

**Town of Sand Lake
Planning Board Minutes
August 19, 2020**

The minutes, as follows, are intended to provide a general summary of the Agenda items and Public Hearings. Quotes presented are not verbatim, nor is all discussion which occurred presented herein. This document should not be relied upon as a transcript of the actual proceedings. The transcript of this meeting has been recorded and is available at the Town Hall.

CALL TO ORDER: Arthur Herman, Chairman, called the meeting to order at 7:30 PM

MEMBERS PRESENT: Ralph LaMontagna, Michael Groff, Mary Ellen Trumbull, Jonathan Bernstein, Rick Giolito, William Glasser, Craig Crist

MEMBER ABSENT:

OTHERS PRESENT: Ken Bailey, Andrew Gilchrist, Sarjeet Sahota, Nelson Simons, William Von Dollen, Tom Lilly, William Ryan, Daniel Holser, Linda Clemente-Mandel, Monica Ryan

RECORDING CLERK: Laura Fedoreshenko, Clerk for the Planning Board and ZBA

Minor Subdivision Application and Public Hearing

Estate of Michael F. Lomonoco, Jr.

Bonnie Jo Willard, Executrix

60 & 64 Loon Creek Lane

Averill Park, NY 12018

R – Residential Zoning District

A Minor Subdivision Application to subdivide a .425-acre parcel of land into two lots.

Tax Map#158.4-2-3

Lot Size: .425 +/-acres

Proposed Lot Size: .075 acres

Attorney William Ryan represented and summarized the project which had been previously before the Planning Board (PB). He added that the Area Variance Application was granted by the Zoning Board of Appeals (ZBA) with the 5' condition between the properties, as previously recommended by the PB. He further stated the application is now seeking approval for the Minor Subdivision. Mary Ellen Trumbull (MET) asked if the PB awaited the new maps to reflect 5' before an approval was rendered. Arthur Herman (AH) replied that a conditional approval could be done while awaiting the revised map. Mr. Ryan added that the short turnaround between the ZBA and PB meetings had been the reason the new maps were not ready. AH opened the Public Hearing at 7:45 p.m.; seconded by MET and all approved. Ralph LaMontagna (RL) read the Public Notice. With no public comments, AH closed the Public Hearing at 7:48 p.m.; seconded by MET and all approved. Monica Ryan advised that the SEQR was completed by the ZBA as the Lead Agency, which the PB had previously approved, and had been given a negative declaration. AH motioned to give this Minor Subdivision Application preliminary and final approval and waive the final hearing based on the condition that the interior lot line be no closer than 5' from the dwelling on the lot identified as "Lots 23, 25, 26. MET seconded the motion and all approved.

Minor Subdivision Application and Public Hearing

Daniel Holser
Huntley Road
Averill Park, NY 12018
R – Residential Zoning District

Tax Map # 159.-1-73
Lot Size: 53.6 acres
Lot 1: 2.46 acres
Lot 2: 21.4 acres
Lot 3: 29.7 acres

A Minor Subdivision Application to subdivide a 53.6-acre parcel of land resulting in three lots.

William Glasser (WG) recused himself due to prior work done on the property. Attorney Linda Mandel Clemente represented and stated that Daniel Holser was also present. Ms. Clemente explained that Lot 1 was the parcel to be subdivided; Lot 2 & 3 happened as the “z” hooks which connected to Lot 1 would be removed. AH asked what the road frontage would be on Lot 3 as the maps did not indicate that information. Ms. Clemente responded that it would depend on which road as there were several access points. Ms. Ryan stated that Mr. Holser’s application reflected an estimate of 407’ of road frontage for Lot 3 and that Lot 2 have well over 500’. She added that, in going forward, road frontage information would be needed should any further subdivisions be proposed for this property. AH opened the Public Hearing at 7:55 p.m. and RL read the Public Notice. With no public comments; AH closed the Public Hearing at 7:58 p.m.; seconded by MET and all approved. AH motioned to classify this Minor Subdivision Application as an unlisted action under SEQR and declared the Town of Sand Lake as Lead Agency; seconded by RL and all approved. AH motioned seconded by MET and unanimously carried to give this a Negative Declaration under SEQR and that the proposed action described will not have a significant adverse effect on the environment, and a Draft Environmental Impact Statement need not be prepared. AH motioned to approve the Minor Subdivision Preliminary Plat and waive the final hearing; seconded by RL and all approved.

