Board to schedule a Public Hearing date but the Planning Board recommends that the neighboring parcel owned by Harold C. Holtz (12204 Sharp Street; SBL#307.00-2-43) be included in this rezoning so that the C-2 zone just doesn't skip over the Holtz piece from Kassel (SBL#307.00-2-41.1) to this McEwan parcel. Motion made by B. Luno, seconded by J. Jozwiak. All in favor. Carried. If the Town Board sets a Public Hearing date, the Town Clerk will advertise the Notice and forward copies of the Notice to the neighboring parcels within 750 feet. Mr. McEwan will talk to Mr. Holtz about including his parcel in this rezoning request. The McEwans left the meeting at 8:20 p.m.

**ITEM #4: Approval of Minutes**

a) December 1, 2009

Chairman Zittel asked for comments or questions regarding last month's minutes. J. Jozwiak made the motion, seconded by B. Luno, to approve the minutes as presented. All in favor. Carried.

**ITEM #5: McEwan Rezoning**

The McEwan rezoning was addressed under Citizen Participation Item #3 (b).

**ITEM #6: Business from the Floor**

1. Discussed some of the information on the McEwan Visual EAF Addendum (Visibility and Exposure).

2. G. Donhauser noted that on the Zoning Map it shows that the Schreiber & Winkelman pit (Genesee Road) is no longer in the MR zone; see the map footnote showing it was removed by the Town Board on March 9, 1998. Darlene to review the minutes from that meeting to see if there is any such motion because they would not be able to renew their mining permit if it is not in the MR zone; they would have to apply to have the parcel rezoned to MR again. The members did not know why

the Town Board would have removed the parcel from MR in 1998. Darlene will check the 1998 Minutes.

3. G. Donhauser noted that he had spoken with CEO Atkinson regarding the Brown Hill Road premises where another structure (other than a portable structure) was allowed to be built less than 10 feet from other dwelling. Wondered if anyone else had seen this requirement in our Code.

4. G. Donhauser noted that he had also spoken with CEO Atkinson regarding the 50 foot right of way to a lot behind a home. CEO Atkinson allowed someone to build on house on Wyandale Road without a 50 foot right of way. Discussion.

5. Darlene asked the members for their email addresses so that we can start emailing the minutes to the members instead of regular mail. Will still mail to G. Donhauser, B. Luno and G. Waterman. Others will be emailed now.

**ITEM #7: Motion to Adjourn**

J. Jozwiak made the motion, seconded by B. Luno, to adjourn the meeting at approximately 8:35 p.m. All in favor. Carried.

  
Darlene G. Schweikert

NOTES:

1. At the January 7, 2010 Town Board meeting the Board set the Public Hearing date on the McEwan rezoning to February 11, 2010 at 6:40 p.m. Chairman Zittel has had contact with Mr. Holtz and Mr. Holtz has no problem being including in the rezoning to C-2.

2. The Darling ceramic matter was referred back to the Town Attorney.