

WILTON ZONING BOARD OF APPEALS
THURSDAY March 26, 2015

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, March 26, 2015 at the Wilton Town Hall, 22 Traver Road, Wilton, New York and was called to order by Chairman O'Brien at 7:00 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Chairman O'Brien, Christopher Ramsdill, Dean Kolligian, Robert Barrett, Tony McCracken, Gerard Zabala, and Scott Kingsley. Also present were Elizabeth Beauregard and Sabrina Seeger Sign Language Interpreters, Attorney Grassi for Attorney Schachner, Town of Wilton Zoning Board of Appeals Attorney and Mark Mykins, Zoning Officer.

ABSENT: Rocco Angerami, James Deloria and Attorney Schachner

MINUTES: The minutes of the last meeting, held on February 26, 2015 were approved, as submitted, on a motion made by Mr. Kolligian seconded by Mr. Barrett. All board members were in favor.

CORRESPONDENCE: None other than those relating to current applications before the board.

RENEWALS:

APPEAL NO. 11-07 Claudio Barrera, 252 Gurn Springs Road, Gansevoort, New York 12831. Request for the renewal of a Special Permit pursuant to Schedule B and Section 129-176 (V) of the Zoning Ordinance, for a private stable. Permit originally granted on March 28, 2011 and has been renewed every two years; property located at 252 Gurn Springs Road, Tax Map No. 116.-1-2.13, zoned R-2, in the Town of Wilton.

Mrs. Barrera approached the Board. Chairman O'Brien asked Mrs. Barrera if she would like to renew her Special Permit. Mrs. Barrera said yes. Chairman O'Brien asked Mr. Mykins if there had been any problems. Mr. Mykins said there were none.

Mr. Kolligian made a motion to approve Appeal No. 2011-07 for Claudio Barrera, 252 Gurn Springs Road, Gansevoort, New York 12831, request for renewal of a

Special Permit pursuant to Section 129-176 (V) of the Zoning Ordinance for a private stable with a maximum of 3 horses for a period of two years; property located at 252 Gurn Springs Road, Tax Map No. 116.-1-2.13, in the Town of Wilton, zoned R-2. This Special Permit is subject to all requirements listed in Section 129-176 (V) of the Zoning Ordinance and the board has considered all factors of Section 129-175 (D). This permit is due for review and renewal on or before March 24, 2017.

Mr. Zabala seconded the motion. Mr. Zabala, Mr. Kingsley, Mr. Barrett, Mr. McCracken, Mr. Kolligian, Mr. Ramsdill, and Chairman O'Brien. All Board members were in favor. The motion passed.

NEW BUSINESS:

APPEAL NO. 15-06 Joseph A. Marsico, 2 Suffolk Lane, Gansevoort, New York 12831. Request for a Special Permit pursuant to Schedule A Residential District and Section 129-175 D. 1-7 and 129-176 C. 1-4 of the Zoning Ordinance, for a home occupation as a Federal Firearms Licensed Dealer; property located at 2 Suffolk Lane, Gansevoort, New York 12831 Tax Map No. 115.17-4-13 zoned R-1 in the Town of Wilton.

Mr. Marsico approached the Board. Chairman O'Brien asked Mr. Marsico to explain to the Board what he would like to do. Mr. Marsico said he would like to operate a very small Federal Firearms Licensed Dealer out of his home. Mr. Marsico explained his main clientele would be active law enforcement officers as well as active duty military. Mr. Marsico said he worked for Government Contractors in the Department of Defense as well as having a lot of friends and connections in the military. Mr. Marsico stated that for federal regulations, he would be required to have the firearms and ammunition shipped to his home, store them there until he had them picked up by a customer or shipped out to the seller. Mr. Marsico said it was not legal for him to bring them to a customer and that was why he was required to get the Special Permit so customers could go to his home and have shipments arrive at his house.

