

**MEETING OF THE ZONING BOARD OF APPEALS  
TOWN OF DUNKIRK MAY 18, 2022  
MATT GRACE – TREE & LANDSCAPING FARM**

The Town of Dunkirk Zoning Board of Appeals held a Zoning meeting at 5:30 p.m. on Wednesday May 18, 2022 at the Town Hall, 4737 Willow Road, Town of Dunkirk with Scott Pagano presiding as Chairman.

**PRESENT:** Scott Pagano, Thomas Tarnowski, Michael Miller, Michael Bohn and Priscilla Penfold.

**ALSO, PRESENT:** Supervisor Richard Purol, Councilman Juan Pagan, Matt Grace and Kyle Coughlin, Zoning Clerk.

The Meeting was opened at 5:31 P.M. and started with the pledge to the flag.

Chairman Scott Pagano read the legal notice that was posted on May 6, 2022:

” **NOTICE OF ZONING BOARD MEETING**, please take notice that the Town of Dunkirk Zoning Board of Appeals will hold a meeting at 5:30 p.m. on Wednesday, May 18, 2022 at the Town Hall, 4737 Willow Rd. Town of Dunkirk, New York to consider the following appeal: **PETITIONER:** Matt grace is seeing a use variance to operate a landscaping tree farm at 10603 Brigham Rd. Town of Dunkirk. Located on Section 96.03; Bock 3; Lot 29 of the Chautauqua County Tax Map in the M1 High Tech Business District. In violation of the Town of Dunkirk Zoning Law – Article VIII; Section 52 Permitted uses and Structures. Any person, agent, or attorney may attend the meeting. All Interested persons shall be heard at said meeting. If you have any questions regarding the above, please contact me at the Town Clerk’s Office at 716-366-3967 ”

An affidavit of this posting is available in the clerk’s office.

No correspondence was received in regard to this variance.

Chairman Pagano explained to the applicant that the meeting was a 2-part meeting. The first part was for discussion and second was for only Zoning Board Member discussion.

**PART 1**

Chairman Pagano Asked Mr. Grace if he could explain what his plan is.

Mr. grace stated that his intentions were to update the property to convert it to a Christmas tree farm and landscaping business. He would be doing things such as top soil, mulch, sand, and stone. He stated that he would also like to put up another storage building in the property as well.

Member Miller asked where on the property would he like to do that.

Matt explained that he would put it on the far back left of the building and that is where he would also put the sand, stone and soil.

Member Tarnowski asked what the building was like that is currently on the property.

Mr. Grace stated that it wasn't the best but it would work for dry storage to keep things out of the elements. He stated that he intended to fix that building up and make it less of an eye sore.

Member Tarnowski then asked if he thought of putting up any signage.

Mr. Grace stated that he was not.

Member Penfold stated that when you drive down the driveway there is a small building on the right-hand side, she asked if that was on property.

Mr. Grace stated that it was.

Member Penfold asked if that was something he would utilize.

Mr. Grace stated that he would use it for the Christmas Tree Farm aspect.

Member Penfold then asked about the top soil, mulch etc. If that would be something that he would provide delivery or pick up as an option.

He stated that he would do mostly delivery but pick up options would be available.

Member Penfold pointed out that the proposed operation will require a lot of equipment, she asked if he had enough storage.

He stated that he did but he didn't at the same time. He explained that the proposed new storage building would make enough storage but in its current state there isn't enough. He stated the new building he has proposed would be more economical and modern opposed to the building that is there.

Member Tarnowski stated that it takes time to establish a tree farm.

Mr. Grace stated that it takes anywhere from 4-6 years to grow a tree that is sellable.

Member Penfold stated that there was some scrub pine on the property, she asked if that will have to be removed.

He stated that he would have to go through and brush hog and clean up all that stuff. He explained that the previous owner's operation ended in 2006 and all of the over growth had accumulated since then.

Supervisor Purol asked Mr. Grace if he lived on the property.

He stated that he did not.

Supervisor Purol stated that he asked that because he thought that if Mr. Grace wanted to add another building to the property that he would either have to live there or add on to the storage building that was already there.

Member Tarnowski asked if it would be considered a new build.

Members all agreed that the new building would be.

Matt explained that when he spoke to Ryan previously, he had stated that it was preferred that the buildings were not attached and that they were separate structures.

Members were unsure how to address this issue but Member Miller stated that they do not normally allow a building to be built that isn't a home on any given piece of property. He explained to members that there was already an existing building there though and because he was applying for a variance that would cover this issue.

Member Miller then asked Mr. Grace what size the building would be.

He stated that it would be 40 x 80 or 3200 sq. ft.

Member Miller stated that if they were to pass this the use variance would cover the business and the area variance would cover the additional storage building.

Mr. Grace explained that he had originally not applied for the area variance but due to the rise in costs associated with building but since the price had changed and at the bare minimum, he wanted to break ground if he could.

