

**Village of Delanson
Zoning Board of Appeals**

Minutes of Regular Monthly Meeting
September 4, 2012, 6:30 PM

Mayor Sally Burns was present to provide continuity with the recent resignation of Louis Grasek and to introduce Lawrence J. O'Connor to the Board. Mayor Burns presented the Oath of Office book to Mr. O'Connor and in signing the oath book, Mr. O'Connor was inaugurated as a member.

Meeting Called to Order: 6:45 PM

Members Present:

Daryl Risley
Jill Mackie
Larry O'Connor

Absent:

George Martin
Also, there is a vacant position yet to be filled.

It was determined that a quorum was present.

Mr. O'Connor nominated Ms. Mackie to be the Board Chairman. It was determined that this decision should be deferred pending appointment of the final Board Member and that, in the interest of efficiency, Mr. O'Connor should act as Chairman for this meeting

Members of the Public:

Casey LeClair
Sophia LeClair

There was one matter before the Board for consideration.

Mr. LeClair offered a letter from Nathan and Carli Elble, 216-218 Thousand Acre Road, signed by Nathan E. Elble indicating support for reconstruction of the LeClair garage which was presented to the Board for the record.

Casey LeClair of 208 Thousand Acre Road was present to discuss the matter of the re-construction of his garage. Mr. LeClair's garage was damaged by snow loads and required reconstruction to make it safe. Mr. LeClair obtained a property survey and plan and then applied for a Building Permit on April 30, 2010. During 2010 Mr. LeClair demolished the existing structure and built the foundation and concrete pad for the new garage during 2010.

For various reasons Mr. LeClair was unable to complete construction during the one-year period provided for in the permit. During the spring of 2012 Mr. LeClair sought an extension to his permit to complete the re-construction of the garage. Mr. LeClair had made substantial

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progress on the proposed structure in 2010 however due to the passage of time the Building Inspector determined that the permit could not be renewed and that a new permit was required. Mr. LeClair applied for a new permit on July 13, 2012. This permit was denied and Mr. LeClair was directed to apply to the Zoning Board of Appeals.

It is believed that the Building Inspector denied the new permit because he determined that the permit was outside of the provisions of the Zoning Law that allow for grandfathered non-conforming uses. The Zoning Law speaks about the situation where a non-conforming use has been discontinued for a period of one year and then procedural recourse to no more than two six-month extensions by the ZBA. Hence, in the view of the Building Inspector, the permit application represented a new non-conforming use requiring action by the ZBA.

The Board discussed the matter to get a clearer understanding of what the ZBA is being asked to do. While the Building Inspector may have made a reasonable determination given the stated time-frames in the Zoning Law, there is a question about when the clock started. Mr. LeClair took determined steps to continue this use during 2010 and made significant progress. It would seem that the clock did not start with the application for the original permit since Mr. LeClair took steps to continue the use during 2010 after the issuance of the original permit.

It was the Board's unanimous opinion that the Building Inspector would have been within his ambit to have judged that the construction completed in 2010 constituted material progress and that no lapse in the non-conforming usage had occurred.

The matter before the Board however would seem to be the approval of a 'new' non-conforming use. The Board determined that a two-track course of action should be pursued to resolve the matter.

Board Member Mackie offered the following resolution, seconded by Board Member Risley:

In the matter of the reconstruction of the LeClair garage therefore be it

- 1) Resolved that the ZBA contact the Building Inspector regarding a possible administrative remedy and that it further be
- 2) Resolved that if an administrative remedy is not found that a hearing shall be scheduled for the next regular meeting of the ZBA, October 1, 2012, to consider a proposed variance or other appropriate action on the request for approval of continuation of the non-conforming use by LeClair to wit: the completion of the reconstruction of the garage.

Resolution passed by unanimous vote of the Board.

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Mr. O'Connor agreed to carry this request to the Building Inspector and report back the result to the Village, the ZBA and Mr. LeClair. Either a building permit will be allowed by administrative judgment or this matter will be brought to the ZBA at it's next meeting.

There being no further business before the Board, the temporary Chairman suggested that a motion to adjourn was in order. Board Member Mackie made a motion that the meeting be adjourned, seconded by Board Member Risley. With unanimous approval the meeting was adjourned at 7:10 PM.

Minutes presented by L. J. O'Connor



September 5, 2012