

In The Matter Of:
Town of Mamakating
Zoning Board of Appeals

Amy Thomas
March 24, 2016

Jeric Corporation
Court Reporting Services
P.O. Box 385
Narrowsburg, NY 12764
(845) 252-3515

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING
ZONING BOARD OF APPEALS

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In the Matter of:

AMY J. THOMAS
Public Hearing
Tax Map Section 12; Block 1; Lot 20
Neighborhood Residential Zone

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Town Hall
Town of Mamakating
March 24, 2016
9:36 P.M.

ZONING BOARD MEMBERS:

- MATTHEW MORDAS, Chairman
- CATHERINE DAWKINS, Board Member
- GEORGIA RAMPE, Board Member
- BEVERLY MARTIN, Board Member
- KENT FINDLEY, Board Member
- LINDA FRANCK, Secretary
- JOHN C. CAPPELLO, ESQ.
- MARY GRASS, Building Inspector/Code Enforcement

Also Present: ALITA GUIDA, ESQ., for Applicant

Jeric Corporation
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Reported by: Rosemary A. Meyer

1 - AMY J. THOMAS -

2 CHAIRMAN MORDAS: Amy Thomas now. All right. What do
3 you have to say Alita?

4 MS. GUIDA: The 14 Shannon Lane property was issued a
5 stop work order relating to Violation No. 150188 and a
6 Notice of Violation with the same number. Each contains
7 the same alleged violations.

8 As it relates to this, Miss Thomas has gone back to
9 the Planning Board, establishing an escrow and tried to
10 begin the process to get an extension on the site plan
11 approval, and if the Board deems necessary, modifications.

12 Right now she engaged a surveyor a few months ago to
13 do an as-built survey which is what the Planning Board
14 wanted to see first to begin confirming that the site plan,
15 as approved by them, was complied with as part of granting
16 an extension. So that is what is going on right now. The
17 application is supposed to come back up once the survey is
18 done. The Board said they needed to see that survey first.
19 And we intend to go through each condition of the site plan
20 approval, which I won't go into detail here, but to make
21 sure that before any site plan extension and necessary
22 modifications, if any, are approved, that it's in
23 compliance.

24 So with that backdrop, the first alleged violation is
25 of 199.61 for an expired permit which, to address that

1 - AMY J. THOMAS -

2 issue, she has gone back to try to get an extended site
3 plan approval, and from there, would get a building permit.
4 Also, the stop work order has stopped worked, as far as my
5 knowledge. And in fact, Miss Thomas does not occupy the
6 property.

7 The next violation is of Section 199 --

8 MR. CAPPELLO: I'm sorry, I don't mean to be pushy,
9 and interrupt. If you stopped the work and acknowledge the
10 permit expired and you're before the Planning Board, what
11 relief are you looking for from this board on that issue?

12 MS. GUIDA: At the time, we wanted to appeal to
13 preserve our rights and to ensure, in case we got to the
14 Planning Board a few weeks after the one month deadline, we
15 didn't want this to go into court when she was making an
16 effort to get it resolved. So it was mainly to preserve
17 our rights here.

18 BOARD MEMBER RAMPE: But this was back in November.

19 MS. GUIDA: It was. And we appeared in front of the
20 Planning Board in December and had engaged a surveyor after
21 that, and that work is being done now.

22 The alleged violation of 199.44, the town building
23 inspector was unable to find a copy of the SWPPP at the
24 property. As a preface, this is a vacant property so no
25 one contacted the camp, or even the property owner, to see

1 - AMY J. THOMAS -

2 if there was someone available to let them into buildings
3 where the SWPPP might be. But we've also confirmed that
4 the SWPPP is available at the property and also at the camp
5 so that if there's future inspections, it is in the place
6 where it's supposed to be.

7 MR. CAPPELLO: Can I just interrupt? Have you advised
8 the code enforcement officer and told her, showed her the
9 SWPPP's in place?

10 Once again, it's a question of --

11 MS. GUIDA: I have --

12 MR. CAPPELLO: -- fact so I don't know if this board
13 can say: Okay, the SWPPP's in place. If it's in place and
14 now Mary tells us, okay, it's in place and the logbook is
15 there, we don't really have to discuss anything anymore.

16 MS. GUIDA: I think that we certainly can make sure
17 Mary is aware of it. By please keep in mind, this was to
18 preserve their rights so that we basically --

19 MR. CAPPELLO: Yes.

20 MS. GUIDA: -- could get different directions at the
21 same time.

22 Alleged violation of 199.44-1(b), related to the
23 logbook. I believe that the consultants had possession of
24 this and it is available at this time. Again, we can
25 discuss one with Mary. Because it's a vacant site and

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2 because work has been intermittent or stopped, I think
3 that's part of the discrepancy. And also, there was no
4 notification that there was going to be an inspection so
5 that someone could have even pointed out where a logbook
6 was being maintained.