Chairman O'Brien asked the Board members if they had any questions or concerns. Mr. Zabala asked about number 7 on Mr. Marsico's application stating, all governmental authorities having jurisdiction have given the necessary approval. Mr. Zabala said he was concerned with the ammunition and or cleaning supplies could be flammable so the appropriate fire jurisdictions don't have a problem with this happening. Mr. Marsico said he was going to have flammable safe gunpowder and ammunition storage and he had plans to modify his basement for long term and short-term storage for safety and flammability concerns. Mr. Zabala asked if there was any special identification needed on Mr. Marsico's home or in the office area for fire fighters responding to his residence.

Mr. Marsico said no more than any person that had firearms in their home. Mr. Barrett asked if occasionally people would be coming to the home. Mr. Marsico said yes maybe two or three times a month and he would know most of them from work or from back home, it would be very occasional. Mr. Marsico said it would be very occasional that he would have someone come to his home that he wasn't very familiar with the exception of a transfer over the internet and that person would be required to come to his home to pick-up a firearm or ammunition. He further explained that legally these items could not be shipped directly; the transfer would have to be done in his home. Mr. Ramsdill said he didn't believe the Board had allowed that in the past. Chairman O'Brien said that had not been allowed to that extent. Mr. Ramsdill asked Mr. Marsico if he would be open to dropping that part of the occupation and only doing transfers and not having anyone physically coming to the premises to pick-up the items. Mr. Marsico said that by federal law he would be required to have the transfers conducted at his home or his place of business, which would be his home. He further explained the items would have to be shipped to his home then he would have to ship them to the client. Mr. Mykins explained that in the R-1 District that it was prohibited that for any home occupations to have clients or customers come to the home. Mr. Mykins said that in the past, there was one in the R-2 District and another one that was in the R-1 District and clients were not allowed to go to the home. Mr. Ramsdill said he did internet transfers. Mr. Kolligian said that was relatively recently and was located on Carr Road. Mr. Kolligian asked Mr. Mykins about question number three on the application about the highlighted information that had not been met, correct. Mr. Kolligian referred to the highlighted letter C. No customers or clients may come to the home, no deliveries made to the residence for the office use, no storage of materials or products and Mr. Marsico is saying all these things would be done. Mr. Mykins said yes. Attorney Grassi said to be clear about section four those criteria are used to provide an exemption from needing the Special Use Permit; if there was a home office that met all letters A-F then they no longer needed the Special Use Permit at all and because Mr. Marsico hasn't met them he will need a Special Use Permit. Mr. Mykins said that was not entirely true because this was all standards for specific uses and in that zone, it was a required Special Permit for home occupation. Mr. Kolligian said the Special Permit would be required no matter what even Mr. Marsico met those requirements. Mr. Kolligian said he was having trouble with the verbiage saying that it was a prohibited use and he thought that was going to be the biggest challenge for everyone on the Board. Mr. Kolligian said the town has granted them in the past but as Mr. Mykins had indicated the last one that was done about two years ago was indicative of the fact that was no transfer that was going to happen on the property, it was all done via the internet. Mr. Ramsdill said his understanding was in his recollection this was not consistent with what the Board had done in the past. Mr. Ramsdill said a Special Permit had been issued to do exchanges and to broker but not to actually do sales out of the home. Mr. Marsico asked if he would be allowed to have packages