Site Plan Review Application

William Von Dollen
35 Mountain View Drive
Averill Park, NY 12018
R – Residential Zoning District

Tax Map #148.-7-37.22
Lot Size: 2 acres

A Site Plan Review Application to construct a 40’ x 50’ barn for storage.

William Von Dollen presented and stated his proposed project was to construct 40’ x 50’ single-story storage building for trailers and trucks. He added that there would be trusses for additional storage. He stated that he had not fully decided on the color of the siding yet. AH asked if it would be metal siding. Mr. Von Dollen replied that it would be vinyl siding, asphalt roof and have 12’ doors to allow access for the trailers. He added that it would be located in the back of the property and met all the setbacks. WG stated on the grading of the structure, runoff should try to be eliminated from running onto the neighbor’s property. Mr. Von Dollen replied that a natural ravine existed in the middle of his property which went back. Mr. Von Dollen added that he would bury the gutters and have them run off to the natural depression which consisted of rock. RL asked if there would be lighting. Mr. Von Dollen replied yes, just by the doors. RL stated that the lighting should only light up the ground area versus at the neighbors for which Mr. Von Dollen agreed. AH motioned to classify this Site Plan Review Application as a Type 2 action under SEQR declaring the Town of Sand Lake as the Lead Agency; seconded by MET and all approved. AH motioned to approve the Site Plan Review Application as submitted; seconded by MET and all approved.

Sign Placement Application

Sarbjee Sahota (Applicant & Property Owner)

Tax Map # 148.3-1-5

SKJ Properties IV LLC

3305 Route 43

Lot Size 2.26 acres

Averill Park, NY 12018

HMU – Hamlet Mixed Use Zoning District

A Sign Placement Application for Sunoco mini-mart signs to be replaced with Citgo.

Sarbjee Sahota presented and stated the proposed project was to replace the Sunoco mini-mart signs with Citgo signs. AH asked how high from ground monument sign structure would be Ms. Ryan referred to the site plan measurements which reflected that the top of it would be 9’ and placed on 4’ x’8’ pillars. AH asked if it would the monument sign would sit back from the road as far as the existing sign for which Mr. Sahota replied yes. AH asked if there would be a sign on the gable area above the pump area. Mr. Sahota replied yes, 4’x’4’. RL asked if there would only be two signs for which Mr. Sahota replied yes. AH asked if the signs on the pumps would be changed. Mr. Sahota replied they had already been changed. RL noted that the proposed plan would have less signage than what currently existed. AH asked if there would be a car wash sign and Mr. Sahota replied no. Ms. Ryan stated that she believed that Mr. Sahota was looking at options for that structure. With no further questions, AH motioned to classify the Sign Placement Application as a Type 2 action under SEQOR and that the Town of Sand Lake be the Lead Agency; seconded by RL and all approved. AH motioned to approve the Sign Placement Application as presented; seconded by MET and all approved.

Scenic Preservation Application

Tom Lilly/Kay’s Pizza

Tax Map #169.2-1-52

10 Walsh Lane

Averill Park, NY 12018

Lot Size: .96 acre

R – Residential Zoning District

A Scenic Preservation Application to install a temporary seasonal tent and utilize the boardwalk for tables.

Tom Lilly presented and stated that a tent had been erected and utilized for last 8 weeks as temporary outdoor seating, as per a special dispensation by the Governor due to COVID-19. Mr. Lilly explained that he now wished to propose the permanent continuation of the temporary seasonal tent for 180 days each year. RL asked if that meant that the inside of the restaurant would be spaced permanently in the current manner. Mr. Lilly replied no, not in the way it was currently situated as the 6’ for social distancing only allows for approximately 20% capacity versus the allowed 50% capacity. RL asked what the total capacity was with the indoor and outdoor seating. Mr. Lilly replied approximately 70% of normal capacity. RL then stated that with the indoor and outdoor seating, 100% capacity should not be exceeded as it would then affect parking. Mr. Lilly agreed and indicated that many factors need to be considered such as what the kitchen staff is capable of handling so as not to overburden them. Mr. Lilly added that the fire rating allowed for 140 customers and if the temporary outdoor seating was approved, it would lower the indoor seating; however not to the level it was currently. RL asked if the number would go above 140 if the project was approved. Mr. Lilly replied that the number would go higher. He stated that in regards to parking, additional seating would help as it would lessen the amount of time customers were parked. He further explained that many folks parked and then waited up to 40 minutes prior to being seated; thus, the ability to seat them sooner would allow for a quicker turnover of customers which would help to alleviate the parking issue. He added that currently there were 40 cars inside and 60 outside. RL stated that hard numbers would be needed for once COVID-19

