Town of Cortlandville Planning Board

Minutes of Regular Meeting - Tuesday, 29 August 2017 - 7:30 PM Town Hall Board Room - 3577 Terrace Road - Cortland, NY

Board Members (*absent)

Katherine Wickwire, Chairperson
Christopher Newell
Nicholas Renzi
John A. DelVecchio
Nasrin Parvizi

Others Present

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

Applicants & Public Present

Nicholas & Jim Huber for Storage Squad, LLC, Applicant; Attorney Mike Shafer for Lori Law, Applicant; John Congdon & Chuck Feiszli, PE, for Valley Rental, Applicant; T. James Marshall for E & V Energy, Applicant; Andrew Porter and Engineer Brent Cross for PROP, Inc., Applicant; Barbara Bower, Albert Pahlke, Steve & Doris Jones, Carol Reed, Bev Berry, Deb Pelowski, Martha Bush, Robert Beard, Tricia Woodward, Judy Swartwout, Nancy Heaslip, Judith Helmer, Marlene Rodee, Ina Bean, Bud Harter, Carol & David Wayman, Diane Kalilec, Sheryl Shufelt, Trevor O'Gorman, Edith Alexander, Terry Perkins, Gregg McConnell, Chris Ann Mobil? (illegible), Nancy Richards; Bob? (spoke but did not sign in).

PUBLIC HEARING

<u>Storage Squad, LLC, Applicant/Church of the Redeemer, Reputed Owner - Starr Road - TM #96.06-01-15.210 - Conditional & Aquifer Protection District Permits - Proposed Self-Storage Facility</u>

The Public Hearing was opened at 7:30 p.m. by Chairman Katherine Wickwire, with the Board Secretary reading aloud the Legal Notice as published in the *Cortland Standard* on 17 August 2017, as follows:

PURSUANT TO ARTICLE XIV, SECTION 178-74 C 2 OF THE CODE OF THE TOWN OF CORTLANDVILLE: **Notice is hereby given** that a public hearing before the Town of Cortlandville Planning Board, Cortland County, New York, at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, in the Town of Cortlandville, New York to be held on Tuesday, August 29, 2017 at 7:30 p.m. in the matter of the application of Storage Squad, LLC, for property located on the south side of NYS Route 13, immediately southwest of Vernon Dr./NYS Route 13, Tax Map #96.06-01-15.210, to construct seven buildings ranging in size from 2,000 sq. ft. up to 12,000 sq. ft. for purpose of operating a mini storage facility.

KATHERINE S. WICKWIRE, CHAIRPERSON Cortlandville Planning Board 3577 Terrace Road Cortland, NY 13045

Chair Wickwire recognized Nicholas Huber who explained that he was the founder/owner of Storage Squad, LLC, and was proposing a climate-controlled self-storage facility with seven buildings, totaling 44,300 SF on a 5.25±-acre parcel of the subject property. It will be an enclosed area with a block wall all the way around the exterior with landscaping, a nice metal gate, paved driveways, flowers and bushes out front, manicured lawn area, etc.

Chair Wickwire asked if there was anyone present who wished to speak on the matter; there were, as follows:

<u>Ina Bean – 1152B, The Park</u> – Interested in the access from the back. Mr. Huber responded that there would be only one access point—from the main road, Tompkins Street; paved 25-foot wide driveway with gated access. Cars driving around inside the facility would be completely encompassed by a block wall or privacy fences.

<u>Tricia Woodward - The Park - There are already many storage facilities, around 13, in the Cortland area.</u> Is there really a need for this? This one would flood the system. If it doesn't fly, what will replace it? Mr. Huber responded that statistics show the need, based on population. They have done extensive market research and their other facilities are very successful. Ms. Woodward concerned with additional traffic, closeness of residential area, and actual need for this. Mr. Huber replied property was zoned for used car lots, bars, restaurants, fast food, etc. This would provide more traffic than what is proposed. Ms. Woodward reiterated her concern for a replacement business if the proposed business fails.