7 And the final two, they both relate to the expiration
8 of the site plan. As I stated, she requested an extension
9 and is actively working on getting the as-built survey and
10 other information that the Planning Board has requested.

11 And the site plan conditions that are listed there,
12 the Planning Board intends to review each and every
13 condition as part of its review, so that will be addressed
14 by that board. I actually wanted to hold off on this
15 hearing until the site plan review is finished so that this
16 board would have to decide only one issue. But I'm here to
17 kept your calendar moving along and to address your
18 questions.

19 MR. CAPPELLO: Well, the only thing I would ask you is
20 I mean if the Board upheld her determination but you're not
21 doing any work and the logbook's there and you go to the
22 Planning Board and get approval before you do any work, I
23 mean what decision do you want here other than -- I mean it
24 doesn't seem like having it here anymore makes any sense

25 MS. GUIDA: This board could issue a decision to stay

1 - AMY J. THOMAS -

2 a decision for six months on a condition that the site plan
3 progress forward.

4 MR. CAPPELLO: But as long as you don't work there,
5 there's nothing. You've complied with her order to stop
6 work, there's no more enforcement she can make on the
7 Notice of Violation. To stop work, if you stop work, I
8 don't ...

9 MS. GUIDA: This was to, again, just to ensure that
10 she could get to the Planning Board and not have a criminal
11 proceeding start while she's, at the same time addressing
12 remedies.

13 MR. CAPPELLO: I would suggest the Board adjourn this
14 for a month. I would really want to talk to Steve on this
15 and let him advise you as to whether there's any purpose of
16 holding it open because, once again, it doesn't look like
17 you're asking for relief from this board. You're saying:
18 We're not working. I don't want an enforcement to be
19 stayed forever in case certain things. But I would suggest
20 maybe just adjourn this for a month, let me coordinate with
21 Steve because he'll be here for the full-blown. Plus, I'm
22 working with the Planning Board. It'll just be cleaner
23 that way.

24 BOARD MEMBER FINDLEY: How long has the site plan been
25 expired?

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2 MR. CAPPELLO: 2014.

3 MS. GRASS: The site plan expired in October and then
4 they came to the Board, after it expired, to have it ...

5 MR. CAPPELLO: And there are some issues. The
6 Planning Board is coordinating with the DEC. There may be
7 some issue backs before you. But right now, I don't see
8 any issues for the ZBA to even keep this open, but I would
9 like to confer with Steve before.

10 CHAIRMAN MORDAS: I'm going to make a motion to
11 adjourn. Before I do that, there's one item I want to
12 discuss briefly with you. This is some advisement for your
13 client.

14 In regards to maintaining the logbook, the DEC wants
15 you to maintain that book. You can negotiate, during
16 winter months, to do it less frequently.

17 MS. GUIDA: I understand. I'll check with the --

18 CHAIRMAN MORDAS: So have your client call and try to
19 negotiate a less frequent inspection schedule for the down
20 time you're experiencing at the site now.

21 MS. GUIDA: Okay.

22 CHAIRMAN MORDAS: All right. A motion to adjourn?

23 MR. LESER: We're not going to have the public
24 hearing?

25 MR. CAPPELLO: Yes, it does say public hearing.

1 - CHRIS LESER / PUBLIC COMMENT -

2 CHAIRMAN MORDAS: Okay.

3 MR. CAPPELLO: You can take information. I'm sorry.
4 You're correct.

5 CHAIRMAN MORDAS: Any more comments from the public
6 before we close the public hearing?

7 MR. CAPPELLO: Adjourn it. Adjourn it.

8 CHAIRMAN MORDAS: Adjourn it, you're right.

9 MR. LESER: I need to be clarified with a few things.
10 from the lady here.

11 They're having a recent survey. They did a survey
12 last year during warmer months. They were partially by my
13 property, going up by the cemetery and thereabouts. I
14 would suggest that you check the date with those people.
15 To be in fairness, I think this lady is being taken
16 advantage of. They're giving her things that might look
17 good for them to present to her to present to us. I don't
18 think they're being fair, her client is being fair to her.

