

A Regular Meeting of the Zoning Board of Appeals was held on Thursday, August 10, 2023 at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 pm.

PRESENT: Daniel Bassette  
Dustin Cichon  
Christian Mahood  
Stephen Tudhope

ABSENT: Stephen Tudhope

ATTORNEY: David Hou

OTHERS: Town Councilperson, Tom Dubois

Minutes were taken by Katrina Allen.

Mr. Bassette opened the meeting at 7:00 pm.

**MINUTES**

Mr. Mahood moved, seconded by Mr. Cichon to approve the minutes as amended from July 27, 2023 Zoning Board of Appeals meeting.

**APPROVED**

Mr. Bassette – aye; Mr. Mahood – aye; Mr. Cichon – aye and Mr. Maxon – abstained.

**FLOWERS BY STEVE, LLC APPEAL OF THE CEO’S INTERPRETATION OF THE CODE PUBLIC HEARING**

The Zoning Board of Appeals will consider rehearing and supplement their determination dated May 25, 2023 regarding an application by Steven and Jenny Goodemote of Flowers by Steve, LLC, 5240 Overlook Lane, Canandaigua, NY 14424 for property located at 977 Mile Square Road, Pittsford, NY, consisting of 2.61 acres, bearing Tax Account No. 206.03-1-1.2. Zoned RA5, requesting a review of the Code Enforcement Officer’s interpretation of Section 260-13 (B) of the Zoning Ordinance which states any use not specifically permitted is prohibited. The Goodemotes are operating an un-hosted short-term rental at 977 Mile Square Road. \_

Mr. Bassette said the Board is voting to rehear the application to make their determination more clear.

The Board had no questions.

Mr. Bassette read the determination. The Board had no comments.

**MOTION**

Mr. Cichon moved, seconded by Mr. Maxon to approve the determination.

**APPROVED**

Mr. Bassette – aye; Mr. Mahood – aye; Mr. Maxon – aye; and Mr. Cichon – aye.

**RESOLUTION****FLOWERS BY STEVE, LLC; 977 MILE SQUARE ROAD**

**WHEREAS**, an appeal and interpretation request by Flowers by Steve, LLC (the "Appellant"), 977 Mile Square Road, Mendon, New York (the "Property") was received by the Clerk of the Town Zoning Board of Appeals ("ZBA" or "Board") on August 29, 2022, appealing Town Code Enforcement Officer ("CEO") Corey Gates' Notice of Potential Zoning Violation letter dated August 1, 2022 (the "Determination"), which held that the Owner's serial short-term rental business operation was in violation of Town Code § 260-13 (B), that serial short-term rentals were not a specifically permitted use in an RA-5 Residential Agricultural District; and

**WHEREAS**, the ZBA is authorized to hear appeals from such determinations and the ZBA may reverse or affirm, wholly or partly, or may modify the determination appealed from and make such determination as in its opinion ought to be made and, to that end, shall have all the powers of the officer from whom the appeal is taken, pursuant to Town Law § 267-b (1), and Town Code § 260-91 (A)(2), and the ZBA conducted a duly-noticed public hearing in accordance with the law on May 11, 2023, at which the Appellant and/or its representatives and members of the public were present and afforded opportunity to be heard; and

**WHEREAS**, at said public hearing(s) all who desired to be heard were heard and their statements and any submissions they wished to make were received into the record of the proceedings; and

**WHEREAS**, this appeal is classified as a Type II action under Section 617.5 (c)(37) of the New York State Environmental Quality Review Act and therefore does not require further SEQRA action; and

**WHEREAS**, the Board has carefully considered the appeal and all of the statements and submissions by the Appellant, the CEO, the Town, and all others who wished to be heard; and upon consideration of the record and the Town Code, after due deliberation thereon, rendered a Decision in this matter on May 25, 2023, affirming the CEO's Determination and finding that the Appellant's short-term rental use is not a permitted use in an RA-5 Residential Agricultural District without a special use permit; and

**WHEREAS**, the Board has become aware that Appellant has commenced a Civil Practice Law and Rules Article 78 proceeding against CEO Corey Gates and the Town of Mendon and its Zoning Board of Appeals filed in Supreme Court for Monroe County on June 5, 2023, Index No. E2023005825, asserting among other claims that the Board's Decision of May 25, 2023, was arbitrary and capricious and contrary to the Town Code; and

**WHEREAS**, the Board is now required by law as part of the Article 78 proceeding to prepare an administrative return and answer in order to defend against such claims; and

**WHEREAS**, the Board has reviewed matters relevant to the court proceeding with the Town Attorney and has concurred with counsel that some clarifications of its actions and reasoning are in order with regard to its aforesaid Decision on Interpretation to rebut the claims made in the Appellant's Article 78 proceedings that the Board has acted in an arbitrary and capricious manner and to include some information and eliminate issues based on possible confusion about parts of the Board's process and explanations for the findings and conclusions made; and

**WHEREAS**, the Board has not previously reheard this matter;

**NOW, THEREFORE, BE IT RESOLVED**, upon the motion of Dustin Cichon and the unanimous consent of all members of the Zoning Board of Appeals for the Town of Mendon present, that the appeal and interpretation request by Flowers by Steve, LLC, 977 Mile Square Road, Mendon, New York, shall be reheard at the next regularly scheduled meeting upon compliance with all notice requirements and Town Law § 267-a (12).

Daniel Bassette	Aye
Stephen Maxon	Aye
Dustin Cichon	Aye
Christian Mahood	Aye

Approved: 4 Ayes, 0 Nays

**DANIEL BASSETTE**, Chairperson of the Zoning Board of Appeals, hereby certifies that the foregoing Resolution was duly adopted at a meeting of the ZBA duly convened and held on August 10, 2023, a quorum being present.

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Daniel Bassette, Chairperson  
Zoning Board of Appeals

**MICHELLE BOOTH**, Town Clerk of the Town of Mendon, hereby certifies that the foregoing Resolution was duly filed in her office on August \_\_\_\_, 2023.

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Michelle Booth, Town Clerk  
Town of Mendon

**GENERAL DISCUSSION**

The Board discussed the rehearing is August 24, 2023, and Michelle Booth will fill in for Secretary Katrina Allen.

**MOTION**

Mr. Maxon moved, seconded by Mr. Mahood to adjourn the meeting at 7:05 pm.

**APPROVED**

Mr. Bassette – aye; Mr. Mahood – aye; Mr. Maxon – aye; and Mr. Cichon– aye.