

Walter Russell, Chairman of the Town of Peru Zoning Board of Appeals, called the meeting of September 17, 2008 to order at 7:07 pm.

**ROLL CALL:**

WALTER RUSSELL, CHAIRMAN	: Present
MIKE FARRELL, VICE CHAIRMAN	: Absent
ROB BASHAW	: Absent
LEON BLAIR	: Present
FRANK DENCHICK	: Absent
TOM FUSCO	: Absent
ROY ZALIS	: Present
LAWRENCE BOSLEY (ALT)	: Absent
JAMES FALVO (ALT)	: Present
ATTY. THOMAS MURNANE	: Present
CEO. PAUL BLAINE	: Present

**APPROVAL OF AUGUST MINUTES:**

Mr. Murnane stated that going over the minutes, he noticed it said he was absent, however he was actually excused.

**MOTION:** Mr. Zalis made a motion approve the August minutes with the change. Second by Mr. Falvo.

**ALL SO MOVED**

**MOTION CARRIED**

**PUBLIC HEARING:**

- 1. APPLICATION:** ROB TIMMONS  
Requesting a Special Use Permit at 477 Telegraph Rd.

Mr. Murnane stated that he reviewed the minutes from the August meeting and noted the discussion as to whether it fell under a Use Variance or a Home Occupation and the majority of the board felt that it fell under the definition of a Home Occupation. Mr. Murnane, stated that he does not agree with that, he believes that it should have been placed under a Use Variance and that the board has to be careful as to what they declare a Home Occupation. Mr. Murnane stated that a Home Occupation should be of a service

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type character such as a Doctor, an Attorney, an Accountant, a Hair Stylist, etc. Mr. Murnane stated that he believes that in the definition of a Home Occupation it states that it should not change the character of the property and he believes that an Auto Repair Shop does change the character of the property to some extent. Mr. Russell asked Mr. Timmons if the vehicles he would be working on would be for other people or for himself. Mr. Timmons stated that he would work on them for himself and other people. Mr. Falvo asked Mr. Timmons how many vehicles he saw himself storing at his house in a single time. Mr. Timmons stated that he would only have maybe 2 or 3 that he would work on at a time. Mr. Falvo asked Mr. Timmons if he would salvage old vehicles and store them on the site. Mr. Timmons stated that he would probably have one vehicle similar to the one he would be working on to use for parts. Mr. Falvo asked if the vehicles would be in view. Mr. Timmons stated that they would not be in view. Mr. Russell stated that there is a limit to how many unregistered vehicles can be on a property at a time. Mr. Blaine stated that there could only be one vehicle on the property at a time that is not registered. Mr. Russell stated the one unregistered vehicle applies to those outside, not in the garage. Mr. Murnane asked Mr. Timmons what he means when he says he is going to be restoring the vehicles. Mr. Timmons stated that he has a friend who will paint the vehicles at his shop and the only thing that he will be doing is putting the parts back together, rewiring the vehicle, and maybe paint the windshield wipers and other small paint jobs. Mr. Murnane asked if he was going to do any bodywork on the vehicles. Mr. Timmons stated that he would be doing very little bodywork, that it's better to have his friend that paints do the bodywork. Mr. Murnane asked if there would be any noise, fumes or dust coming from the area. Mr. Timmons stated that there might be some grinding because after welding materials together he would have to grind it down. Mr. Murnane stated that looking at the map the building looks to be about 350 feet off the road. Mr. Timmons stated that the door to go in is actually pointed more toward the woods so the noise won't echo out toward the neighbors. Mr. Falvo asked if there would be any chemical issues such as antifreeze or oil. Mr. Timmons stated that there would definitely not be any antifreeze because Volkswagens don't use it. Mr. Falvo asked if he was more of a restoration shop than an auto shop. Mr. Timmons stated that New York State looks at it as a repair shop, not a restoration shop. Mr. Timmons stated that he has to comply with New York State regulations which means he does have to have a green sign, however, he is not sure where that will have to be placed, whether it be inside or out but if it can be placed inside he will place it inside. Mr. Murnane asked Mr. Blaine if the application still required Site Plan Review. Mr. Blaine stated that it did not require having Site Plan Review, however, the Board could place a condition on it that states that the application has to have Site Plan Review done by the Planning Board.

**MOTION:** Mr. Zalis made the motion to approve the application with the stipulation that the NYS sign be placed in the rear of the building and have Site Plan Review from the Planning Board. Second by Mr. Blair.

**ROLL CALL:** Mr. Falvo-yes, Mr. Blair-yes, Mr. Zalis- yes, Mr. Russell -yes.

**MOTION CARRIED.**

**2. APPLICATION:**

**TODD DEYO**

Requesting a Special Use Permit on Sullivan Rd.

Mr. Russell stated that the Board has received comments from the Town Engineer. Mr. Murnane stated that the application is for a Special Permitted Use. Mr. Murnane stated that it appears Mr.

