

Approved October 26, 2015

Village of Kinderhook Zoning Board of Appeals

Minutes of August 24, 2015

Present	K. Gray; D. Sullivan, Chair; G. Seaman; J. Callahan; R. Fitzsimmons, Village Attorney; G. Smith; CEO/ZEO; C. Weaver, Liaison
Absent	M. Van Allen
Also	Carlos Vega; Bonnie Shannon; Jack Shainman; Audrey Peckner
Call to Order	7:15 PM
Organizational	D. Sullivan, Chair opens meeting and welcomes J. Callahan as the new member of the Board and introduces him.
Minutes	G. Seaman made a motion to approve July 27, 2015 minutes; D. Sullivan seconded; Callahan abstained from vote since he was not on the board at the time of the meeting; all other board members are in favor.
Funds Remaining	\$1,249.04
Correspondence	Training from NYCOM
New Business	Barbara (Bonnie) Shannon Appeal Letter D. Sullivan opens the meeting by reading the appeal letter, she is appealing G. Smith, CEO decision on letting Jack Shainman, owner of “the school” put up a structure in the front yard and ruling it as an accessory use. She states that in the code book section 130-16E 2 says that an accessory use not enclosed in a building cannot be located in the front yard and shall not be less than 25 feet from any lot line in a residential district. She believes that this should have been denied and referred to the board for further discussion and needed a special permit and/or variance and is questioning this procedure. G. Seaman reads the definition of accessory use in the code book: a use customarily incidental and subordinate to the principal use or building

and located on the same lot as such principal use or building. The board discusses 130-24 B & C which are the conditional uses allowed by a special use permit. G. Smith goes over his procedure of how the school is a cultural facility and was granted a special use permit and the sculpture, under his determination of the code book, would be considered an accessory use since the permit no longer makes this property residential and the sculpture is not permanent. He refers to two different court decisions regarding statues in front yards. B. Shannon starts out by stating that her purpose is not to have the structure removed, she is not opposed to having it in the yard, she is questioning the proper procedure and doesn't believe that G. Smith's defining and granting approval was the proper way to go, she feels it should have went in front of the board for a special permit and not approved by Glenn only. The board discusses both sides and also looks at the definition of a structure in the code book: a static construction of building, materials, including building, stadiums, sheds, display stands, storage bins, signs, reviewing stands, gasoline pumps, mobile dwellings, fences and the like. B. Shannon reiterates that she feels that this should have been the process from the beginning that the ZBA determines what the proper definition and acceptable placement of this structure is not Glenn. G. Smith states that he referred back the definitions in the code book and determined that this was an object not a structure which is why he defined the sculpture as an accessory use. J. Shainman, owner of the school expresses his concern with the fact that every time he does something to his building (example: put up banners and now a sculpture) he comes to Glenn, goes through the proper procedure and then someone is to appeal him. He has put a lot into this building and art gallery and brought a lot of positives to our village and if he is going to have to go through a three month process to even get approval and/or a three month process if it is appealed each time, it may deter him from future events and that is sad for everyone. He is following the proper procedures and still feels he gets penalized. B. Shannon states that she is not trying to again have the structure removed just wants to make sure the proper procedures are taking place and maybe the code book once again needs to be updated! The board and R. Fitzsimmons, Village Attorney discussed different options and procedures. They discuss when the public hearing can take place and one is set for Monday, October 26, 2015 at 7PM;

G. Seaman make a motion to schedule public hearing; J. Callahan seconds; all in favor. B. Shannon paid her \$25 fee for her appeal.

Old Business

NONE

Next Meeting

September 28, 2015

Adjournment

8:16 PM G. Seaman moved to adjourn; J. Callahan seconded; all in favor.

Kristina Berger

Secretary to Planning Board