

**Mexico Zoning Board of Appeals  
Minutes of the Regular Meeting  
Held August 21, 2023 at the Town Hall  
Commencing at 7:00 P.M.**

**Present:** Ned Waterbury, Chairman  
Lori Behling, Counselor  
Dan Yawman, Counselor  
Marty Trey, Counselor  
Graham Seiter, Town Attorney  
Ron Marsden, Code Enforcement Officer

**Absent:**

Others Present: Jeremy Ouderkirk of Custom Novelty Prints; Nancy Vlahos of RIC; Peter McAuliffe of RIC, attending via video conference; Abby Reed of Dimension, attending via video conferencing.

And 0 in the audience.

Chairman Waterbury called the meeting to order with the Pledge of Allegiance at 7:05 pm.

Chairman Waterbury said a clarification on the first page, second paragraph regarding the RI district pertaining to the Comprehensive Plan and should read, "and supported by the Comprehensive Plan." A motion was made by Behling and seconded by Yawman to amend approve July 23, 2023 minutes as such. The motion was approved by a vote of 4 ayes: Waterbury, Behling, Trey, Yawman, and 0 nays.

**Old Business- none**

**New Business**

**Special Use Permit Application- 43 Co Rt 64 Ouderkirk Print Business**

Seiter suggested the board address the Ouderkirk application first to allow the RIC representative time to set up the presentation.

Chairman Waterbury noted that the application includes conditions set forth by the Planning Board, and the Planning Board approved the site plan under the "other" category, as the proposed business location is in an R1 district.

Yawman asked that the ZBA go through each item of Section 340 of the local Zoning Law. Waterbury asked Marsden if there are other small businesses in the R1 districts in the town. Marsden said none that he is aware of.

Discussion of Section 340 followed with reference to the subsections:

- a.) Yawman said the box regarding the height of the building needs to be checked. Ouderkirk said it is 20 feet at the peak.
- b.) Marsden said the driveway is adequate for both businesses and everyday vehicle traffic; line of site is very good in both directions.
- c.) n/a
- d.) n/a
- e.) n/a
- f.) Ouderkirk said there is a chain link fence near the house on the property that is 4 feet high and there are no culverts.
- g.) Ouderkirk said the first portion of the driveway is asphalt, then gravel. Waterbury asked if the area East of the pole barn is sufficient; Ouderkirk said yes.
- h.) N/a
- i.) Ouderkirk said the property has village sewer and water; no bathroom is in the building but said the water line is there.
- j.) n/a
- k.) Waterbury said the planning board minutes reference there will be no road front sign but there is a sign on the building. Yawman said section 518 of the local law regarding signs indicates a sign would be allowed. Seiter said the planning board is an advisory board and that the ZBA has final authority. Seiter also noted that the ZBA can put conditions on the permit. The Ouderkirks said they would like a sign no bigger than 10 feet so people driving by can see it. Weber reminded the ZBA of section 335, which says the Planning Board has sole jurisdiction over the site plan approval. Seiter added that section 310 identifies the Planning Board having an "advisory opinion." Weber said the Planning Board's intent was protecting the nature of the neighborhood, and that the local law somewhat contradicts itself with the signage issue. Behling noted the town has several places currently where signs were erected with no permit. Trey said if the ZBA is going down the road of permitting a business in an R1 district, they should have all the rights afforded by the law; if a roadside sign is consistent with the Comprehensive Plan and the nature of the neighborhood. Seiter said special conditions are allowed on a Special Use permit to take into consideration issues that are unique such as this. Waterbury noted the business' sign at its current location on Munger Hill Road is by the road, but existed prior to the adoption of the town's zoning laws. Waterbury said he is reluctant to set a precedent by allowing a sign by the road. Yawman and Waterbury expressed a desire to make a decision on the sign issue, and the permit. Trey suggested moving forward with the permit without a decision on the sign. Trey said it would give the Ouderkirks time to go back to the Planning Board for its consideration. Seiter said the ZBA could make that condition. Waterbury said he was under the impression that the vehicle traffic for this business was largely delivery trucks. Waterbury said he likes the idea of an opportunity to revisit the issue. Ouderkirk said there is a certain pride in having a business sign as well.

l.) n/a

m.) There is an outside light on the pole barn. Yawman asked if they can't add additional lights at some point. Weber noted the Ouderkirks told the Planning Board no extra lights would be needed.

n.) through t.) n/a

Waterbury reminded the board that they have 62 days to make a decision. Waterbury noted that a Special Use Permit would be for this business alone and would not "go with the land." Yawman proposed a change in condition regarding the sign, that the business owners could revisit the issue at a later date. Weber said the Planning Board was in favor of having a sign on the building and that the board had extensive conversations about signage. Weber believes the Planning Board would be open to a conversation about allowing additional signage.

