

TOWN OF CORTLANDVILLE PLANNING BOARD
Minutes of Regular Meeting - Tuesday, 26 July 2016 - 7:30 PM
Town Hall Board Room - 3577 Terrace Road - Cortland, NY

Board Members (*absent)

Katherine Wickwire, Chairperson
Christopher Newell
Nicholas Renzi
John M. Finamore
John A. DelVecchio

Others Present

Bruce Weber, Town Planning/Zoning Officer
Joan E. Fitch, Board Secretary
John B. Folmer, Town Attorney
John Proud, Town Councilman

Applicants & Public Present

David McMasters, Applicant; Attorney Patrick Snyder; John Machuga for HEP Sales, Applicant; Rick & Pat Race, Bud Harter, Andrea Niggli, Barbara & Pat Leach, Larie & Bill Cifaratta; Chuck & Cheri Sheridan; Peg Baccaro, Victor Siegle, Mike & Mickey Gibbons, Pam Jenkins; Sharon Stevans (Ch. 2 Volunteer).

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| REGULAR MEETING |
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The Regular Meeting of the Town of Cortlandville Planning Board was called to order at 7:30 p.m. by Chair Katherine Wickwire.

APPROVAL OF MINUTES - 28 JUNE 2016

A motion was made by Member Chris Newell to approve the Town of Cortlandville Planning Board's Minutes of 28 June 2016, as submitted. The motion was seconded by Member Nick Renzi, with the vote recorded as follows:

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| Ayes: Chair Wickwire Member Newell Member Renzi Member Finamore Member DelVecchio | Nays: None |
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Motion carried.

This becomes Action #49 of 2016.

OLD BUSINESS

Suit-Kote Corporation, Applicant/Reputed Owner - 3715 US Route 11 (Polkville) -TM #s 97.02-01-10.000 & 11.000 - Conditional Permit for Proposed Construction Staging Area

(Reference is made to the May and June Minutes of this Board for additional information regarding a requested Conditional Permit. At the June meeting, the matter was postponed until this meeting of the Board in order to give additional time to prepare a final plan for the Board's review.)

PZO Bruce Weber advised those present that he had not heard from the applicant, written or oral. He offered to check with them tomorrow to see what their plan is; maybe they are totally abandoning their plan. He will ascertain the status and report at the next meeting.

No Action Taken.

Royal Nissan Subaru, Applicant/654 Rt. 13, LLC, Reputed Owner – 654 NYS Route 13 – Conditional Permit & Aquifer Protection District Special Permit for Proposed Dealership

It is noted for the record that the applicant is not ready to appear before the Board, and will notify PZO Weber when that time comes.

No Action Taken.

NEW BUSINESS

David McMasters, Applicant/David & Jennifer McMasters, Reputed Owners – 4216 McCloy Road – TM #85.00-05-05.211 – Special Permit for Proposed Pond

Chair Wickwire recognized the applicant and his attorney Patrick Snyder. Attorney Snyder stated that the applicant was in the process of obtaining a NYSDEC Mining Permit to construct a pond on his property as indicated on the Mining Plan accompanying the application; the Permit is expected within a few days. The excavated materials (approximately three truckloads per day) would be removed in accordance with the DEC's Mining Permit. Attorney Snyder submitted a 21 June 2016 letter to PZO Weber, a copy of which has been placed on file for the record, which transmitted the application for a Special Permit and explained the jurisdiction of this Planning Board. He also noted that the SEQRA requirements have been completed by the Lead Agency, the NYSDEC; a Negative Resolution resulted.

In response to Member Renzi's question regarding the Town's Code in dealing with mining, PZO Weber explained that the technical details in the Town's Ordinance are overridden by the State. This Board considers: the hours of operation, etc. Attorney Snyder stated that there would be no mining on the weekends.

Chair Wickwire commented that she thought, originally, the applicant was going to build a recreational pond for his family. Mr. McMasters stated that this is what the pond is for, but since he's taking the excavated material offsite, he needed the permits. Member John DeVecchio commented on Judge Campbell's ruling regarding this matter, and he would like to see what the State Law says. At the conclusion of the discussion, it was acknowledged that a Public Hearing must be held. In addition, PZO Weber stated there are some things that State Law is going to override and he read them aloud. Regarding restoration, he did not know if the Town can still require a bond; that's a legal question the Town Attorney could answer.

At the conclusion of the discussion, **a motion was made by Member Chris Newell to set a Public Hearing for 13 September 2016 at 7:30 p.m. regarding the Special Permit for the proposed pond. The motion was seconded by Member Renzi, with the vote recorded as follows:**

**Ayes: Chair Wickwire
Member Newell
Member Renzi
Member Finamore
Member DeVecchio**

Nays: None

Motion carried.

This becomes Action #50 of 2016.

Leach Properties, LLC, Applicant/Reputed Owner – Loring Crossing Road – TM #s 77.00-04-11.111 & 112 – Request from ZBA to Act as Lead Agency Under SEQRA – Proposed Access Drives

PZO Weber explained to those present that the Town's Zoning Board of Appeals, at their meeting prior to this one, requested that this Board act as Lead Agency under SEQRA for this application. They also indicated that the application should be forwarded to County Planning for their review.

In response to Member Renzi's confusion regarding this application, PZO Weber explained that the Court found that the use variance was granted by the Town ZBA without the SEQRA being done. In

order to follow the Court's ruling, he explained, the ZBA is asking the Planning Board (also an involved agency) to be the Lead Agency for the SEQRA determination. The ZBA will not act until such time as that determination is made.