<u>Albert Pahlke</u> – Representing Church of the Redeemer, owner of the subject property. Strongly supports the proposed project. Church tried to sell property for quite a few years. What's being proposed would be more palatable and less invasive. If sale goes through, church would be able to do a lot more things for the community, and gave an example of their youth.

<u>Bob Berry (?) – owner of other mini storage facility</u> – Asked Mr. Huber what were four mini facilities he researched. Mr. Huber did not want to share his marketing information obtained from firm hired to do the study.

Chair Wickwire commented that the public should be addressing their comments to the Board. Town Attorney John Folmer reminded those present that "the matter is before the Planning Board this evening because the Zoning Board of Appeals has asked them to conduct a review under the SEQRA process before the ZBA acts on their request for a use variance. So the issue before the Planning Board this evening is to accomplish a review of the SEQRA documentation so that they can send that recommendation for that review back to the Zoning Board of Appeals. It is my understanding that this Board is going to perform a Short-Form SEQRA review as it relates to the activities required by the Zoning Board of Appeals. Once that has been done, then the matter will go back to the Zoning Board who has to decide whether or not the criteria for a use variance has been met. In the event that they, the Zoning Board of Appeals, should decide that the criteria has not been met, the variance will not be granted. If the Zoning Board were to decide that the criteria for a use variance has, in fact, been met, then the matter will come back here for further review under the SEQRA review for the project as a whole—because as this Board sits here this evening, there is a lot of information that a successful applicant before the Zoning Board of Appeals will have to provide: stormwater evaluations, and so on. And one way to avoid making the applicant spend extremely large sums of money to accomplish studies only to decide that the Zoning Board is not going to grant the variance seems to be non-productive and inappropriate. However, I understand that the Board is going to do a Short-Form SEQRA review so that they can go to the Zoning Board of Appeals. Then the Zoning Board will make its determination based upon the five requirements for a use variance." He continued his remarks by saying that the issue of whether or not we need more storage, barbershops, etc. is not the Board's issue to determine; it's up to the applicant to make that determination.

<u>Gregg McConnell – McLean, NY</u> – Elder at the Redeemer Church. Re-affirmed Albert Pahlke's comments. This is an opportunity to provide non-invasive use of property that would be complimentary to the community. Vehicle traffic would be less. It's a clean business. This use would put property back on the tax rolls.

<u>David Wayman – 22 Abdallah Avenue</u> – What will be done with the field behind it? A lot of it can't be developed. Mr. Huber responded that the decorative block wall, 17 feet away from the property line will be constructed. No plans to develop the "back of the property." Haven't decided whether or not to mow the field or to let it grow.

<u>Attorney Mike Shafer</u> – Asked Town Attorney Folmer about SEQRA. Attorney Folmer responded that a Long Form EAF will have to be done on the entire project. Mr. Shafer commented he was very conscious of problems with Zoning Ordinances and there were many places in the Town where storage facilities could be sited. There's no shortage of appropriately zoned spots. This is not an appropriate use of this property under SEQRA.

<u>Carol Reed – 3334 NYS Route 215</u> – Concerned with mowing/not mowing of lot. How high is the wall? Mr. Huber then apologized for misleading people; wall will actually be "the wall of the outside of the storage facility." He also stated they would "keep up all the grass, mowing, and landscape and have it looking very nice."

Nancy Heaslip – 10 Abdallah Avenue – What's purpose of public hearing? Attorney Folmer then explained that this has to do "with whether or not the Zoning Board of Appeals is going to grant a variance, and under the SEQRA Regulations, before they do that there has to be some form of SEQRA review." He then continued, "Mr. Shafer made an interesting point that I think is important for everybody to consider. The Short Form SEQRA review that this Board will accomplish this evening will assist the Zoning Board of Appeals in making its determination on the variance. Should that variance be granted, then it will come back to the Planning Board and a Long Form SEQRA review, with all of the detailed information, will have to be accomplished."

Chair Wickwire stated that there will be more than one public hearing, and she explained the process again. Right now, there is not enough information to do a Long Form in the SEQRA process.

