

**Town of Goshen Zoning Board
Town Hall
41 Webster Avenue
Goshen, New York 10924**

May 21, 2019

Members

Edwin Garling, Chairman
Philip Canterino
Trino Canton
Robert Farfalla
Richard Florio

Also Present:

Richard Golden, Esq., ZBA Attorney
Neal Halloran, Building Inspector

The Zoning Board meeting was opened with the Pledge of Allegiance at 7:30 pm by Chairman Edwin Garling.

Approval of Minutes

VOTE BY PROPER MOTION, made by Mr. Farfalla, seconded by Mr. Canton, the Town of Goshen Zoning Board moved to approve the April 16, 2019 minutes. Approved unanimously with one abstention.

Chairman Garling	Aye	Mr. Canterino	Abstention
Mr. Canton	Aye	Mr. Farfalla	Aye
Mr. Florio	Aye		

Items for Discussion/Action -

Foxfire LaColina, LLC -12-1-45.222: Appeal of Notice of Violation issued by Building Inspector for property located on NYS Route 17M in the RU & HC Districts with AQ-3 & AQ-6 overlays.

Jay Myrow, Esq., appeared before the Board for applicant Foxfire LaColina. In summary, stated he was one of the attorneys for the applicant. Robert Rosborough, Esq., the other attorney, had submitted a letter requesting an adjournment for the appeal. Attorney Myrow stated he did not hear of the meeting until today at 12 pm and not had sufficient notice to prepare.

Attorney Myrow stated he had an issue with Attorney Golden as attorney of record. Stated that since Attorney Golden participated in the writing of the violation and had advised the building inspector, it had the appearance of inpropriety. He was not ready to participate until the Board made a decision on counsel. Attorney Myrow requested the matter be adjourned so he could adequately prepare to address this.

Attorney Golden stated this matter proceeded like other agenda items. There are no routine notices that go out when on the agenda. This was done in the ordinary course. Stated that his firm did not have the authority on the Board's behalf to consent to the adjournment request received in his office. The matter was an enforcement issue. The applicant has a right to appeal the determination of the building inspector. When there is an appeal, it stays the enforcement. The Board can grant the

adjournment and/or set a public hearing. Attorney Golden didn't see the need for a recusal of counsel. Stated the Board would be looking at the violation signed by Neal, there are at times documents that attorneys draft, and it's still the Board's determination. If you believe you would like us to step aside and have another attorney step in to advise you, that's your determination. The Board has the ability, if that's what they want. Both decisions are within the discretion of the Board.

Mr. Canterino stated that he couldn't get an agenda at 11:30 am. Stated the applicant should have more time to prepare. It's coming before the zoning board, he looked in the code to find out where the responsibility is to take up the violations.

Attorney Golden responded it's not in the code specifically, there is state law, and the Board's jurisdiction is variances and interpretation. The Board's jurisdiction is to hear any appeal on a determination that the building inspector makes.

Attorney Golden responded to a comment on Attorney Rosborough's letter that the press was given a copy of the notice of violation over Neal's objection. Neal found out afterwards he had not consented to it. It was a public document. Press had a right to it and requested it. There was no impropriety there. Neal wasn't happy that it had gone out, but it wasn't over his objection.

Attorney Myrow commented on procedurally if Mr. Golden has advised the Board, he has a problem with that. You have to make two decisions one being you have to give an adjournment and two is whether or not to exercise your discretion to require the law firm to recuse themselves. Stated that is why he needs the adjournment. I need to brief you, give you facts. The board needs to be fully apprised before they make a decision. I want to be heard on both issues.

Whereupon, there was a discussion and noted that counsel provides legal advice and the Board makes the decisions based on the facts before them. The attorney doesn't make any decision, they give legal advice when asked for it.

Attorney Golden informed the Board they're required to have a public hearing. You put what Neal decided aside. The Board is going to decide if they come to the same conclusion as Neal or a different one. The Board will make a determination based on what is presented.

Whereupon there was a discussion and agreed that the Board would like to visit the site.

VOTE BY PROPER MOTION, made by Mr. Canterino, seconded by Mr. Florio, the Town of Goshen Zoning Board moved to authorize counsel to refer the project to the County Planning Board, if necessary. Approved unanimously.

Chairman Garling	Aye	Mr. Canterino	Aye
Mr. Canton	Aye	Mr. Farfalla	Aye
Mr. Florio	Aye		

Whereupon, there was a discussion on the Board receiving material with ample notice to read over documents before meetings.

VOTE BY PROPER MOTION, made by Mr. Canterino, seconded by Mr. Florio, the Town of Goshen Zoning Board moved to grant an adjournment to applicant to June 4, 2019. Approved unanimously

Chairman Garling	Aye	Mr. Canterino	Aye
Mr. Canton	Aye	Mr. Farfalla	Aye
Mr. Florio	Aye		

Whereupon, there was a discussion and Attorney Myrow stated he would submit documents a week prior to June 4, 2019.

VOTE BY PROPER MOTION, made by Mr. Farfalla, seconded by Mr. Canton, the Town of Goshen Zoning Board moved to adjourn the meeting. Approved unanimously.

Chairman Garling	Aye	Mr. Canterino	Aye
Mr. Canton	Aye	Mr. Farfalla	Aye
Mr. Florio	Aye		

Meeting adjourned at 8:05 pm.