

Meeting of the Planning Board of the Town of Lewisboro held at the Justice Court at 79 Bouton Road, South Salem, New York on Tuesday, January 15, 2019 at 7:30 p.m. The audio recording of this meeting is 190115_001.

Present: Jerome Kerner, Chair
Janet Andersen
Greg La Sorsa
Maureen Maguire
Rich Sklarin
Judson Siebert, Esq., Keane & Beane P.C., Planning Board Counsel
David J. Sessions, RLA, AICP, Kellard Sessions Consulting, Town Wetland Consultant
Ciorsdan Conran, Planning Board Administrator
John Wolff, Conservation Advisory Council (CAC)

Mr. Kerner called the meeting to order at 7:30 p.m. and noted the exits. He thanked John O'Donnell for his service on the Board and welcomed Maureen Maguire back on the Board.

I. PUBLIC HEARING

Cal #08-17PB, 16-17SW

(1:17 – 4:13)

Oakridge Commons, 450 Oakridge Commons, South Salem, NY 10590, Sheet 49D, Block 9829, Lot 10 (Smith Ridge Associates, owner of record) - Application for Site Plan Review for construction of a daycare and installation of a car wash.

Bob Eberts, R.A., Cross River Architects; was present on behalf of the owner.

The Chair announced the continuation of the public hearing and asked if there were any objections to the time, place or advertisement of the public hearing. No objections were raised.

Mr. Sessions cited the Kellard Sessions memo, dated January 9, 2019, and one of the outstanding items that requires more information is the reclaimed effluent qualities.

Mr. Eberts stated that he will continue to try and contact Bill Bright, Delaware Engineering, and return with responses from Mr. Bright as well as Westchester County Dept. of Health (DOH).

The Board reached consensus to continue the public hearing at its February 26, 2019 meeting.

II. WETLAND VIOLATIONS

Cal #01-18WV, #76-18WP

(4:24 – 8:08 and 16:40 – 17:31)

Potz Residence, 1178 Route 35, South Salem, NY 10590, Sheet 27, Block 10805, Lot 29 (Siegfried and Karen Potz, owner of record)

Jack Potz, owner, was present.

Mr. Sessions stated a field visit was made, wood chips have been spread to an acceptable depth and the site is stable.

Mr. Siebert stated the next steps include: issuance of a Wetland Certificate of Completion, the applicant to supply an itemization of costs incurred and place this matter on the next agenda for adjudication.

The Board reached consensus that the applicant is to return before the Board at its February 26, 2019 meeting.

III. EXTENSION OF TIME REQUEST

Cal #8-12PB

(8:23 – 10:19)

Petrucelli/Badagliacca, Oscaleta Road, South Salem, NY 10590 Sheet 33B, Block 11157, Lot 46 (Steven Petrucelli and Teresa Badagliacca, owners of record) - Request for a 90-day Extension of Time to resolution granting Preliminary/Final Subdivision Plat, Negative Declaration Under SEQRA, dated October 21, 2014.

Michael Sirignano, Esq. was present on behalf of the owners.

Ms. Andersen recused herself.

Mr. Sirignano requested a 90-day extension.

Mr. Siebert stated he met with Mr. Sirignano before Thanksgiving to discuss technical issues to complete the subdivision.

Mr. Sirignano stated following Mr. Rudolf Petrucelli's death his children have title to the property.

On a motion made by Mr. La Sorsa, seconded by Mr. Sklarin, the Board granted a 90-day extension to the Resolution granting Preliminary/Final Subdivision Plat dated October 21, 2014; the new expiration date is April 8, 2019.

In favor: Mr. Kerner, Mr. La Sorsa, Ms. Maguire and Mr. Sklarin. Abstain: Ms. Andersen.

IV. WETLAND PERMIT REVIEW

Cal# 92-18WP

(10:30 – 16:27)

Lean-to in Onatru Preserve, Elmwood Road, South Salem, NY 10590, Sheet 44, Block 10302, Lot 14 (Town of Lewisboro, owner of record) – Application from an Eagle Scout for a lean-to.

Christopher Castellon, Eagle Scout candidate, was present on behalf of the Town.

Mr. Castellon stated his proposal is to construct an 8' x 12' lean-to at the Onatru Preserve and he is applying for a Town Wetland Permit as the site is within the 150' wetland buffer. He noted the lean-to is a kit of wood logs, topped with regular roof shingles and sits on a 5" gravel base. Mr. Castellon stated power tools would not be used. He noted the structure can be used as an outdoor classroom and for overnights. Mr. Wolff stated camping is permitted at the Onatru Preserve and that area was left for use by the Scouts BSA.