was over. AH then asked if the boardwalk seating area would end as currently depicted in the pictures or would that extend into the parking lot. Mr. Lilly replied that the boardwalk itself had been approved last year, prior to COVID-19. He referred to a site picture and indicated that there was an opening to the boardwalk and the seating went north. He explained that the area south of that was basically a staging area and added that he looked to retain this setup for the future with possible a few tables added once the 6' social distancing was no longer needed. Mr. Lilly then stated that while they were rated for 140 occupants, they had 162 seats at table and added that the difference was that none of the tables were ever 100% full. He added that approximately 30 seats would be removed inside to make it more comfortable for everyone; however, needed to be cautious as a good number of seats were lost outdoors on rainy days. He reiterated that by having more tables, it would lessen the wait and parking issues. AH asked if the seating would then go from 140 to 200. Mr. Lilly replied that there were approximately 74 seats outside and he would probably increase that by 10-15 when social distancing was no longer needed. He added that with the reduction of 30 seats inside, it would be a net gain of 58 seats. He added that he was unsure what the guideline was for an outdoor tent in regards to maximum occupancy. RL stated that past experience has shown that restaurants that increased capacity resulted in an increased need for parking. Mr. Lilly replied that the problem already existed. WG stated that 20-30 people would not be waiting should there be additional tables for them to be seated at. Jonathan Bernstein (JB) stated that increased capacity would just increase the parking problem in a tight area and suggested a Public Hearing be held to which Rick Giolito (RG) agreed for when the COVID-19 restrictions were released. Mr. Lilly replied that the operations had been running in this manner for eight weeks and no one complained. RG asked if there have been times when 60 people were waiting. Mr. Lilly replied yes and that it was very common. AH asked how many parking spaces currently existed. Mr. Lilly replied there were approximately 35-40, if customers parked correctly. He added that he needed 33 parking spaces to fulfil the Zoning Code. Mr. Lilly questioned why parking issues arose when he filed a Scenic Preservation Application. Ms. Ryan explained that Scenic Preservation and Site Plan Review were one in the same; thus, the PB should consider all impacts. AH asked if the tent area had been used for employee parking for which Mr. Lilly replied yes. AH then asked where employees currently parked. Mr. Lilly replied that he had asked them to carpool, where feasible and then they parked in either the parking lot or on the dyke. PB members agreed that the request would need to be reviewed again for when COVID-19 was no longer an issue. JB recommended a temporary grant now and come back next year for another review. Ms. Ryan stated a conditional approval could be done for one year to gain a sense of function and then hold a Public Hearing next year. MET motioned to approve the Scenic Preservation Application as submitted until October 15, 2021 at which time the applicant needed to return for re-approval; seconded by AH and all approved.

Scenic Preservation Application

Nelson Simons
10 Windmill Way
Sand Lake Averill Park, NY 12018
R – Residential Zoning District

Tax Map #149.7-1-12.2

Lot Size: 1.1 acre

A Scenic Preservation Application to construct a 144 sq. ft. deck on south side of shed and a similar 225 sq. ft. deck at the shoreline.

Nelson Simons presented and stated he had purchased the house one year ago and the structure had zero closet and storage space. He explained that the existing shed would be utilized as an entertainment shed as well as for storage. He added that the proposed deck would be place on 4'x4' on elephant feet; thus, not anchored into the ground. He further added that the proposed deck would be constructed of 2'x6-8 pressure treated wood down by the shore which would come right to the water line and be similar to