<u>Attorney Mike Shafer</u> – Stated he was concerned about "this whole procedure." Thought "you should send this thing back and you ought to get a Long Form completed and gone into a full SEQRA review." Chair Wickwire stated they did have one; James Trasher for CHA, the Town's engineering firm, then explained the reason for the procedures being utilized, pertaining to a use variance. Arguments ensued.

Chair Wickwire commented she had never had a public hearing like this. "We let the public talk, we let them give us their concerns, and we will close the public hearing and go from there."

<u>Steve Jones – 1142B The Park</u> – Concerned with issues of privacy and impact on both market value of The Park, as well as the marketability of those properties—specifically those properties abutting the subject property. For 25 years, people have been able to look out at a beautiful row of trees, hedges, and now we're being asked to look into the side of a building? That's unacceptable and people should not be treated that way.

Town Attorney Folmer asked the church representatives if it was accurate that the subject property was donated by Ms. Abdallah; Gregg McConnell stated that it was his understanding the property was donated (in 1983) for purpose of building a church. He did not know the exact facts or of any deed restrictions, but they have not looked at any instruments of conveyance.

With everyone heard who wished to be heard, at 8:10 p.m., a motion was made by Member Newell to close the Public Hearing, seconded by Member DelVecchio, with all those present voting in favor.

Chair Wickwire asked Attorney Folmer how to proceed, and he responded that the Board could do a Long Form SEQRA review, but they may find they do not have sufficient information. Alternatives were discussed at length. Attorney Folmer advised that the Board (1) should require a Long Form SEQRA evaluation with all supporting documentation required, and (2) should advise the ZBA that when that review is completed, the Planning Board will make that report to them. Chair Wickwire did not agree. A lengthy discussion followed between Attorney Folmer, Engineer Trasher, Chair Wickwire, and Mr. Huber regarding SEQRA Regulations. Engineer Trasher concluded that he would recommend that the applicant withdraw the application and figure out the proper application as it relates to a Use Variance and supply all supporting documentation. Mr. Huber stated he would like to go before the ZBA "and present my case."

Attorney Folmer said that his problem was that "the State Law required there to be a SEQRA Review in advance of the granting of a use variance; it has to have a SEQRA Review."

Chair Wickwire commented that "this is not how it should work. I talked to the State a year ago at a training session. I said this is crazy; all you're doing is making the contractor spend a lot of money not even knowing if they're going to be able to go forward with it. He agreed that it was crazy, but that was the law."

Engineer Trasher gave the Planning Board different alternatives. More discussion followed. At its conclusion, it was decided to proceed with the SEAF, with the statements/questions being read aloud by Engineer Trasher, with the responses being recorded by PZO Bruce Weber. The Board felt there would be a change in the land use/zoning, a moderate to large impact. Attorney Folmer advised that, "In part three, you should indicate that a zoning variance is required, and that comment ought to explain away the reason that you decided that that was medium to large." Engineer Trasher added that "additional studies will be required by the Planning Board and Town Board should a use variance be permitted." Further studies will be needed. It's "no or small to moderate because they'll have to meet the requirements of the NYSDEC, the Town of Cortlandville Aquifer Protection, and other stormwater standards. We assume mitigation will occur, but we have not seen those plans, so those things will need to be forthcoming," commented Engineer Trasher.

Attorney Folmer said, "I think you should go back and make a comment regarding your determination that this will not, will the proposed action impair the character or quality of the existing community? I think you need to go back and put something in about that because there was discussion among yourselves as to whether or not it should be large or small. And I think that Mr. DelVecchio pointed out there are two questions; one was character, and one was quality. And I think that you should . . . a statement that you did consider both of those criteria before you made a determination. I would suggest we add something to that effect."