shipped to his home and stored in his home. Mr. Ramsdill stated without all the criteria being then the Board would have to make a decision based on what the Board felt was in the best interest, correct. Mr. Mykins said correct. Mr. Ramsdill stated if he met all the criteria then the Board was saying the Special Permit is...Mr. Mykins said if you met all of them, then there would be no discussion about it then the Special Permit would be granted without an issue. Mr. Ramsdill said some pieces of this have some flexibility but the Board to his understanding has never allowed customers to come to the home. Mr. Marsico said he understood. Mr. Barrett asked Mr. Marsico if there was another location he could have a small shop or office. Mr. Marsico said that would not be feasible because it was going to be very tiny mostly going to be dealing with one or two main clients and to rent a space would be unfeasible as far as monetarily. Mr. Ramsdill asked if Mr. Marsico would still be interested in the Special Permit if it had the prohibition on customers coming to the home. Mr. Marsico said it would definitely be something he would be open to. Mr. Ramsdill asked Mr. Mykins if the Federal Firearms, the ATF requires an inspection. Mr. Mykins answered saying the ATF does all the inspections. Mr. Marsico said they were done yearly by the federal and bi-yearly by the state. Mr. Kingsley asked Mr. Marsico about how many shipments he would receive. Mr. Marsico said roughly one shipment he would mostly be doing the orders in bulk for police departments. Mr. Marsico explained that it was required to be shipped two-day air from UPS so it would not be an unusual shipment arriving to the home it would just appear as a normal shipment and he would have it shipped out to another Federal Firearms licensed dealer if that was the restriction.

Chairman O'Brien asked if anyone in the audience had any questions or concerns. Mr. and Mrs. Dohmann of 4 Kings Mills Road had questions and concerns. Sabrina Seegar/Certified English Sign Language Interpreter and Elizabeth Beauregard/Nationally Certified Sign Language Interpreter were representing the Dohmanns. Mr. Dohmann said he did. Mr. Dohmann stated he had lived in his residence for a very long time and was concerned about the firearms issue because there were so many children within the residential area and they weren't aware of what guns were and if they were sent to your home how was that going to be regulated to make sure there was safety within the community. Mr. Dohmann asked if there was a way the packages could be received at the post office instead of the home for safety sake. Mr. Dohmann stated the community would be less affected if it were done that way. Mr. Dohmann said it would be safer than having UPS drop something off on your porch. Chairman O'Brien asked if the packages would have to be signed for. Mr. Marsico said it would be required to be signed for he could not receive a shipment without signing for it himself, it would be unlawful for someone beside himself to possess the firearms. Mr. Marsico further stated they would be licensed under his name. Mr. Dohmann asked Mr. Marsico if he would be home all the time to receive those packages then there would be no way for anyone else to receive those packages and there

would be no way for anyone else to sign for them. Mr. Marsico said he would not be home at all times, however no one else could sign for them and he would schedule a delivery with UPS, he could not physically pick them up from UPS. Mr. Dohmann asked if the packages could be left at the post office instead of the home and is there any way someone could circumvent and a stranger could sign for it because it is zoned residential and that's not the safest place to have weapons. Mr. Dohmann said it didn't make sense especially if people are coming into the community and they are strangers and they coming to purchase something. Mr. Dohmann said he was just thinking of the safety of the community and as deaf individuals in the private community protection and safety was a priority for them. Mr. Kolligian explained that the Board was not going to allow people to go to the home that was prohibited. Mr. Kolligian said there would be no transactions occurring in the residential district. Mr. Dohmann said thank you, they appreciated that part of the motion had been denied and people can't go to the house and they appreciated the Board thinking of the community and their safety. Mr. Kolligian asked Mr. Mykins about the Special Permit on Carr Road, were there stipulations on ammunition accompanying the firearms. Mr. Mykins said it could not; it had to be shipped separately by federal law. Mr. Mykins said it has to be shipped and stored separately.

Chairman O'Brien asked if there were any other questions or concerns. Mr. Barrett asked Mr. Marsico how many weapons he would have on hand at one time. Mr. Marsico said if he received a shipment for a police department he would have about twenty, it was more likely only one or two at a time. Mr. Mc Cracken asked if Mr. Marsico would be storing things in his home for a very short period, it would be received, and that order is already sold, not as if merchandise would be stocked in the home. Mr. Marsico explained as a Federal Firearms licensed dealer you get the privilege of 30% off any big manufacture so he would have to have a customer in mind and only order specifically what that customer wanted.

