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Paul Economos
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4/5/2024

Peter McKnight, Chairman
Town of Hurley Planning Board
PO Box 569
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Re: Never Alone, referral to PB
47.3-2-11.1

Chairman McKnight,

Please be advised that that I have reviewed the property file in some detail as time has allowed. I am happy to assist as requested in your letter dated Thursday 28, March 2024.

Your request: "please expand on your determination"

-The language in the annexed Exhibit A is not in the form of a resolution, but instead is a letter from the Planning Board Chairman to the Building Department (June 2, 1992). However, I understand it in context.

-Exhibit B, letter from Counselor Darwak to Planning Board Chairman states that "the premises in question presently constitute a pre-existing non-conforming use" and continues that "site plan approval alone would be sufficient".

-The Planning Board resolution dated January 27, 2005 (with a revised date of March 23, 2005) uses the terms "site plan amendment" and "site plan approval" concomitantly.

This resolution is at odds with Counselor Darwak's 1990 opinion that the use of Never Alone "most closely approaches that of a Hospital, Nursing Home, Convalescent Home, Sanitarium, Institution or Philanthropic Use" as it states that the use is a "social services facility". This is the only determination that specifically classifies the use from a Town authority, Counselor Darwak having offered an advisory opinion only. As it stands, no former building inspector or zoning official, myself included, has ever specifically classified the use under those listed in the Table of Use Regulations. In response to your question, my reasoning that the facility is a non-conforming use is that it was recognized as such by the Planning Board in 1992 and the subsequent review was conducted accordingly.

My expanded, formal determination is as follows:

1. The use of Never Alone was incorrectly classified at times in the past as a “school”, cited as such on page two of your letter.
2. As per the Planning Board resolution from 2005 (prepared by Miles Putman of Shuster & Associates – I was at that meeting), approval was granted based on the use being a *social services facility*.
3. The use is in fact a *social services facility* which is listed in the Standard Industrial Classification Manual as Major Group 83, subgroup 8361. The Table of Use Regulations, however incomplete, was derived from this manual.
4. The Table of Use Regulations does not include “social services facility”. Consequently, there is no statutory language found in the zoning specific for your review. I understand this is an area of great importance.
5. The current submission that is the subject of your letter is for a building that is to be used accessory, and customarily incident, to the principal use.
6. The Table of Use Regulations lists “Accessory use customarily incident to any of the uses mentioned herein and on the same lot” as permitted by right in all districts; my determination is that while social services facility is NOT *mentioned herein*, the intent is unequivocally clear that accessory uses are not subject to referral to the Planning Board. Therefore, I will advise the applicant that the submission should be withdrawn, and the project will be handled ministerially through my office.

I know that you and the Planning Board have devoted considerable time and energy to this review which, as it turns out, was unnecessary, and for this you have my sincere apology.

Respectfully submitted,



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