Discussion of a Positive Declaration v. a Negative Declaration was held. Chair Wickwire asked the applicant, "Why didn't you just come in with a Change of Zone application, to see if you could change it? It's none of my business how you do it, but this is what's happened because of this. You don't own the land. The church owns the land. They tried to sell it. They're the ones claiming a hardship. You're the one that wants to build on it, you're the one that's spending all the money to build on it. This is nuts. We're going around in circles here." She continued, "You know what? Why don't we just all — it's quarter of nine. We've spent way too much time on this at this point and still we don't know what we're doing. So I think that we should postpone this until next month until everybody can get together—you can decide what you want to do, the church can decide what they want to do. Maybe you should all meet in a room somewhere and decide what you want to do, and then we can meet . . . we've had our public hearing, we'll meet next month and do this, one way or another."

A motion was then made by Member Newell to postpone these applications until the 26 September 2017 meeting of the Town of Cortlandville Planning Board. The motion was seconded by Member Renzi, with the vote recorded as follows:

Ayes: Chair Wickwire Nays: None

Member Newell
Member Renzi
Member DelVecchio
Member Parvizi

Member Parviz

Motion carried.

This becomes Action #58 of 2017.

REGULAR MEETING

The Regular Meeting of the Town of Cortlandville Planning Board was called to order at 8:48 p.m. by Chair Katherine Wickwire.

APPROVAL OF MINUTES - 27 JUNE & 25 JULY 2017

A motion was made by Member Nick Renzi to approve the Minutes of the 27 June and 25 July 2017 Planning Board meetings, as submitted. The motion was seconded by Member Chris Newell, with the vote recorded as follows:

Ayes: Chair Wickwire Nays: None

Member Newell Member Renzi Member DelVecchio Member Parvizi

Motion carried.

This becomes Action #59 of 2017.

OLD BUSINESS

PROP, Inc. (Bestway), Applicant/Reputed Owner - 3877 Luker Road - TM #86.17-01-01.000 - Conditional Permit & Aquifer Protection District Special Permit - Proposed Warehouse

(Reference is made to this Board's Minutes of 27 June and 25 July 2017 regarding this project; at the July meeting, additional information had been requested from the applicant.)

Chair Wickwire recognized Andrew Porter and Engineer Brent Cross, representing the applicant who was seeking a Conditional Permit and an Aquifer Protection District Special Permit to construct a 60 ft. by 200 ft. cold storage warehouse for lumber, at the location shown on the aerial maps accompanying the application. Also submitted was an Engineer's Report, dated 6/20/17, prepared by Brent A. Cross, PE, which detailed what was being proposed.

Chair Wickwire asked Mr. Porter if he had heard anything from the FAA as of this date. An 8/20/17 "No Hazard to Air Navigation" report had been received and placed on file for the record.

Regarding a Stormwater Management Plan, Engineer Cross stated he had spoken to Pat Reidy of County Soil & Water regarding this and did not realize Mr. Reidy would be looking for a "DEC solution." He stated he was looking for some demonstration that the stormwater provision meets the DEC regulation; therefore, he provided an Engineer's Report, dated 29 August 2017, describing what the proposal is, a copy of which has been placed on file for the record. Nothing changes the SWPPP already in place, he said. Chair Wickwire advised that the Board needed something in writing from Mr. Reidy. PZO Weber stated he has also discussed this with Mr. Reidy.

At the conclusion of the discussion, a motion was made by Member DelVecchio to approve the Conditional Permit for the proposed warehouse, as requested, conditioned upon receipt of SWPPP approval from Pat Reidy of County Soil & Water. The motion was seconded by Member Newell, with the vote recorded as follows:

Ayes: Chair Wickwire Nays: None

Member Newell Member Renzi Member DelVecchio Member Parvizi

Motion carried.

This becomes Action #60 of 2017.

A motion was then made by Member Newell to recommend to the Cortlandville Town Board that they issue an Aquifer Protection District Special Permit and act as Lead Agency under SEQRA.

The motion was seconded by Member DelVecchio, with the vote recorded as follows:

Ayes: Chair Wickwire Nays: None

Member Newell Member Renzi Member DelVecchio Member Parvizi

Motion carried.

This becomes Action #61 of 2017.