Chairman O'Brien asked if there were any other questions. There were none.

Mr. Ramsdill made a positive motion to approve Appeal No. 15-06 for Joseph A. Marsico, 2 Suffolk Lane, Gansevoort, New York 12831. Request for a Special Permit pursuant to Schedule A Residential District and Section 129-175 D. 1-7 and 129-176 C. 1-4 of the Zoning Ordinance, for a home occupation as a Federal Firearms Licensed Dealer; property located at 2 Suffolk Lane, Gansevoort, New York 12831 Tax Map No. 115.17-4-13 zoned R-1 in the Town of Wilton, was granted for a period of two years, shall be conditioned upon no transactions or customers are allowed in the home; in accordance with all requirements in Section 129-175 (D). This permit is subject to review and renewal on or before March 26, 2017.

Mr. Kingsley seconded the motion. Mr. Kingsley, Mr. Ramsdill, Mr. Kolligian, Mr. Barrett, Mr. McCracken, and Chairman O'Brien were all in favor the motion passed. Mr. Zabala was opposed.

APPEAL NO 15-07 Northeast Petroleum Tech, 2940 Curry Road, Schenectady, New York 12303. Request for an Area Variance pursuant to Section 129-157 projection into required yards and 129-attachment 14, Schedule H of the Zoning Ordinance, for a rear yard setback relief of 44.37 ft., for a 14 ft. by 12 ft. addition to the rear of the Convenience store, for storage; property located at 3009 Route 50, Saratoga Springs, New York 12866 Tax Map No. 153.19-2-17 zoned C-1 in the Town of Wilton.

Chairman O'Brien read a positive recommendation to the ZBA from the **Wilton Planning Board**.

Chairman O'Brien read a referral from the **Saratoga County Planning Board**.
Decision: No significant County Wide or Inter Community Impact

Comment: While there is, no adjacent structure or business directly impacted by the proposed addition, at some time in the future there will be. By granting this applicant's additional variance (it appears that if granted this will be an increase to a previously granted setback variance for the existing structure) a future business may be affected by an unnecessary and adverse visual impact. We recommend a condition be attached to this appeal, if granted. We suggest a requirement that the applicant provide a mutually agreed upon visual buffer (either now or by agreement at the time site plan approval is obtained by an adjacent landowner).

Mr. Brennan from Northeast Petroleum Technologies representing Sunoco approached the Board. Mr. Brennan explained they were applying for the variance to put an addition on the side of the building. Mr. Brennan said Sunoco would make accommodations to have the addition and as far as a wall being put up as a visual buffer. Mr. Mykins said it wasn't necessarily a wall, a visual buffer. Mr. Brennan said he would have to check with Sunoco he couldn't speak for them. Mr. Brennan stated he was pretty sure Sunoco would not have an issue with putting up any form of landscaping. Mr. Brennan said he thought Sunoco would be fine with a landscape buffer. Mr. McCracken asked what the addition was going to be used for. Mr. Brennan said dry storage. Mr. Barrett asked if there was going to be anything stored outside the addition. Mr. Brennan said he would certainly hope not. Chairman O'Brien said he thought they kept that property pretty clean. Mr. Mykins agreed. Mr. Brennan said when he notices things get piled up was in the winter when all the crates that the merchandise comes on get stacked nicely out back and sometimes due to the snow banks, they may creep into sight. Mr. Barrett asked Mr. Brennan if he could speak for the buffer. Mr.

Brennan said actually he could speak for the buffer; he could say yes they would allow a visual buffer. Mr. Kingsley asked if there was a vacant lot behind Sunoco. Mr. Brennan said yes it was all woods and the Board agreed. Mr. Kingsley asked if the buffer would be erected at the time that property was developed. Mr. Mykins said no a vegetative buffer would be done now and in the case, that someone decided later on to develop the land they didn't want to see the addition. Mr. Zabala asked about lights being moved. Mr. Brennan explained that those were on the existing site plan and that had already been done. Mr. Barrett explained that was done on the remodel.