19 MR. CAPPELLO: Mr. Leser, I can clarify that. They
20 were before the Planning Board. The Planning Board
21 demanded not just a survey, an as-built as to exactly the
22 limits of the mining, to make sure that the work they've
23 done, to date, is consistent with what the DEC approved
24 because there was some question that they extended beyond
25 the lines, and the DEC had questions. So we demanded to

1 - CHRIS LESER / PUBLIC COMMENT -

2 them that they go do a survey and show us what's been done
3 so far so the Planning Board can compare it to what was
4 approved to make sure that they've complied with all the
5 conditions for --

6 MR. LESER: Then and now.

7 MR. CAPPELLO: Yes.

8 MR. LESER: My question is here, you said recently. I
9 don't know what that means. Recently, they're working on
10 it, ongoing. My opinion is check the date.

11 How many times are we going to have to go over the
12 same plans to get the same plans over and over and over
13 again for this same site? This has been going on since
14 2013; here, it's 2016. Over and over and over again.

15 Now we're going -- now I noticed some signs. There's
16 a couple pink colored signs down by the gates. I have not
17 gone over there to physically read them. I'm told that
18 they're from the DEC to cease and desist the trucking
19 that's been going on through here.

20 Now, with regards to this trucking and get this survey
21 done again, as I stated earlier, originally, this mining,
22 86,000 yards out of this hill, was to exit and go out this
23 way. So that has been changed and altered. As I also
24 said, it was supposed to go, Miss Thomas, Christine Thomas,
25 who owns the camp, said: Come through my place and exit

1 - CHRIS LESER / PUBLIC COMMENT -

2 this way. So since then, they decided, without permission,
3 to take this big piece of equipment and knock this great
4 big gravel bank, right over here, onto Christine Thomas'
5 camp. Then we'll take it from there and we'll go and we'll
6 exit these gates and come down this road. Initially, it
7 was agreed that these trucks would come out here, come out
8 this second gate only; go in and go out. So now they
9 decided come out and make these gates and come out over
10 here. And here's a sign that I drew. So the sign -- wait
11 a minute. I can't read upside down.

12 So from the first sign to the second sign, it's about
13 750 feet. You have the first sign here to the gate. It's
14 205 feet from the gate that they were supposed to go in.
15 In and out, so on and so forth. And there's the sign up
16 here telling you that there's going to be trucks entering
17 an area, which is here. So that's about 750 feet from sign
18 to sign. So now that they decided to move and they'll use
19 this road up here, it's about two-tenths of a mile. I've
20 gone with my car several times, from here to that sign. So
21 you have to go an awful long way where they were supposed
22 to go, and now they're coming from here, which is quite a
23 different of a distance. And those trucks, they were not
24 permitted to do this, and there is your violation. Taking
25 this stone, which you get over here, this gravel. And this

1 - CHRIS LESER / PUBLIC COMMENT -

2 was all done on a pretext that there was not going to be a
3 DEC mining permit because the gravel was going to be given
4 away for free. Kind of hard to swallow that I'm going to
5 give 86,000 yards of gravel and sand away for free. So
6 there's part of that wrongdoing that the Board has got to
7 notice. They've got to take a position, go over there and
8 check on this because this will start -- this has gone on
9 since 2013, all these violations. They haven't -- I don't
10 know if they paid any fines on anything.

11 CHAIRMAN MORDAS: Have you witnessed any activity
12 recently? I mean have you seen the dump trucks?

13 MR. LESER: There's two pink colored signs posted on
14 the gates.

15 CHAIRMAN MORDAS: All right. So those are DEC signs
16 then --

17 MS. GRASS: I can clear that up. I'm sorry. Those
18 are my stop work orders on that fence and on Shannon Lane.
19 That's from the Building Department.

20 MR. LESER: I wasn't sure. I didn't get out
21 physically to read them. You can see them from the road.
22 You can't tell what they're intentions are.

23 But the trucks have stopped. And that's another
24 violation.

25 There's one violation here after the other and there's

1 - CHRIS LESER / PUBLIC COMMENT -

2 so much discussion it's unbelievable. It's unbelievable.
3 Something has got to cease and desist. Something has got
4 to stop. You have to do some kind of fix. And some of
5 these violations, we're just going on and on and on and on
6 here, from the Zoning Board to the Planning Board. It's
7 like ping pong, back and forth.

8 Thank you.

9 CHAIRMAN MORDAS: Thank you, Mr. Leser.

10 MR. LESER: Any questions I will --

11 BOARD MEMBER DAWKINS: So a stop work order was issued
12 in October?

13 MS. GRASS: Yes.

14 BOARD MEMBER DAWKINS: And this gentleman in the New
15 York whoever's hat --

16 MR. NAPPA (phonetic): It could have been October. I
17 thought it was more November. Or maybe it was October. It
18 was right before winter.

