

**VILLAGE OF PERRY  
ZONING BOARD OF APPEALS MEETING  
FEBRUARY 6, 2024**

Present:	Zach Kowasz	Member
	Bethany Zerbe	Member
	Meggan Quartz	Member
	Joe Rebisz	Member
	George Smith	Alternate
	Don Roberts	ZEO
	Christina Slusser	Zoning Secretary

Also Present:	Rick Hauser	Village Mayor
	Samantha Marcy	Village Administrator
	James Reynolds	Planning Board Chairperson
	David DiMatteo	Village Attorney
	Eli McWhinney	Village Attorney

Absent:	John Czyryca	Chairperson
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In the absence of Chairperson Czyryca, Zach Kowasz called the meeting to order at 6:30 pm and led in the Pledge of Allegiance.

George Smith will be a voting member in place of absent member John Czyryca. Village Clerk, Christina Slusser will confirm that all ZBA members have signed an oath of office for their current term.

**MINUTES**

Bethany Zerbe made a motion to approve the minutes from the last meeting on June 27, 2023 which was seconded by Joe Rebisz and carried with the following vote:

Ayes	5 (Zerbe, Rebisz, Kowasz, Quartz, Smith)
Nays	0
Abstain	0

**AMORTIZATION UPDATE**

The ZBA is in receipt of a proposed local law entitled “Amending §490-15 ‘Nonconforming lots, uses and structures’ to allow for amortization” and has an opportunity to review and provide comments on the draft. [Draft law attached.]

The most applicable method for amortization is the determination of a reasonable timeframe. The village attorney’s office put together a table of factors to consider when making that determination on a case-by-case basis. If the determination is unreasonable, the village will

face challenges, so a table which provides a set of criteria allows the method to be applied uniformly.

Comments included the consideration of documents not received so the ZBA can make a determination based on information provided. Mr. DiMatteo's office will make a revision to the third box describing capital investments or improvements based on the suggestion from James Reynolds to include a sub box for investments that go against the conforming use. Mayor Hauser prefers a baseline number of years with the opportunity for an owner to appeal that number based on information in the table. The key is that the law must be applied uniformly to all. As written in the current law, the ZBA has the ability to hire experts at the applicant's expense to assist in making determinations.

The Planning Board has been working on recommendations to rezone properties to fit their intended use. Underutilized parcels are being considered for rezoning to encourage more housing. If lower quality housing is removed, the goal is to create more and higher quality housing.

As an example of first floor residential use, Wellsville uses a calculation, measuring the building, not the lot where the first 60% of space needs to be commercial and the remaining is allowed for use as residential if enough room is available. Appeals could be made to the ZBA if a desired use did not fit within the calculation.

Mr. McWhinney pointed out that the law is drafted so that it could be applied anywhere in the village. The law requires clarification to narrow it to the C1 district as intended. The comprehensive plan is in line with the village's plans and the goal is to move forward with a law which will not surprise property owners and will complete the synergy of the village in the C1 district. A diagram will be included with the law to demonstrate the intensions of the first-floor calculation.

Zach Kowasz questioned if a baseline could be built into the law as something to fall back on if all requested information was not received from an owner. Mr. McWhinney feels more comfortable with that approach which offers the owner a chance to provide information first. Mr. DiMatteo added that tables are fine for the law, but it needs to include language for a decision.

With no further business, motion to adjourn was made by Bethany Zerbe at 7:44pm which was seconded by Joe Rebisz and carried.

Respectfully submitted  
Christina Slusser,  
Village Clerk, Zoning Secretary