Chairman O'Brien asked if there were any other questions. There were none.

Mr. Ramsdill made a motion to approve Appeal No. 2015-07 for Northeast Petroleum Tech, 2940 Curry Road, Schenectady, New York 12303. Request for an Area Variance pursuant to Section 129-157 projection into required yards and 129-attachment 14, Schedule H of the Zoning Ordinance, for a rear yard setback relief of 44.37 ft., for a 14 ft. by 12 ft. addition to the rear of the Convenience store, for storage; property located at 3009 Route 50, Saratoga Springs, New York 12866 Tax Map No. 153.19-2-17 zoned C-1 in the Town of Wilton was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons; 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because it's a commercial district and it will be placed in the rear of the building, where it will not cause a visual impact to the front of the building. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by an Area Variance because the layout of the property does not afford them the ability to place additional storage anywhere but at the rear of the property. 3. The applicant has demonstrated that the requested Area Variance is not substantial because it's the minimum and the structure is not going to be overly large for storage. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because it's a commercial zone and it's positioned at the rear of the building. 5. The applicant has demonstrated that the alleged difficulty is self-created and shall be conditioned upon a row of vegetative screening being planted at the rear, to shield the abutting property to the rear.

Mr. McCracken seconded the motion. Mr. Zabala, Mr. Kingsley, Mr. Ramsdill, Mr. Kolligian, Mr. Barrett, Mr. McCracken, and Chairman O'Brien were all in favor. The motion passed.

APPEAL NO 15-08 INTERPRETATION Maly Realty 7700 Eastern Avenue-Unit 304, Dallas, TX 75209. Request for an Interpretation based on a Notice of Determination issued by the Code Enforcement officer on March 10, 2015, regarding the identification of the zoning district RM is it considered residential or commercial as it pertains to zoning.

Mr. Palumbo approached the Board and asked Chairman O'Brien if it would, help if he put the plan up on the wall, even though they were really talking about the interpretation of the district and the Board would see the plan eventually because they would be back for variances. Mr. Palumbo said this was strictly on the interpretation of the district. Chairman O'Brien said yes and the Board agreed. Mr. Palumbo put the plan on the wall. Mr. Palumbo introduced himself as Frank Palumbo with CT Male Associates and stated they were representing Maly Development and this project. Mr. Palumbo explained where the project was going to be by using the plan on the wall. Mr. Palumbo showed the Board where the vacant lot on Lowes Drive was. Mr. Palumbo said Aldi's and Maly were going to work the project together to achieve some mutual goals.

Mr. Palumbo said the issue concerning the interpretation by saying the property abuts the Pyramid Pines mobile home district. Mr. Palumbo explained they were working with Mark and Ryan to clarify what setbacks they would be asking for when they apply for their variances. Mr. Palumbo explained the issue that came up was; was the mobile park a residential district. Mr. Palumbo stated they did not contend it was a residential use. Mr. Palumbo explained that for a rear yard setback if it's a commercial business or retail business the rear yard setback must be 100 ft. with the footnote that says if it abuts a residential business it must be 150 ft. Mr. Palumbo said they will be coming back and it would just be a measure of what they are going to say and what relief they were asking for. Mr. Palumbo said it sounds better if it's a relief from 100 ft. rather than a relief from 150 ft. Mr. Palumbo stated that as they explored the issue they didn't doubt the fact that Mr. Mykins was making the best determinations and he appreciated the fact they had the chance to seek this interpretation. Mr. Palumbo states the mobile home park by law must be assessed as a commercial property if it was a single ownership, it had residential uses, and there are residences that live there. He further stated they did not discount that and they respect that but it was assessed as a commercial enterprise because it has one owner and that owner controls who's in, what's there, who moves in and who moves out much like a rental unit. Mr. Palumbo said it was a residential unit and there are other types of residential units that are not in residential districts such as The Paddocks, which are a PUD, and apartments that were being developed in the Hamlet district. Mr. Palumbo said the connection does not have to be that because it was a residential use, that it must be considered a residential district. He further stated the other fact was

