

TOWN OF CORTLANDVILLE PLANNING BOARD
Minutes of Regular Meeting - Tuesday, 26 December 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
John B. Folmer, Town Attorney
Joan E. Fitch, Board Secretary

Applicants & Public Present

Pam Jenkins; Sharon Stevans, Videographer.

REGULAR MEETING

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 NOVEMBER 2017

A motion was made by Member Chris Newell to approve the Minutes of the 28 November 2017 Planning Board meeting, as submitted. The motion was seconded by Member Nick Renzi, with the vote recorded as follows:

Ayes: Chair Wickwire
Member Newell
Member Renzi
Member DelVecchio
Member Parvizi

Nays: None

Motion carried.

This becomes Action #76 of 2017.

OLD BUSINESS – NONE

NEW BUSINESS

Brian Buttner of ADR Associates, Applicant/Art Bell, Jr., Reputed Owner – Blue Creek Road – TM #s 76.00-07-03.000 & 04.000 – Subdivision of Land

Chair Wickwire noted that the two applications for Art Bell's proposed subdivisions were postponed at the previous Zoning Board of Appeals meeting, so have been removed from this Agenda.

Discussion re John Barden & Hillside, LLC – 1819 NYS Route 13 – TM #77.00-12-07.000

Chair Wickwire asked to speak regarding John Barden's complaint about the Hillside property. She informed everyone that she had talked with Town CEO Desiree Campbell who reported there was a trailer located on the Hillside property for which there was no permit. Chair Wickwire then asked "where do we stand on this?" Town Attorney John Folmer advised that the Conditional Permit for Economy at this site had been revoked and, in the meantime, construction work has been done to, presumably, repair the drainage system to its approved status. The Town has asked Amanda Barber of County Soil & Water to confirm this with an inspection and report back to the Town. PZO Weber suggested to Attorney Folmer that he check with Ms. Barber. Attorney Folmer will do so, and also will talk with CEO Campbell. He also added that he will correspond with Economy and advise them they apparently have a trailer onsite for which they have no permit.

Member Newell asked Attorney Folmer if he had any communication with Steve Compagni, and he responded that he had but Mr. Compagni appeared to be not receptive to being cooperative. However, Attorney Folmer reported that he had been visited by Mr. Compagni's attorney who stated that his client would be taking the steps necessary to revise and redo the system

Gregory Leach, Applicant/Leach Properties, LLC, Reputed Owner – 1834 NYS Route 13 – TM #77.00-13-11.000 – Review Conditional Permit Approval

Town Attorney Folmer gave the reasoning as to why this item appears on this Agenda. He then stated, "In Judge Cerio's decision he enjoined Mr. Leach from using or occupying the drive-thru addition, which is the subject of this instant proceeding until further order of the Court." That means that additional information be submitted so he can reconsider the way he made his determination. Our Minutes, he stated, do not contain verbatim discussion because we have never asked that that be done. Consequently, you have been asked to go back and review/supplement what was done in the past by re-doing some things. "I've indicated to you that I would hope that you would deal with the business of the conditions from the County Planning Board, 2, 3 and 4, and that you would deal with the conditions that are set forth in Article 178-75 A and B which require you to make findings with reference to a Conditional Permit, and that you defer reviewing your SEQRA process until your next meeting so that, among others, I can review in detail the tape of the meeting that we did the SEQRA to begin with. That is a request that Mr. Leach makes to you. You are entitled to decide, look we're not going to go back to this, or you can decide that we are, in fact, willing to go back and review these items. That's the decision that you have to make."

Member John DelVecchio asked for some clarification on the Court's decision, and Attorney Folmer responded and read aloud from the actual Decision of the Judge. There followed a brief discussion on a use variance between Attorney Folmer and Member DelVecchio; the ZBA was not named as a Respondent. PZO Weber affirmed that a use variance granted years ago "covered us, but if you look at the B-2 District it allows for garages. So, basically, he has a garage which is subject to a Conditional Permit." He then continued, "Not only does that use variance cover this, but the ordinance itself in a B-2 District, when it looks at what uses are allowed, this use that he proposed in this application is an allowed use."

In continuing this review, Attorney Folmer called the Board's attention to the Town's Zoning Code, Article XIV. Conditional Permit, 178-75. Structure/use requirements for permit approval, a copy of which was provided to each Board member. He stated that the record did not indicate the findings, category by category.

Member Renzi then asked questions pertaining to the County Planning Board's report concerning this matter. PZO Weber added, "Once that use variance is granted, that's a conforming use." Town Attorney Folmer suggested reviewing the recommendations contained in the County's Resolution No. 17-03, 2/15/17. Items 2 and 3 are matters that will be handled with NYSDEC and NYSDOT, and any Conditional Permit the Board grants should contain these as conditions. PZO Weber added that, "with respect to #2, this is a single proposal not in conjunction with the other acreage because he's not using the driveway that's on the other property for this, which is stipulation #1." Only the three-acre parcel is involved, not the total acreage. This application for a Conditional Permit is not a single proposal with the adjoining properties. Regarding Item 3, it is not considered a single project—it is separate and does not require a Stormwater Management Plan. Item 4 is an issue that would be raised by the Zoning Board of Appeals; however it was not considered by the Court.

Town Attorney Folmer suggested that when this review is complete, that he and PZO Weber will put together a proposed set of findings and send them to each member so that they can be reviewed and adopted at the January meeting.

The Board then went through the items contained in Article XIV, 178-75, A and B, line by line, as follows:

- A. (1) Yes it is, as it's an allowed use.
(2) Yes, it's in compliance.
(3) Yes. It's true because of the nature of the neighborhood and the surrounding uses of the properties.
(4) Doesn't apply.
(5) Doesn't apply. Has no off-street parking.
(6) Already discussed.
(7) Contained in application.
(8) Not applicable as there is no pedestrian traffic.
(9) Does not lead to depreciation of properties for items listed.
- B. (1) General intent is in compliance.
(2) It is in conformity.
(3) This particular project, no.
(4) It is in the best interest of the Town if supporting an existing business. It's not a detriment as it is consistent with the uses that exist in that area.
(5) It's consistent with the use variance that was granted previously.
(6) Allowed only one entrance and one exit, and it's a single project.

No Action Taken.

OTHER BUSINESS

- Conditional Permit Log – Member Renzi asked PZO Weber what the status was pertaining to updating of the log. PZO Weber responded that nothing has been done to date.

ADJOURNMENT

At 8:10 p.m., a motion to adjourn the meeting was made by Member Newell, seconded by Member DelVecchio, 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 1/30/18.