Chairman Pagano that they would go through the use variance and then go through the area variance and combine them together in a motion.

Member Tarnowski stated that he felt that they should do it that way so if he decided to move forward with the storage building, he could but if not, he could re-apply in a year.

Member Miller asked where the additional building would be located.

Matt said it would be located down the driveway in the back area to the left of the storage building that is there now.

Member Tarnowski then asked if it would be near his neighbor's property.

Matt stated that it would not, it would be located on the thruway side of the property.

Member Miller reminded Mr. Grace that he could not go too far bar because of zoning regulations.

Matt stated that he also couldn't due to the national grid power lines.

Chairman Pagano asked Matt if he had anything else to share with the board.

Mr. Grace presented two letters of correspondence from neighbors in favor of his project. These letters were added to the file within the clerk's office.

## **PART 2**

With no further discussion from the Zoning Board, they began reviewing the use variance application.

1. The applicant cannot realize a reasonable return, provided that the lack of return is substantial as demonstrated by competent financial evidence.

The Zoning Board agreed with the applicants answer of no because the property was purchased with a large amount of work needing to be done to make it usable for anything other than just owning a parcel of land.

2. The alleged hardship relating to the property is unique, and does not apply to a substantial portion of the district or neighborhood.

The Zoning Board agreed with the applicants answer that the property was purchased not knowing it uses or limitations.

3. The requested use variance, if granted will not alter the essential character of the neighborhood.

The Zoning Board agreed with the applicants answer that stated that no parking patterns or disruption of traffic flow, no excessive noise other than equipment tractors, mowers, and property will have regular maintenance and be visually appealing.

4. The alleged hardship has not been self-created.

The Zoning Board agreed that the applicants answer that stated the property was split in 2 with one half being classed as agriculture and the other as a business. It was unknown that there were limitations to this property.

The Zoning Board then went through the area variance application.

## **FACTORS CONSIDRED**

1. Whether undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties.

The Zoning Board agreed with the applicants answer of no because the surrounding properties also have pole barns and or barns that are similar.

2. Whether benefit sought by the applicant can be achieved by a feasible alternative.

The Zoning Board agreed with the applicants answer of no because he will need storage for equipment.

3. Whether the variance requested is substantial.

The Zoning Board agreed with the applicants answer of no because the size of the building is no bigger than others in the area,

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood.

The Zoning Board agreed with the applicants answer of no because he would be growing trees which would have positive environmental impacts and give an appealing aesthetic to the land.

5. Whether the alleged difficulty was self-created.

Th Zoning Board agreed with the applicants answer of no because the land was left in the current condition and he is enhancing the property and cleaning it up.

It was determined by the ZBA based on the factors above that the benefit to the applicant does outweigh the detriment to the neighborhood or community.

Chairman Pagano put a motion on the floor to grant Matt Grace a use variance to operate a tree farm and landscaping business and to also grant an area variance to construct a 40 x 80 or 3200 sq. ft. pole barn at 10603 Brigham Rd. in the Town of Dunkirk. A motion to grant both the use variance and area variance was made by Member Tarnowski. The motion was second by Member Miller

A roll call vote was taken.

AYE:  
Member Miller  
Member Tarnowski  
Chairman Pagano  
Member Penfold  
Member Bohn

NAY:

**ADJOURNMENT:**

A motion was made by Member Miller to adjourn the meeting. The motion was seconded by Chairman Pagano and carried. The meeting was adjourned at 6:25 p.m.

Respectfully submitted,

Kyle Coughlin  
Secretary to Zoning

APPROVAL OF MINUTES DATED May 18,2022 Matt Grace Use & Area Variance

Due to minutes of above meeting being mailed to all members of the Zoning Board of Appeals  
I the undersigned do hereby approve said minutes as mailed, or disapprove with comments below.

Signed 


APPROVAL OF MINUTES DATED May 18,2022 Matt Grace Use & Area Variance

Due to minutes of above meeting being mailed to all members of the Zoning Board of Appeals  
I the undersigned do hereby approve said minutes as mailed, or disapprove with comments below.

Signed 

APPROVAL OF MINUTES DATED May 18,2022 Matt Grace Use & Area Variance

Due to minutes of above meeting being mailed to all members of the Zoning Board of Appeals  
I the undersigned do hereby approve said minutes as mailed, or disapprove with comments below.

Signed 

APPROVAL OF MINUTES DATED May 18,2022 Matt Grace Use & Area Variance

Due to minutes of above meeting being mailed to all members of the Zoning Board of Appeals  
I the undersigned do hereby approve said minutes as mailed, or disapprove with comments below.

Signed 

APPROVAL OF MINUTES DATED May 18,2022 Matt Grace Use & Area Variance

Due to minutes of above meeting being mailed to all members of the Zoning Board of Appeals  
I the undersigned do hereby approve said minutes as mailed, or disapprove with comments below.

Signed 