that by name there are three districts that say residential district, mobile home parks district and a residential business district. Mr. Palumbo further states they have all been given the abbreviation of "R" which makes it look like it has been classified that way as in "R" residential district but the technical terms of the code say a residential district and by the language that was used they think it's more appropriate that those residential districts that have abutting commercial districts; it was relevant and probably thought of. Mr. Palumbo explains the mobile home park being a commercial use and has existed much longer than any of the zoning that has been put in place abuts right up to their property line. He further explained there were no setbacks at all, so it is placing the entire burden on the commercial property owner to have that 150 ft. setback. Mr. Palumbo stated if this had been a mobile home park that was undeveloped; the case might be slightly different. Mr. Palumbo said he thought the language of the code says that it is a mobile home parks district not a residential district. He further states they respect the fact that they are residences and people live there, the Planning Board has already stated to them that there is going to be some sort of an adequate buffer as was done in another location further down. Mr. Palumbo said the other location also received variances similar to what they were asking for. Mr. Palumbo said he was open to any questions.

Mr. Kolligian asked if the mobile home park was one tax parcel. Mr. Mykins and Chairman O'Brien said it was one zone. Mr. Kolligian asked about the variances that were given for The Shops of Wilton; were those variances based off the commercial or residential setbacks. Mr. Mykins said it pre-existed that portion of zoning. Mr. Ramsdill asked what Mr. Palumbo was contending it was considered. Mr. Palumbo said he thought it was a mobile home park district not a residential district. Chairman O'Brien said Mr. Mykins Interpretation says it's residential. Mr. Ramsdill said he was wondering why if its mobile home it's not commercial either. Mr. Mykins said Mr. Palumbo was saying it was a commercial use. Mr. Ramsdill said it's not commercial it didn't say "C". Mr. Palumbo referred to the Town of Wilton Schedules. Mr. Palumbo thought that when the Schedules were created there was some indication that they were perceived as being somewhat different and he did not believe it should be label residential. Mr. Barrett said Mr. Palumbo was going with the assessor's definition and choosing not to use the zoning definition of residential. Mr. Palumbo said yes and no, he was saying that it is a commercial property with a residential use and the actual title names of districts such as R-1 residential, R-2 residential, R-3 residential, residential business, mobile home park and mobile home park district which is RM. He further states by the fact that someone applied the "R" to its residential. Mr. Palumbo said if he walked out of there and the Board said its residential he would live with that, but he thought it was almost independent of itself and it did not meet where this said any residential district by definition; he believed that should apply to the three that say residential district that was their name and their title. He further stated there was commercial residential CR-1 and that was not

