

**Organization River Area Council of Governments**

**Board Cooperative ZBA**

**Date and Time Wednesday, March 6 2013 at 7:30 PM**

**Place Town of Champion Offices Board Room (rear of building) 10 N Broad St, West Carthage NY**

**Contact [Chris Vargulick](#) Town Clerk Phone (315) 493-3240 Fax(315) 493-2900**

**Minutes**

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RACOG  
Cooperative Zoning Board of Appeals

TO: Members of the Co-op ZBA, T/Champion Board, T/Wilna Board, V/Carthage Board, Town/Village Clerks, Zoning Enforcement Officers, Timothy Farley, T/Champion Attorney, Mark Gebo, T/Wilna & V/Carthage Attorney and Planning Board Chairmen

FROM: Christina Vargulick, Cooperative ZBA Secretary

DATE: March 8, 2013

RE: Minutes from March 6, 2013

PRESENT: R. Blank, L. Haverstock, and B. Shampine

EXCUSED: T. Kight

ABSENT: D. Austin

Vice- Chairman Haverstock called the meeting to order at 7:30pm. The roll was called.

Motion by B. Shampine, seconded by R. Blank to dispense with the reading of the December 5, 2012 minutes and to approve the minutes as presented. Ayes-3, Nays-0. Motion carried.

L. Haverstock formally presented an application (Log #2013-1) for an interpretation of the zoning law for parcel no. 85.12-1-17 submitted by Lunco Corporation. The applicant is requesting an interpretation of the T/Champion Zoning Law relative to a stop work order issued on November 8, 2012 for a violation of Article 7; Section 710H - Zoning Permits; Alteration of Land Surface.

Jason Bailey, Esq., Sheats and Bailey, PLLC, represented Lunco Corporation. Mr. Bailey alleged that the property has been used as a hard fill site by the Town and County of Jefferson. He stated that NYSDEC and the Army Corps of Engineers have not required a permit for the activity. He alleged that the work site that the fill was being drawn from could not continue with their project due to the Town's action. Mr. Bailey alleged that Section 715 of the town zoning law permits landscaping including the contouring of land to expand a use and to improve the aesthetics. He alleged that Article 2: Definitions; Landscaping is defined as "improvements to land, including but not limited to the contouring of land.....".

L. Haverstock clarified the location of the fill site and the type of fill used.

Attorney Mark Gebo, Hrabchak, Gebo & Langone, appeared for the T/Champion. Mr. Gebo stated that Section 710 of the town zoning law requires a permit. He acknowledged that Section 715 does permit landscaping but contended that continued filling of a large depression does not meet the definition of "landscaping". Mr. Gebo discussed Section 775- Nonconforming Use and Structures stating that nonconforming uses cannot be expanded. He stated that wetland requirements are not enforced by the Town and any determination made by the parties that do enforce wetland regulations, does not alleviate the requirement for a Town zoning permit. Mr. Gebo emphasized the distinction between "land surfacing" and "landscaping".

Board members asked Town ZEO LaBarge what precipitated the issuance of the stop work order. He replied that he received a number of complaints from surrounding property owners. NYSDEC also investigated based on complaints they received but reported to the ZEO that the area is not designated a wetland.

R. Blank questioned if a site plan review had been required for the original construction on the site.

Town Supervisor Buckley refuted the allegation made by the applicant that the Town has dumped at the site. Mr. Buckley stated that he has been Supervisor for eighteen (18) years and at no time during his tenure has the Town dumped on the property in question.

Michael Lundy, Lunco President, repeated his assertion that the Town did dump at the site.

L. Haverstock questioned if Mr. Lundy was informed as to what steps needed to be taken to lift the stop work order. ZEO LaBarge stated that Mr. Lundy's office was informed that they needed a zoning permit to continue dumping and filling at the site. Mr. Bailey stated that if his client has known what was needed he would have applied for a permit. Mr. Lundy stated that because he felt that ZEO LaBarge had dealt harshly with his office receptionist that he did not pursue a zoning permit. ZEO LaBarge countered that he had not been rude to the office receptionist.

Motion by R. Blank, seconded by B. Shampine to accept the application as presented and to schedule a public hearing on the matter for Wednesday, April 3, 2013 at 7:30pm. Ayes-3, Nays-0. Motion carried.

Motion by R. Blank, seconded by B. Shampine to adjourn. The meeting adjourned at 7:59pm.

Christina Vargulick  
RACOG Cooperative ZBA, Secretary