

**Town of Forestburgh  
Zoning Board of Appeals  
Minutes  
April 26, 2022**

The meeting was called to order at 6:00pm by Chairman Carl Amaditz at the Town Hall, 332 King Road, Forestburgh, New York. The meeting room March 29<sup>th</sup> was recessed and continues tonight.

Members Present:     Carl Amaditz, Chairman  
                             David Griffin  
                             Hilda Lehr  
                             James Steinberg

Absent:                   Edward Pajak

Attorney:                Javid Afzali

Recording Secretary:   Billie Jean McGinnis

Notice of this meeting has been provided to the public by posting at the Forestburgh Town Hall, Forestburgh Firehouse, Forestburgh General Store and the Town of Forestburgh website.

**Approval of Minutes**

Minutes from the March meeting were reviewed.

Motion made by D. Griffin to approve the minutes. Seconded by Hilda Lehr.

Vote: All in favor.

**Lost Lake Holdings, Inc.**

The Board continued their discussion of the appeal by Lost Lake LLC and Rose Enterprises for an interpretation of a decision made by the Building Department to refuse issuance of building permits. Steven Barshov of Sive, Paget & Riesel P.C. presented on behalf of the applicant.

Motion made by J. Steinberg to accept the Building Department's response as part of the record for this hearing. Seconded by H. Lehr.

Vote: All in favor.

Motion made by D. Griffin to accept the applicant's rebuttal brief as part of the record for this hearing.

Seconded by H. Lehr.

Vote: All in favor.

Mr. Barshov requested additional documents from the Town and needs to know who is representing whom. He asked the Board to issue subpoenas for records. He cannot consent to the record being complete until these records are included. He also mentioned that J. Afzali cannot represent the ZBA because he is a potential witness.

Motion made by J. Steinberg to go into executive session, inviting J. Afzali. Seconded by D. Griffin.

J. Afzali added that the executive session is under Open Meeting Law to discuss legal matters.

Mr. Barshov commented that this executive session is not lawful.

Vote: All in favor.

The Board went into executive session at 6:45pm.

Motion made by J. Steinberg to return from executive session at 7:08pm with no decisions made.

J. Afzali clarified that the Board discussed authority as to whether or not to issue subpoenas. No decisions were made. Seconded by D. Griffin.

Vote: All in favor.

Motion made by J. Steinberg to not issue the subpoenas requested by Mr. Barshov. Seconded by D. Griffin.

Vote: All in favor.

J. Steinberg asked Mr. Barshov for a list of documents that are missing from the record. Chairman Amaditz asked Mr. Barshov to contact Town Attorney, Troy Johnstone, to discuss outstanding records. Mr. Barshov stated that he has not received a response to his prior requests for documents.

J. Afzali clarified that Mr. Barshov was given access to Town records. Some documents were withheld. Mr. Barshov appealed that. Those issues are now before an Article 78 Court being adjudicated. Other FOIL requests are working through the process and may or may not be litigated.

Mr. Barshov again brought up the issue of J. Afzali's representation of the ZBA due to ethical issues. Chairman Amaditz stated that this matter has already been responded to. Mr. Barshov was again directed to contact the Town Board concerning any issues of representation of the ZBA.

Mr. Barshov wants a ruling tonight overturning the Building Department's denial. J. Afzali indicated to the Board needs to have a complete record and to hear from the witnesses before a decision can be made. It's premature to issue a decision tonight.

The evidentiary hearing was initially scheduled for May 17<sup>th</sup>. This date needs to be changed as the Town Hall is a polling location for the school board election. The evidentiary hearing will be held on May 23<sup>rd</sup> at 6:30pm with an additional date of May 26<sup>th</sup> at 6:30pm for continuation if needed.

Public comment was tabled until the 5/23 meeting.

J. Steinberg asked about the time limit for public comment. He wanted to make it clear that you cannot transfer your time. Mr. Barshov asked for an opportunity for people to supplement their comments in writing if needed.

### **Adjournment**

Motion made by J. Steinberg to adjourn the meeting at 7:37pm. Seconded by H. Lehr.

Vote: All in favor.