<u>Valley Rental, Applicant/Barden Management Services, Reputed Owner - Luker Road - TM #95.08-01-53.100 - Conditional & Aquifer Protection District Special Permits - Proposed Mini Storage Facility</u>

(Reference is made to this Board's Minutes of 25 July 2017, at which time the applications to construct a new mini storage facility on the subject parcel were sent to County Planning for their review.)

Chair Wickwire recognized John Congdon and Engineer Chuck Feiszli who described the revised drawing dated 24 August 2017, which included the requested landscaping plan. Mr. Congdon reported he was still working on the aesthetics of the building, and showed the Board elevations of the proposed mini storage facility. He described how the building will look, having a stone front and a hip roof. Chair Wickwire asked if there was a sample lease agreement, and Mr. Congdon did not, but described a statement regarding storage of hazardous materials, etc.; this will be added, he stated. Chair Wickwire stated the Board would like a copy of the actual lease, as stated in the Cortland County Planning Board's Resolution No. 17-26, Item #3. They will do Item #4 (notification of proposed construction given to the FAA). All County recommendations were reviewed with the applicant's representatives.

At the conclusion of their discussion, a motion was made by Member Newell to approve the Conditional Permit for the proposed mini storage facility, as requested, conditioned upon receipt of approval of the Stormwater Pollution Prevention Plan by Pat Reidy of Cortland County Soil & Water, and incorporating Items 1 thru 10 of the Cortland County Planning Board's Resolution No. 17-21 of 16 August 2017. The motion was seconded by Member Nasrin Parvizi, with the vote recorded as follows:

Ayes: Chair Wickwire Nays: None

Member Newell Member Renzi Member DelVecchio Member Parvizi

Motion carried.

This becomes Action #62 of 2017.

A motion was then made by Member Newell to recommend to the Cortlandville Town Board that they issue an Aquifer Protection District Special Permit and act as Lead Agency under SEQRA for the proposed mini storage facility. The motion was seconded by Member DelVecchio, with the vote recorded as follows:

Ayes: Chair Wickwire Nays: None

Member Newell Member Renzi Member DelVecchio Member Parvizi

Motion carried.

This becomes Action #63 of 2017.

NEW BUSINESS

<u>Lori A. Law, Applicant/Reputed Owner - 3760 Clinton Street Ext. (McGraw) - TM #99.00-01-04.100 - Subdivision of Land</u>

Chair Wickwire recognized Attorney Mike Shafer, representing the applicant who was seeking approval to subdivide this parcel into two parcels, as shown on the drawing accompanying the application.

At the close of a brief discussion, a motion was made by Member Newell to approve the subdivision of land, as requested. The motion was seconded by Member Parvizi, with the vote recorded as follows:

Ayes: Chair Wickwire Nays: None

Member Newell Member Renzi Member DelVecchio Member Parvizi

Motion carried.

This becomes Action #64 of 2017.

<u>Lori A. Law, Applicant/Reputed Owner - 3726 Clinton Street Ext. (McGraw) - TM #89.00-01-14.000 - Subdivision of Land</u>

Chair Wickwire recognized Attorney Mike Shafer, representing the applicant who was seeking approval to subdivide this parcel into two parcels, as shown on the drawing accompanying the application.

At the close of a brief discussion, a motion was made by Member Newell to approve the subdivision of land, as requested. The motion was seconded by Member DelVecchio, with the vote recorded as follows:

Ayes: Chair Wickwire Nays: None

Member Newell Member Renzi Member DelVecchio Member Parvizi

Motion carried.

This becomes Action #65 of 2017.

E & V Energy, Applicant/Reputed Owner - 3957 US Route 11 - TM #s 87.13-01-41.120 & 200 - Lead Agency Determination for Use Variance, Site Plan Review, Conditional Permit & Aquifer Protection District Special Permit - Proposed Fuel Storage Tanks

PZO Bruce Weber advised that T. James Marshall of E & V Energy was present and the proposed project would be similar to what has occurred with Storage Squad in that a Use Variance is required, as well as a Conditional Permit and an Aquifer Protection District Special Permit. The Zoning Board of Appeals has requested that the Town Board act as Lead Agency under SEQRA. In a discussion with Attorney Folmer and Mr. Trasher of CHA regarding how to deal with this, given what has transpired at tonight's meeting, PZO Weber asked if they were of the opinion that something different should be done than what has previously been discussed as the process.