19 CHAIRMAN MORDAS: All right. Motion to adjourn,
20 adjourn the public hearing.

21 BOARD MEMBER RAMPE: Wait. There's one more question.

22 BOARD MEMBER FINDLEY: I have a question. The process
23 of extending the site plan started after the site plan
24 expired.

25 MR. CAPPELLO: Yes.

1 - AMY J. THOMAS -

2 BOARD MEMBER FINDLEY: Okay.

3 BOARD MEMBER DAWKINS: So that can still qualify as
4 extended, it's not applying for a new one?

5 MR. CAPPELLO: We're determining -- they did ask. I
6 don't recall, to be honest with you, whether it expired
7 first and then they came to the Planning Board. I believe
8 it may have expired, but the Planning Board is looking at
9 it. No. 1, they're determining whether the work there is
10 consistent with the site plan approval or they need to come
11 in and get a new site plan approval and amend it; whether
12 it's still exempt because if there's been no inclining of
13 starting construction of the pole barn and the pool that as
14 the subject. So there are a lot of issues the Planning
15 Board is grasping with, and the DEC. You may get back
16 involved in this before it's over.

17 BOARD MEMBER FINDLEY: The DEC, did they cite this
18 operation as a result of them reapplying or extending, or
19 was --

20 MR. CAPPELLO: Well, the DEC's permit was based upon
21 the building permit and based upon the site plan, that it
22 was exempt from mining activity because it was in
23 conjunction with building this pool and this pole barn.
24 Then the DEC re-examined it. There was a site visit. Is
25 it November or October?

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2 MS. GRASS: October.

3 MR. CAPPELLO: October, with the town engineer, the
4 DEC and the code enforcement officer. And that's where
5 they saw the pile on the next property, they saw the
6 different road being used and some other evidence. So now
7 they've stopped and we're trying to piece everything back
8 together because even though it's expired, leaving it like
9 it is probably isn't the best. So there needs to be some
10 kind of reclamation in some way to fix this.

11 BOARD MEMBER FINDLEY: But I guess my question is is
12 it expired because of the Planning Board's course of action
13 or is it expired --

14 MR. CAPPELLO: They were supposed to get the money.
15 Because part of the reclamation, you don't want to leave it
16 bare. You want to get the mining done in a certain amount
17 of time. So they were given the building permit. They
18 were supposed to construct the house. I believe within two
19 years you need a CO, so that extension. So the DEC said
20 the mining needed to be completed in conjunction with the
21 building permit to qualify for the exemption. So now
22 everything's kind of up for reinterpretation, depending on
23 what we see has been done and what's been adhered to and
24 what's the best course of action going forward.

25 BOARD MEMBER FINDLEY: I mean the violation is for an

1 - AMY J. THOMAS -

2 expired permit.

3 MR. CAPPELLO: Yes.

4 BOARD MEMBER FINDLEY: So did they start the process
5 of renewing it before or after the expiration?

6 MR. CAPPELLO: After the expiration. That's my
7 question. It doesn't look like there's anything for this
8 board to decide, that there's anything in dispute here, so
9 what are we being asked to do? They were issued a stop
10 work order; they stopped work. So I don't know what we're
11 here, but I would like to ...

12 BOARD MEMBER FINDLEY: Okay.

13 MR. CAPPELLO: I don't want to jump in on this
14 important issue. Given I'm representing the Planning Board
15 on it, I'd like to consult with Steve and have him give you
16 opine, as well because he'll be here through the duration.
17 Hopefully, next month I'll be on vacation.

18 CHAIRMAN MORDAS: So based on legal counsel, we'd like
19 to adjourn this 'til further directions from our legal
20 counsel.

21 BOARD MEMBER FINDLEY: Second.

22 CHAIRMAN MORDAS: All in favor?

23 BOARD MEMBER MARTIN: Aye.

24 BOARD MEMBER DAWKINS: Aye.

25 BOARD MEMBER RAMPE: Aye.

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BOARD MEMBER FINDLEY: Aye.

CHAIRMAN MORDAS: Aye.

(The motion was approved and carried.)

(Time noted: 9:56 p.m.)

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REPORTER'S CERTIFICATION

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings herein, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

A handwritten signature in black ink, reading "Rosemary A. Meyer". The signature is written in a cursive, flowing style.

ROSEMARY A. MEYER

Date Transcribed: June 14, 2016

K E Y W O R D I N D E X

P U B L I C C O M M E N T

	P	L
Chris Leser.....	8	9

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