Town Attorney John Folmer explained that, as he understood it, this is a new application and is somewhat different than what was before the ZBA previously. If the Town Planning Board agrees to be Lead Agency under SEQRA, the application returns to the ZBA after the SEQRA review is complete. PZO Weber then added: "The original application does not exist as it was thrown out by the Court."

Member John DelVecchio then voiced his concerns. An appeal was filed by Mr. Leach's attorney and, technically, it's still in litigation. He would like to wait until the judge makes his decision; the Notice of Appeal has been filed. Town Attorney Folmer agreed that "the old litigation is still pending." He then explains the options the Court has. The ZBA needs to know the outcome of this litigation before they can act.

Town Attorney Folmer advised the Board, "It would not be inappropriate for you to table this until such time as you've heard what Judge Cerio did. Secondly, between now and the next ZBA meeting, we can decide whether or not they can deal with the non-environmental issues that are appending in the new application and, lastly, if they can do that and they make a determination that does not let this go forward, that's the end of it; you won't have to worry about being a SEQRA agency for anybody. In the final analysis, the last thing I would say is, with all due respect to Mr. Lewis, I think that his attempt to tell you what your time frame is and should be is improper and not appropriate."

At the conclusion of this extremely lengthy discussion, **a motion was made by Member Newell that the request for the Planning Board to act as Lead Agency under SEQRA regarding the proposed access drives is tabled until the 13 September 2016 meeting of this Board to (1) see what the Town's ZBA will do relative to non-environmental issues, and (2) if Judge Cerio has rendered his decision.. The motion was seconded by Member Renzi, with the vote recorded as follows:**

**Ayes: Chair Wickwire
Member Newell
Member Renzi
Member Finamore
Member DelVecchio**

Nays: None

Motion carried.

This becomes Action #51 of 2016.

John Machuga/HEP Sales, Applicant/HS Associates, LLC, Reputed Owner – 797 NYS Route 13 – TM #105.00-03-04.000 – Conditional Permit for Proposed Storage Building

Chair Wickwire recognized the applicant who is seeking a Conditional Permit to construct a 64 ft. by 144 ft. storage building, with ends, at the location shown on the drawing accompanying the application. A customer will be able to drive through the building to pick up lumber, he stated. Mr. Machuga stated that HEP is "losing product" because of the way it is currently stored. End caps, he stated, will match the existing main building, and so will the paint color. The existing trees will also remain, and the parking lot will be gravel.

With no further discussion, **a motion was made by Member Renzi to approve the Conditional Permit for the proposed 64 ft. by 144 ft. storage building, as requested. The motion was seconded by Member Newell, with the vote recorded as follows:**

**Ayes: Chair Wickwire
Member Newell
Member Renzi
Member Finamore
Member DelVecchio**

Nays: None

Motion carried.

This becomes Action #52 of 2016.

Lena P. Warren Trust, Applicant/Reputed Owner – Valley View Drive – TM #85.19-01-14.200 – Lot Line Adjustment

(Board Member DelVecchio recused himself from this matter as he represents the applicant in this matter.)

Chair Wickwire recognized Attorney John A. DelVecchio, representing the applicant who was seeking a Lot Line Adjustment so that this applicant will be able to access the driveway from Valley View Drive, as indicated on the annotated map accompanying the application. The Trust owns both Parcels A and B, and is under contract to sell Parcel B. Parcel B provides access to the driveway from Valley View Drive. The 19 July 2016 letter of transmittal from Attorney DelVecchio to the Planning Board explains what is proposed. A copy of this letter has been placed on file for the record. The parties to the purchase contract have agreed to adjust the line as shown.

At the conclusion of the discussion, **a motion was made by Member Newell to approve the Lot Line Adjustment as requested. The motion was seconded by Member Renzi, with the vote recorded as follows:**

Ayes: Chair Wickwire

Nays: None

Member Newell

Member Renzi

Member Finamore

Absent: Member DelVecchio

Motion carried.

This becomes Action #53 of 2016.

OTHER MATTERS

Bestway – Luker Road – PZO Weber advised he had heard nothing. As requested by this Board, he gave them thirty days to return their property at 3832 Luker Road to its original condition.

Proposed Composting by City of Cortland – Chair Wickwire said she understood the City is proposing some type of composting on 19± A. near the water tanks. She stated it was an “obnoxious” thing and the Town wasn’t even told or asked about it. Attorney Folmer commented that the City was applying for a grant and that the Town Board should express their opinion. This will be taken up at a Town Board meeting next week. They will take a real good look at what’s being proposed.

Checklist for Applicants – Member Renzi talked about providing Conditional Permit applicants with the checklist that had been prepared some time ago. PZO Weber stated he gives them out when meeting with applicants. Discussed letter to give those with Conditional Permits.

Trailer Park - Member John Finamore asked about the trailer park; PZO Weber responded this was a Code Enforcement concern.

August Meeting - PZO Weber advised that he will not be available for the usual August meeting. A discussion was held, and the Planning Board agreed to hold two meetings in September, if needed, one on September 13 at 7:30 p.m., and the second meeting on September 27 at 7:30 p.m., if needed.

ADJOURNMENT

At 8:45 p.m., a motion to adjourn the meeting was made by Member Newell, seconded by Member Renzi, with all members present voting in the affirmative.


Joan E. Fitch, Board Secretary

E-mailed to Town Clerks, JBF, PB Members,
DD, BW & DC on 8/14/16. (R)