Town Attorney Folmer responded that, in the future, an application for a use variance should be accepted, whether or not a Conditional Permit is required or not. "We should not have all three at the same time." PZO Weber then added that when an applicant completes the Short EAF, it then asks if there needs to be approval from any other governmental agency; identification of such makes them an involved agency and they have to be considered. SEQRA does not permit segmentation. This would lead us down a path to an Article 78. Applicants need to know ahead of time what approvals they need, he stated.

After another extensive discussion, Mr. Marshall was asked if he would like to withdraw the application until the Planning Board determines the correct process. Mr. Marshall agreed to withdraw the applications until such time as counsel can determine what may be the legal course for the Town to take.

No Action Required.

<u>Economy Paving/Compagni - NYS Route 13 - TM #77.00-01-33.200 - Revocation of Conditional Permit</u>

Town Attorney Folmer reminded the Board that they had previously issued a Conditional Permit to Economy Paving for property north of the parcel owned by John Barden. "In conjunction with that Conditional Permit, there was a Stormwater Plan submitted and approved by this Board as a condition of the Conditional Permit. It has come to the attention of County Soil & Water and to Mr. Barden that that Stormwater Management Plan has been altered without any approval or suggestion whatsoever, and it is causing water to run down the road, onto the Barden parcel, onto the highway. Mr. Reidy and Ms. Barber of County Soil & Water have indicated they have been trying for two years to talk with Mr. Compagni about the fact that he has, without permission, altered the Stormwater Management Plan. He is therefore in violation of the Conditional Permit that this Board issued to him, and what we are suggesting that you do is that you institute proceedings necessary to revoke that Conditional Permit." Attorney Folmer then outlined the proper procedure to do so.

PZO Weber reported that Amanda Barber of County Soil & Water has attempted to work with Mr. Compagni to achieve compliance, but has been unsuccessful to date. Member Renzi commented that Mr. Barden should not be suffering because of this, saying, "Let's do whatever we have to do to put him on notice and not wait for another meeting, 30 days from now, but immediately get this thing straightened out now and say your Conditional Permit is herby revoked, but do whatever is legally right." Attorney Folmer advised that a public hearing needed to be held.

Chair Wickwire recognized John Barden, the adjacent property owner, who stated this all started about five years ago. He then proceeded to submit many, many photographs showing the continuing problems caused by his neighbor.

At the close of the discussion, a motion was made by Member Newell that the Town of Cortlandville Planning Board institutes the proceedings to revoke the Conditional Permit issued to Economy Paving in relation to the aforestated premises located to the north of property of John Barden. The motion was seconded by Member Renzi, with the vote recorded as follows:

Ayes: Chair Wickwire Nays: None

Member Newell Member Renzi Member DelVecchio Member Parvizi

Motion carried.

This becomes Action #66 of 2017.

Chair Wickwire stated that a letter will be sent to Economy and PZO Weber will get information from County Soil & Water for the Board's next meeting.

<u>Discussion of Proposed Project - Carroll Drive</u>

PZO Weber advised that a three-story building is proposed to be constructed at the location shown on a map given to the Board, part of which is in the City of Cortland and part (the parking lot) within the Town. The question is: do you want to be Lead Agency, do you want the City of Cortland to be Lead Agency, or do you not want to declare a Lead Agency?

The Board discussed this, and at the conclusion of the discussion, a motion was made by Member DelVecchio that the Town of Cortlandville Planning Board will perform its own SEQRA review and not a Coordinated Review. The motion was seconded by Member Parvizi, with the vote recorded as follows:

Ayes: Chair Wickwire Nays: None

Member Newell Member Renzi Member DelVecchio Member Parvizi

Motion carried.

This becomes Action #67 of 2017.

ADJOURNMENT

At 9:46 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 Clerk, JBF, PB Members, DD, BW, KM & DC on 10/25/17.