The ZBA addressed each condition set by the Planning Board in their site plan review. Trey suggested taking out the landscaping condition set by the Planning Board. Yawman questioned the need for the condition limiting changes to existing driveway. Ouderkirk asked if they would then need permission to re-asphalt the driveway. Seiter said the applicant would ask the Code Enforcement Officer about any necessary permits. Behling said she felt the condition was contradictory. Waterbury suggested the wording, "No changes to existing boundaries." Seiter said the intent by the planning board was to hold the applicant to current conditions. Seiter said the verbiage isn't restrictive. Trey suggested using the wording, "with the exception of routine maintenance," and the board agreed with the change.

Yawman said he had the same concern with the Planning Board's condition "f," which restricts no changes to the business plan without a permit. Trey asked how parameters could be set for this condition, particularly regarding the desire to keep the neighborhood's residential feel. Seiter suggested the applicant provide a summary of planned business activity. Trey said he agreed the business scope needs to be documented; Yawman agreed. Ouderkirk agreed to provide that to the board.

A motion was made by Yawman and seconded by Waterbury to approve the Special Use Permit with the conditions listed. Trey said he questioned whether there would be significant impact if the ZBA moved forward without the business activity document. Ouderkirk said he'd like to start physically moving the business to the new location as soon as possible. Waterbury said he appreciated the time sensitivity but that this is a long-term commitment to the community and a 30-day timeframe is reasonable. Trey said he is particularly concerned about the expected traffic as a result of the business. Trey is in favor of limits on traffic. Behling said limits should be weekly and not daily numbers. Trey moved to amend the motion to include no more than 10 deliveries per week between the hours of 6:00 a.m. and 8:00 p.m. Yawman seconded the amendment. The motion was approved by a vote of 5 ayes: Waterbury, Behling, Trey, and Yawman, and 0 nays.

The ZBA took a break at 8:56 p.m. and resumed at 9:07 p.m. to address the RIC solar project.

## **RIC Solar Project on Co Rt 58**

Waterbury said the ZBA received a letter today from RIC, pledging to follow all conditions set forth by the Planning Board and ZBA, as the project was being taken over by Dimension. McAuliffe said RIC is looking for approval for an ownership rights transfer and that nothing about the scope of the project will change. McAuliffe said that RIC will stay involved as the developer. Reed said Dimension does exclusively community solar projects and they plan to own and operate the project throughout its entire life cycle. Waterbury questioned a term in the application, a tracker versus fixed system panels. McAuliffe said there was a clerical error in the application but that the project was always a “single access tracker” system from the beginning; nothing about the design has changed. Weber clarified by adding that the first set of plans from RIC notes the design on the detail page, as a single axis tracker, where panels stay in the same location but track the sun with slight movement on its axis. Seiter said all legalities have been satisfied, and that the resolution is prepared, requiring RIC and Dimension to abide by all conditions. Reed said the project will start no later than March 20, 2024. Marsden said the developer would then have to apply for an extension after that date.

A motion was made by Waterbury and seconded by Trey to approve the ownership transfer from RIC to Dimension. The motion was approved by a vote of 3 ayes: Waterbury, Trey, and Yawman, and 1 abstention: Behling.

## **Other Business**

Waterbury noted that the ZBA has received an application for 3D Enterprise, which will be discussed at the September meeting.

A motion was made by Yawman, seconded by Waterbury to adjourn at 9:40 p.m. The motion was approved by a vote of 4 ayes: Waterbury, Behling, Trey, Yawman, and 0 nays.

Respectfully submitted,

Allison Trudell