what others have done on the lake. Mr. Simons explained that area was about a foot above lake level and was grassy, rocky and pretty wet/swampy after it rained. Mr. Nelson stated that ultimately, a temporary floating dock may be attached to it. MET asked if it would be right on the ground. Mr. Nelson replied yes and referred to a site picture and indicated that the ground raised up; thus, so may need to dig it into the ground a bit to keep the profile down and for ease of access. A conversation ensued regarding the floating dock that was mentioned and it was agreed that as it would be temporary, no permit was needed. Mr. Simons added that the floating dock would be stage 2 and not done this year. WG cautioned to be careful of the neighbor line if close to the property line for which Mr. Simons agreed. With no further questions, AH motioned under SEQR that the Town of Sand Lake Planning Board be Lead Agency and classified this Scenic Preservation Application as a Type 2 action. This motion was seconded by MET and all approved. AH motioned to approve this Scenic Preservation Application as submitted with the following conditions: before, during and after construction, proper precautions will be taken to prevent any discharge of sediment into the Lake and proper erosion controls will be put in place to prevent future erosion into the Lake. The motion was seconded by MET and unanimously carried forward.

Special Use Permit/Site Plan Review Application

Ken Bailey

204 Barnes Road

West Sand Lake, NY 12196

AR – Agriculture/Residential Zoning District

A Special Use Permit/Site Plan Review Application to construct a 48' x 72' event barn on residential/agriculture property to be used for a seasonal event venue.

Tax Map #157.-3-34.1

Lot Size: 64.66 acres

Ken Bailey and attorney Andrew Gilchrist were present. CC asked Mr. Gilchrist if he had seen the letter from attorney Phillip Dixon requesting that the project be postponed (attached). Mr. Gilchrist replied that he read the letter as asking that the current meeting not be postponed but rather no action be taken at this time in order that the neighbors would have ample time to review the supplemental submission. Mr. Gilchrist summarized the project which had been before the Planning Board (PB) at previous meetings and then discussed the revisions since last PB meeting. He summarized the supplemental information, dated August 7, 2020, contained: Updated site plan map, Full Environmental Assessment Form, Project Environmental Narrative prepared by Sterling Environmental Engineering which provided additional analytical information relative to sound, traffic and lighting; and lastly, the Agricultural Data Statement. Mr. Gilchrist then stated that currently Mr. Bailey had a home and three barns on the property and proposed to build the fourth barn. He then stated that he wanted to make it clear that the proposed barn was an allowed use in itself for agricultural purposes as Mr. Bailey operated a farm at the location. Mr. Gilchrist stated that for seven months out of the year, the proposed barn would be used in that manner. He further stated that the Special Use Permit/Site Plan approval was needed for the barn to be utilized as an event barn for other 5 months of the year. Mr. Gilchrist explained that the application was to be considered complete and advanced to reflect that Mr. Bailey proposed a wedding reception venue with the maximum number events being capped at 20 over the five-month period, which averaged out to 4 events per month. He reiterated that the revised proposal reflected that: 1) temporary portable restrooms trailers would be brought in for each event; 2) there would not be an on-site kitchen as food will be brought in by a caterer; and, 3) the music would be within the barn structure. Mr. Gilchrist then stated that he reviewed the Town's Zoning Code in reference to which uses either did or did not require a Special Use Permit/Site Plan as well as the impacts. Mr. Gilchrist stated that his 8/7/20 letter and supplemental information reflected that the proposed project was appropriate for the location and that appropriate safeguards have been added. He also noted that the Town Zoning Code listed timeframes on

audible sound in regards to parties as not to be between the hours of 10 pm and 7am; he added that Mr. Bailey has agreed to comply by having any music stop at 10 pm. Mr. Gilchrist closed by stating that the public should be given ample time to review the supplemental information of 8/7/20 and had been assured by Mr. Dixon that the neighbors would receive a copy. He also suggested to the PB that either the previously held Public Hearing be reopened or a new one be held in order that the public may be able to comment on the supplemental information. CC then asked Mr. Gilchrist if the matter had been adjourned upon consent. Mr. Gilchrist agreed that the matter had been adjourned upon consent by the applicant. Mr. Bailey then asked the public to remember that 345 days a year there would not be any events nor would there be a bar or restaurant. He added that him and/or his daughter would be present at all events from beginning to end. Mr. Bailey then spoke to the comment regarding the proposed project lowering the property values and disagreed. He noted that within a two-week period of being posted, a 3.77-acre building lot on Barnes Road recently sold for more than the asking price. WG stated that there was not a site plan that reflected the contours and proposed grading for how big of an area would be disturbed. WG stated that the application listed it would be under an acre however was close at 30,000 square foot and added that anything over an acre changed the complexity of the project. WG also noted that on the SEQR form (Page 9), none of the land use had been completed. He added that the SEQR form indicated 'no' for wetlands; however, that was incorrect. WG then stated that as the proposed barn was to have more than 100 people in it; the fire code required the structure have an automatic sprinkler system and asked how the water would be supplied for it. WG then asked the number of stalls for the portable bathrooms. Mr. Bailey replied that he believed there were three for which WG wondered if it would be big enough for a party of 150 people. A discussion then ensued regarding the elevation and proposed grading. CC asked Mr. Gilchrist what type of grading information did he believe would be required along with what information would be provided. Mr. Gilchrist replied information provided will be subject to the Town Zoning Code for Site Plan Review and whatever contours are required to reflect current and proposed final grades which will then show total disturbed area use. CC asked Mr. Gilchrist his thoughts on SEQR. Mr. Gilchrist replied that he only seen the Town of Sand Lake PB as an involved agency and as such should declare itself as Lead Agency at this meeting. He then stated the next step would be to classify the action which he viewed as an unlisted action.