Mr. Castellon stated bathroom facilities are located across the street at Onatru Farm. Mr. Kerner requested Ms. Conran contact the Parks and Recreation Dept. regarding access to bathrooms.

Mr. Sessions noted that a Dept. of Environmental Conservation (DEC) permit is not required.

On a motion made by Ms. Andersen, seconded by Mr. Sklarin, the Board determined that the construction of a wooden lean-to in Onatru Preserve, Elmwood Road, South Salem, will be handled administratively under a permit issued by the Wetlands Inspector with the condition that Ms. Conran contact the Parks and Recreation Dept. regarding access to bathrooms.

In favor: Ms. Andersen, Mr. Kerner, Mr. La Sorsa, Ms. Maguire and Mr. Sklarin.

V. SKETCH PLAN REVIEWS**Cal #10-17PB**

(17:32 – 52:59)

Mercedes Benz of Goldens Bridge, 321 Main Street, Goldens Bridge, NY 10526, Sheet 4E, Block 11135, Lots 1, 2, 3, 4, 6 & 7 (Charisma Holding Corp., owner of record); Sheet 4E, Block 11135, Lot 5 (Spencemorg, LLC., owner of record) and Sheet 4E, Block 11137, Lot 42 (Robert Castelli, owner of record) – Application for Site Plan Review for additions to existing auto showroom and service buildings, additional parking spaces and construction of a parking garage.

Stephen Spina, P.E., John Meyer Consulting (JMC); and Michael Sirignano, Esq.; were present on behalf of the owner.

Michael Galante, FP Clark, traffic consultant to the Town, was also present.

Mr. Galante reviewed his traffic report letter, dated January 8, 2019, noting the additions to the sales showroom and service center will add 50 - 60 vehicle trips per day during peak hours and he agrees with the applicant's use of local data as compared with the higher volumes from the Institute of Transportation Engineers (ITE). He noted he needs to study the accident data and recommends the applicant consider only one driveway located southerly on Route 22. Mr. Spina stated he has contacted the Department of Transportation (DOT) for accident data and will submit that information along with a corrected traffic report. He noted the second curb cut is necessary to ease traffic flow for customers, fire trucks, garbage haulers and vehicle carriers within the property and eliminates trucks backing out onto Route 22.

Mr. Galante stated the T-intersection at Routes 22 and 138 has a Level of Service of 'F' during the morning commute and there would be a several second increase in delay at that stop sign. Mr. Spina stated the JMC analysis includes both Wilder Balter and the expansion of the Goldens Bridge Shopping Center in the vehicle calculations.

In a discussion over the need for parking space, Mr. Sirignano stated customers are shopping online and visits to showrooms are down but MB corporate mandates having every model available. Mr. Kerner noted that the increase in showroom space and signage is contradictory to the increase in online shopping and that over half of the variances relate to additional parking and the corporate requirements. He recommended the applicant reexamine the amount of parking. Mr. Sirignano agreed to discuss this recommendation with his client.

The Board discussed the purchase of the two additional parcels, the rezoning request before the Town Board and referring this matter to the ZBA. Mr. Sirignano stated neither the Town Board nor the ZBA can take action before this Board makes its NY State Environmental Quality Review Act (SEQRA) determination. Mr. Siebert stated feedback from the ZBA could inform this Board when making its SEQRA determination as the ZBA has to weigh the benefit to the applicant against the impact on the surrounding area.

The Board reached consensus to refer the application to the Town Attorney with regard to the ZBA.

Mr. Sirignano invited Ms. Maguire to visit the site. Mr. Spina stated that every new submission is sent to the Lewisboro, Katonah and Pound Ridge Library and MB if GB continues to update the website: <http://mbgbapproval.com/>

Mr. Siebert stated he would contact the ZBA.

Mr. Spina stated he would submit a revised traffic report, lighting plan and address Kellard Sessions' outstanding comments for the February meeting.

Cal#10-18PB

(53:03 – 1:02:30)

Sanz Residence, 15 Sullivan Road, Waccabuc, NY 10597, Sheet 12, Block 11137, Lot 31 (Stephanie and Parris Sanz, owner of record) and Sheet 12, Block 11137, Lot 117 (North Salem Open Land Foundation, owner of record) - Application for lot line change.

Parris Sanz, owner, and Jocko McKean, North Salem Open Land Foundation (NSOLF), were present.

Mr. Sanz stated he purchased the property in May 2016 and prior to that there had been a fence line dispute with the neighboring property, known as the Marx Preserve, which is part of the North Salem Open Land Foundation. He is proposing to convey 1.6 acres to the NSOLF and he would receive .94 acres from the NSOLF which will have a conservation easement.