considered a residential district. Mr. Mykins clarified the commercial residential district that Mr. Palumbo was talking about there are different required setbacks if you are adjacent to a residential use than if you are adjacent to a commercial use. Mr. Mykins further stated that zone is identified by itself in the fact that different setbacks were required within that zone from a residential use verses a residential district and they had the residential district setbacks in that zone. Mr. Mykins said if there was a commercial use and a residential district behind it, the setbacks must be met. Chairman O'Brien said regardless of what the decision was they will still need variances. Mr. Palumbo said they would. Chairman O'Brien stated basically in that case it would be 100 ft. or 150 ft. and that's what it came down to. Mr. Mykins said it depended upon whether the Board was going to look at the mobile home park and say it's a residential district or they were going to call it its own identity. Chairman O'Brien said it would go either by Mr. Mykin's interpretation or what Mr. Palumbo was presenting. Mr. Kingsley asked Mr. Mykins about a hypothetical situation then stated when the Town Board put that zone into place they intended for people to live there and the residence have certain expectations of that as their home. Mr. Palumbo said he didn't disagree as Mr. Mykins had said this predated so much and he himself also said this was in long before some of the zoning. Mr. Palumbo said the current mobile home park district that applied; you would not be allowed to build it now. He further states there is a large residential use of a commercial property that happens to be abutting another commercial property. Mr. Barrett said it just boils down to which definition you decide to use, Mr. Palumbo was using the assessor's definition, and the Board was using the zoning definition. Mr. Palumbo stated that the fact that they were applied with the "R" it is most like a residential. Mr. Palumbo said our zoning code doesn't call it a residential district, it dose call it an RM with the abbreviation but the name of the district is mobile home parks district not a residential district. Mr. Palumbo further stated the only reason he was making this case was that he didn't expect they were going to walk through on this project. Mr. Palumbo began to explain using the plan on the wall as the town previously asked to have a connection through where the hospital was. Mr. Palumbo stated they were going to do what the town asked and he would not be surprised if someone was to challenge that and come to the Planning Board meeting to challenge that. Mr. Palumbo stated they would also question the excessive setback requirement, the less it is the better it would be for them. Mr. Palumbo said the difference of 100 ft. or 150 ft. he didn't know if it would make a difference and if the Board saw fit to see it that way it might help. Mr. Palumbo said he would not walk out of there saying how could the Board have done that, it was a fine line and he understood that.

Mr. Kolligian asked Mr. Mykins in the future where would this come up again, does it come up again on the back piece that was undeveloped. Mr. Mykins said absolutely it could come up. Mr. Kolligian said he asked that question because he was looking at the situation as a compromise at this point. Mr. Kolligian further

stated the applicant was going to have to come back in for variances one way or the other; whether it was at 100 ft. or 150 ft. and if the mobile home park was not there and the commercial lines were established. Mr. Mykins said if the mobile home park was not, there it would be a commercial district. Chairman O'Brien agreed. Mr. Kolligian said correct. Mr. Barrett and Mr. Mykins both said the mobile home park is there. Mr. Barret said who ever put the "R" in there was rightful trying to protect the people that lived there. Mr. Zabala asked Mr. Mykins about commercial and residential districts having different setbacks when the property is abutting a commercial property. Mr. Mykins said when a commercial property is abutting a residential. Mr. Zabala asked if the setbacks for residential were uniform. Mr. Mykins said exactly the same as this. Mr. Zabala said it was 150 ft. also. Mr. Mykins said yes.

Chairman O'Brien asked if a motion had to be made to vote on this matter or could the Board give an opinion. Attorney Grassi said if the Board was ready to have an opinion then you would have a motion for it. Mr. Mykins said you would make a motion as to what you would want to call this.

Mr. Kingsley made a motion for Appeal No. 2015-08 Maly Realty 7700 Eastern Avenue-Unit 304, Dallas, TX 75209. Request for an Interpretation based on a Notice of Determination issued by the Code Enforcement officer, regarding the identification of the zoning district RM is it considered residential or commercial as it pertains to zoning; property located on Lowes Drive, Tax Map No. 153.-3-37.1/153.-3-37.32 zoned C-1, in the Town of Wilton, for the decision of the zoning officer to be sustained. Mr. Ramsdill seconded the motion.

The Wilton Zoning Board of Appeals upheld the Zoning Officer's Determination of the R-M District as being a residential district, not a commercial district. Mr. Zabala, Mr. Kingsley, Mr. Barrett, Mr. McCracken, Mr. Kolligian, Mr. Ramsdill, and Chairman O'Brien were all in favor of this determination.

ADJOURNMENT:

Mr. McCracken made a motion to adjourn the meeting at 7:47 p.m. Mr. Kolligian seconded the motion. All board members were in favor. The motion passed.

Dated: _____

Amy DiLeone, Zoning Clerk