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Smart was given some type of permit by the Zoning Board to establish a pit of a certain size in 1990. Mr. Murnane stated that Mr. Deyo would like to expand the pit and the way he is proposing it, he would have to get a Use Variance not a Special Permitted Use because mining operations are not a Permitted or Special Permitted Use in that zone. Mr. Murnane asked if Jeremy Deyo and Todd Deyo owned the properties. Mr. Lashway stated that the proposed mining operation is owned by Jeremy Deyo and the current mine is owned by Todd Deyo. Mr. Murnane asked how far the land that Jeremy Deyo owns goes. Mr. Lashway stated that the land reaches the Sullivan Rd. Mr. Murnane stated that to show that there is a hardship, they would have to show financial proof in writing. Mr. Murnane stated that Jeremy Deyo would have to have something in writing for proof giving Todd Deyo permission to mine his property. Mr. Blair asked if the parcels were being considered as one parcel or separate and if Mr. Deyo would need a separate permit. Mr. Murnane stated that Mr. Deyo would need a separate permit because he is expanding the mine into a separate parcel and an expansion is still not allowed in that zone. Mr. Lashway stated that the approach is not considered as an expansion because the proposed mining operation has been submitted to the DEC as a different mining operation under a different name and the present mine will be reclaimed and closed. Mr. Falvo asked if the buffer was going to be all around the new mine so that the two parcels will not actually be merged. Mr. Murnane stated that it looks like on the map, that some of the mining is going to be done on Todd Deyos property. Mr. Lashway stated that there would be a small area on the present mine that will continue to be mind.

**MOTION:** Mr. Falvo made the motion to table the application and regard it as a Use Variance. Second by Mr. Blair.

**ROLL CALL:** Mr. Falvo-yes, Mr. Blair-yes, Mr. Zalis- yes, Mr. Russell -yes.

**MOTION CARRIED.**

**3. APPLICATION:**

OMNIPOINT COMMUNICATIONS INC.  
Requesting a Special Permit for a Telecommunication  
Facility on Peasleeville Rd.

Mr. Blaine stated that the application was referred to the Clinton County Planning Board and they did respond with approval. Mr. Blaine also stated that the engineer has also submitted comments and Mr. Blaine did request a structural analysis of the tower. Mr. Davis, an Attorney for Hiscock and Barkley was present at the meeting on behalf of Omnipoint. Mr. Davis stated that there are two towers at the location and they are proposing to place an antenna on the smaller tower that stands at around 161 feet. Mr. Davis stated that the location of the antenna would be about 100 feet from the property line so they will meet the set back requirements. Mr. Davis also stated that the depth for the conduit is a proposed depth and if by digging they come across bedrock close to the surface and they cannot dig any further into the ground, they will do a RGS Conduit above ground sleeper blocks. Mr. Davis stated that the application is part of a larger plan for Omnipoint, also known as T-Mobile. Mr. Davis stated that the antenna would give coverage to the Town of Peru, Schuyler Falls, and several other areas but mainly for traveling in case of accidents. Mr. Davis stated that currently there are no T-Mobile antennas in the area so when people who own a T-Mobile phone, they try to call 911, they cant because T-Mobile will not roam on other antennas. Mr. Davis stated that there would also be a back-up generator placed on a 10x16 concrete pad that does not need a shelter. Mr. Davis stated that after Hurricane Katrina the FCC made a requirement for a back-up generator at all cell sites. Mr. Murnane asked where the generator would be

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located. Mr. Davis stated that the generator would be in the fenced area on the 10x16 slab. Mr. Murnane also asked Mr. Davis if he could provide copies of the APA approval.

**MOTION:** Mr. Blair moved to declare this an unlisted action and name the Town of Peru Planning Board as lead agency. Second by Mr. Zalis.

**ROLL CALL:** Mr. Falvo-yes, Mr. Blair-yes, Mr. Zalis- yes, Mr. Russell -yes.

**MOTION CARRIED.**

**MOTION:** Mr. Zalis moved to declare this a negative declaration. Second by Mr. Blair.

**ROLL CALL:** Mr. Falvo-yes, Mr. Blair-yes, Mr. Zalis- yes, Mr. Russell -yes.

**MOTION CARRIED.**

**MOTION:** Mr. Blair made a motion for approval pending Site Plan Review. Second by Mr. Zalis.

**ROLL CALL:** Mr. Falvo-yes, Mr. Blair-yes, Mr. Zalis- yes, Mr. Russell -yes.

**MOTION CARRIED.**

**4. APPLICATION:**

**MARK ROBINSON**

Requesting an Interpretation of Section 602 of the Zoning Ordinance.

Mr. Robinson asked if it would be possible to table his application for the October meeting.

**MOTION:** Mr. Falvo made a motion to table the application until the following month. Second by Mr. Zalis.

**ROLL CALL:** Mr. Falvo-yes, Mr. Blair-yes, Mr. Zalis- yes, Mr. Russell -yes.

**MOTION CARRIED.**

**ANY FURTHER BUSINESS:**

Mr. Russell made a request to the Board members that if they had any additional materials that they would like to see or have available for the applications that they email him and Mr. Blaine and let them know so that the applications are complete when they are presented to the Board. Mr. Blaine asked Mr. Murnane what his thoughts were on the Board changing applications. Mr. Murnane stated that he would prefer not to have applications amended at the meeting because it creates a risk of having a challenge from the public, however, if it is amended that night and tabled until the following month he does not see a problem with it. Mr. Blaine stated that another issue is that if he makes the decision for an application, should that be the type of application until it is appealed. Mr. Murnane stated that the Board could decide that it's a different application and deny the applicant then the applicant come before the Board with the other application.

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**CEO REPORT: PAUL BLAINE**

Mr. Blaine stated that the total number of permits is roughly the same as the previous year and building permits for homes are double. Mr. Blaine stated that the subdivision on 22B may be proceeding, the developer from Button Brook is looking to do another phase and he has been approached for preliminary approval for a subdivision on Arnold Rd.

**ADJOURNMENT:**

**Motion Made by Mr. Blair.**

**Second by Mr. Falvo.**

**All so moved.**

*Date filed with Town Clerk \_\_\_\_\_*