Mr. Sessions requested an EAF, Part 2 and a copy of the DOH's Letter of No Objection.

The Board reached consensus to waive a public hearing and to have the consultants draft a resolution for the February 26, 2019 meeting.

VI. EXTENSION OF TIME REQUEST, CONTINUED

Cal #1-16 SW, Cal#1-16 WP

(1:02:35 – 1:02:51)

Lichtman Residence, 192 Kitchawan Road, South Salem, NY 10590, Sheet 45, Block 10300, Lot 012 (Aaron Lichtman, owners of record) - Application for demolition and removal of existing five-bedroom house and cottage. Application for Wetland Activity Permit and Stormwater Permit for the construction of a new five-bedroom house, garage, courtyard and modified driveway.

Aaron Lichtman, owner, was present.

Mr. Kerner stated the application was complete and there was no need for an extension of the Wetland Activity and Stormwater Permits.

VII. WETLAND PERMIT REVIEW, CONTINUED

Cal# 92-18WP, Cal# 12-18SW

(1:02:55 – 1:15:36)

Groff Residence, 5 Schoolhouse Road, Waccabuc, NY 10597, Sheet 22, Block 10802, Lot 69 (Christine Groff, owner of record) – Application for Wetland Activity Permit and Stormwater Permit for the construction of a new 6-bedroom house, barn, garage, pool and patios.

Christine Groff, owner; and Jeremy Rainato, CPESC, Rain Concepts Corp.; were present.

Mr. Rainato stated that during the construction of an addition last year, a horizontal foundation crack developed and the applicant chose to demolish the house and construct a new residence which will be entirely outside of the wetland buffer. He noted the impervious surface area decreases by 7,000 sf, the proposed new house location is zoning compliant, the existing well is to be abandoned and a new potable well plus geo-thermal wells are to be drilled. Mr. Rainato stated the DOH has approved the new septic and he will submit a revised SWPPP showing additional erosion control.

Ms. Groff stated the existing two-car garage has a permitted accessory apartment on the second floor.

Ms. Andersen asked about additional mitigation near the pond such as native plantings. Mr. Rainato stated he was reluctant to cause disturbance near the pond. Mr. Sessions noted the mitigation plan is to be revisited before finalizing and a no-mow area could be included to promote nutrient capture.

The Board reached consensus to waive a site visit and public hearing.

On a motion made by Ms. La Sorsa, seconded by Mr. Sklarin, the Board determined that the construction of the Groff residence at 5 Schoolhouse Road, Waccabuc, will be handled administratively under a permit issued by the Wetlands Inspector with the condition that the applicant supply a revised mitigation plan.

In favor: Ms. Andersen, Mr. Kerner, Mr. La Sorsa, Ms. Maguire and Mr. Sklarin.

VIII. DISCUSSIONS OF TOWN BOARD PROPOSALS TO AMEND LEWISBORO TOWN CODE
(1:15:40 – 2:09:27)

Town Board to amend Sections 220-2, 220-23(A), 220-32(B) and to enact Section 220-43.6 - in order to allow accessory winery as a Special Use in residential districts.

Jason Krellenstein, Esq., Tom Gossett, owner of Gossett Brothers Nursery; and John Vuolo, owner of South Salem Winery (located at Gossett Brothers Nursery), were present.

Mr. Krellenstein stated this is a proposal for a new type of business in town and since the Board's November 20, 2018 meeting, he supplied the Board with similar statutes from other NY towns. He noted this matter was before the Town Board twice and now twice before this Board and no negative comments have been received from those Boards, the Building Inspector or the Westchester County Planning Board (WCPB).

Ms. Andersen stated she supports some of the proposed limitations – located in an agricultural district on a state road, have State Liquor Authority and DOH approvals – but asked if the products should be broadened to include cheese, mead, and/or beer so that other sites could benefit from this new legislation. Mr. Krellenstein stated his client was not averse to broadening the scope of products and suggested those suggestions could be included in the Board's letter to the Town Board.

Mr. La Sorsa reinstated he was not comfortable with recommending a zoning code, making Lewisboro the Winery Capital of Northern Westchester and would prefer the applicant apply for a variance. Mr. Krellenstein noted that to receive a variance the applicant would have to prove their business would no longer be successful without the winery.

Mr. Kerner noted that the Board would have purview over accessory wineries as they would come before the Board for a Special Use permit. Mr. Krellenstein noted that the draft law has the applicant appear before the ZBA rather than the Planning Board for a Special Use permit. Mr. Siebert stated this was not spot zoning as other sites could meet the criteria and the Town Board will determine the scope of products and the Board was asked to opine on the petition as presented.

