

Village of Fleischmanns

ZBA Meeting Minutes

March 19, 2018

In Attendance: Chairman Bill Burns, Board Member Miguel Martinez-Riddle, Board Member Yvonne Reuter

Also In Attendance: Village Treasurer Winifred Zuben, Village Deputy Clerk Max Mann, Village Attorney Carey Wagner, Village Code Enforcement Officer Christopher Plante

Meeting Opened at 5:00 PM by Bill Burns

Minutes from February 15th 2018 ZBA Meeting were read aloud. Motion Made by Bill Burns to accept minutes, All Aye; Motion Carried.

ZBA Appeal was read aloud. Bill stated that any motion given requires a second in order to take effect.

Motion made by Yvonne Reuter to accept motion, no second, motion not carried.

Reference 2 was read, background is as follows:

1112 Main Street was damaged by Flood Irene, storm damage that devastated Fleischmanns in August 2011. The Three-story building was closed to occupancy. The then-owner put off repairs, leaving the building vacant. At some point, he chose to participate in the FEMA-funded Flood-Buyout Program. The Village Code Enforcement Officer's Substantial Damage Letter" attested to substantial damage limited to the foundation of the building. A professional engineer provided a dollar value to the damage, years went by.

1112 Main Street was not condemned, Empty, sadly damaged, but never condemned.

Sometime in 2017, the current owner evidently made an offer on the property that led to the previous owner to withdraw from the flood buyout program, as is his right. The current owner, River Run Development, inc., purchased the building with the intention of repairing it. The corporation applied to the village for a building permit, in order to commence repairs. on October 4th, 2017, the CEO rescinded the earlier substantial damage determination and found that, based upon more recent information, the building had not been substantially damaged. The appeals being decided in tandem by this decision, followed.

Given that the building borders the Bushkill, a Floodplain Development permit has been issued.

Bill Burns motioned to accept the "Finding of the Village of Fleischmanns Zoning Board of Appeals" Miguel Martinez Second, Yvonne did not second, Motion Carried. Miguel Martinez made comments

1. All parties are in agreement that the property at 112 Main Street was never condemned and maintains its assessed use to this day.

2. Code Enforcement officer CEO is the floodplain manager, local administrator, and email correspondence dated 1/24/18 from executive director Bill Neckermann of NY State floodplain stated that only our CEO can overturn a substantial damage claim.

3. Although damage was sustained to the foundation and basement in Hurricane Irene, the upper building did not sustain damage and is being rehabilitated to the satisfaction of the CEO, who is making sure all repairs are being done in accordance with building code.

4. Unsatisfied with the cost estimate for the work to be done reflects in detail, an estimated cost is roughly 50% less than Pre event fair market value. Based on original estimates by the CEO, an additional substantial damage improvement numbers submitted by Mr. Mendlovic reviewed by our CEO, whom I believe is more than qualified to judge these numbers as accurate and acting in his capacity to be our local floodplain administrator has made this assertion.

5. Under FEMA P-78 section 5-6-16, a property owner may appeal a substantial damage upon the moment up to the moment of closing that buyout based on new data that the initial substantial damage determination be rescinded.

6. I do not see any merit to the argument that rehabilitation to the property will affect the CRS rating for flood insurance to the village of Fleischmanns as the building is being rehabilitated lawfully.

7. The buildings first floor elevation has been measured using maps that the village has provided when sewer piping was installed, and the elevation of each building was documented, the building at 1112 main street at being three feet above the BFE base flood elevation, and does not need to be lifted up, and this is a fact that everybody agrees upon.

8. The property did not lose the right to rebuild under Mr. Hrazenik's ownership, it is and always has been in the mixed used district of conforming use. The two year rule applies to Fleischmanns zoning law 151 not allowing the owner to change what is there, but allowing them to restore it to conforming use. It was and still is conforming use under Fleischmanns zoning law 110 and can be rebuilt.

9 Does not need a special use permit as its function will be continuous of its historical use.

10 CEO acted in his right and in legal manner, and the CEO must issue a permit if the applicant has provided all necessary information

Yvonne made comments "This was a most difficult time for all the members on the board, this was a very complicated issue that nobody has had a great deal of experience in before, and I think we all tried to do our best in the decision from our heart and what was thought to be correct for the village"

Bill motioned to accept, Miguel seconds, Yvonne Neighed, Motion Carried.

Meeting adjourned at 530 PM.