Mr. Krellenstein read from the Town Code, §220-80 (Planning Board Review) "Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon...." Mr. Siebert stated the report can reflect that while the Board supports the petition it wants to avoid a proliferation of wineries and will review hours of operation, parking standards and neighborhood impacts under the special use permit application process.

Ms. Maguire stated there are only a few locations in town that meet both the state road and agricultural district requirement but she is concerned about locating wineries in residential areas and also an increase in drinking and driving.

Mr. Krellenstein stated new commerce will be good for the town, South Salem Winery has been operating without additional complaints and the ZBA oversees agricultural businesses.

Mr. Siebert read from the Town Code, §220-32E and F (Special Permit Uses) "(1) The location and size of the use, the nature and intensity of the operations..., the size of the site... and the location of the site with respect to streets giving access to it, are such that it will be in harmony with the appropriate and orderly development of the district...." and stated he will draft a report for the Board for review at the Board's January 24, 2019 meeting.

IX. WETLAND PERMIT REVIEW, CONTINUED**Cal #04-18WV**

(2:09:40 – 2:28:40)

Lordi Residence, 2 Cheyenne Court, Katonah, NY 10536, Sheet 10, Block 11152, Lot 140 (William and Marianne Lordi, owners of record)

Marianne Lordi, owner, was present.

Ms. Lordi stated she has contracted for a digital survey to be done and she has sticks marking the wetland delineation. She added that her consultant, Beth Evans, will present a planting plan to the Board when complete.

Mr. Siebert noted Ms. Lordi has not entered a plea nor submitted a wetland application and that needs to be submitted as planting season is coming soon. He recommended the Board set a hearing date for this wetland violation to be adjudicated and a civil penalty (if any) to be levied.

After inquiry from Mr. Siebert, Ms. Lordi entered a guilty plea. A signed plea was submitted to the Planning Board Administrator.

Ms. Lordi stated she will submit an application by February 12th. Mr. Sessions stated the escrow is for the Town's consultants time reviewing Ms. Evans' work and conducting field visits. Ms. Lordi stated she has incurred \$8,000 of costs already. Mr. Siebert stated that Ms. Lordi can submit her costs to aid the Board in its determination of a fine.

The Board reached consensus to adjourn the matter to its March 19, 2019 meeting.

X. REQUESTS FOR RELAXATION ON SEPTIC REQUIREMENTS PER PLANNING BOARD RESOLUTIONS AND WETLAND PERMITS

(2:29:01 – 2: 35:49)

Ms. Conran stated that of the ten residents that had requested relaxation on septic requirements and were sent wetland applications to amend their existing permits, one had picked up a blank application but not submitted and two other residents voiced their opinion that the amendment process was unfair.

Mr. Sessions recommended a letter could be sent out requesting updated septic inspection/pumping data and note that failure to do so would result in a notice of violation. Ms. Conran stated that of the 52 households with this requirement 32 are compliant and she will send out another batch of letters.

Mr. La Sorsa recommended sending out wetland violations to the oldest first.

Mr. Siebert stated there is no specific wetland violation fine in the Town Code but historically there were substantial fines. He noted a fine viewed as excessive could result in an Article 78 and the Town cannot place a lien on the property.

XI. DISCUSSION**2019 Meeting Dates and Deadlines**

(2:35:50 – 2:36:56)

On a motion made by Mr. Sklarin, seconded by Mr. La Sorsa, the regular 2019 Meeting Dates calendar dated January 7, 2019, was adopted.

In favor: Ms. Andersen, Mr. Kerner, Mr. La Sorsa, Ms. Maguire and Mr. Sklarin.

The Board reached consensus to start the January 24, 2019 meeting at 7 p.m. and it will include an executive session.

Mr. La Sorsa stated members need to be cognizant of and abide by the 11 p.m. curfew.

XII. MINUTES OF January 16, 2018; MINUTES OF February 27, 2018; MINUTES OF March 20, 2018; MINUTES OF March 27, 2018; MINUTES OF April 17, 2018, MINUTES OF June 19, 2018, MINUTES OF July 21, 2018 MINUTES OF August 14, 2018; MINUTES OF August 21, 2018; MINUTES OF September 11, 2018; MINUTES OF October 16, 2018; MINUTES OF November 20, 2018 and MINUTES OF December 18, 2018.

The Board did not discuss the unapproved minutes.

XIII. ADJOURNMENT

(2:37:50 – 2:38:19)

On a motion made by Mr. Sklarin, seconded by Ms. La Sorsa, the meeting was adjourned at 10:07 p.m.

In favor: Ms. Andersen, Mr. Kerner, Mr. La Sorsa, Ms. Maguire and Mr. Sklarin.

Respectfully Submitted,



Ciorsdan Conran
Planning Board Administrator