Mr. Gilchrist then spoke to WG's comment on wetlands and stated that as the entire parcel was 66+ acres; however, the area for the proposed project was not on wetlands which was the reason for the answer of 'no'. WG clarified that the question on the SEQR form covered the whole parcel. Mr. Gilchrist agreed to address the wetlands issue. WG then mentioned again the water supply for the sprinkler system and Mr. Gilchrist agreed to address that as well. WG stated that as part of the traffic issue, GPS or Google Earth direct folks from Albany and Troy to the other end of Barnes Road versus coming in off Route 150. He added that folks coming from the East were directed via Methodist Farm Road to 1st Dyke to Biittig Road then to Barnes Road. Mr. Gilchrist indicated that information would be reviewed. CC then asked Mr. Gilchrist to review Mr. Dixon's 3/4/20 letter which indicated that the proposed project fell under a Type 1 action for two different reasons. 1) the agricultural district nature of it tripped the thresholds and, 2) the adoption of changes in the allowable uses with any zoning district affecting 25 or more acres (reduced to 6.25 acres) of the District. Mr. Gilchrist replied as follows: 1) the thresholds would need to be reviewed to see if any of them would be triggered, 2) was not applicable as no zoning change was being requested and the proposed project is an allowable use in the district, with a Special Use Permit Review.

CC then asked to review/discuss each of the threshold factors from NYCRR Section 617.4 (6):

- (i) a project or action that involves the physical alteration of 10 acres;
CC stated that the 25% threshold would be 2.5 acres; Mr. Gilchrist replied the project disturbance would be well below 2.5 acres
- (ii) a project or action that would use ground or surface water in excess of 2,000,000 gallons per day;
Mr. Gilchrist stated that the 25% threshold would be 500,000 gallons per day; thus, the project would not be anywhere near that amount.
- (iii) parking for 500 vehicles in a city, town or village having a population of 150,000 persons or less;
Mr. Gilchrist replied the 25% threshold would be 125 cars and the project is proposed to have 70 parking spaces.
- (iv) in a city, town or village having a population of 150,000 persons or less, a facility with more than 100,000 square feet of gross floor area;
CC stated this factor did not apply.
- (v) in a city, town or village having a population of more than 150,000 persons, a facility with more than 240,000 square feet of gross floor area;
CC stated that the 25% threshold would be 25,000 square feet of gross floor area. Mr. Gilchrist replied the proposed barn structure was way below that number.

Mr. Gilchrist stated that in completing the SEQR form, he believed none of the Type 1 thresholds were triggered. Mr. Gilchrist then reiterated that the proposed project was an allowable use with a Special Use Permit and did not see any Type 1 thresholds being triggered and added the project would be proper as an Unlisted action.

AH then motioned to declare the Town of Sand Lake as the Lead Agency; seconded by MET and all approved. AH motioned to classification this Special Use Permit as an Unlisted action; seconded by RL and all approved. AH motioned to schedule the Public Hearing for September 16, 2020; seconded by RL and all approved. CC asked Mr. Gilchrist if they were in agreement to the Public Hearing being held on September 16, 2020 due to the timeframe for the Public Hearing notices to be posted in the newspapers. Mr. Gilchrist agreed and asked that the item also be placed on the September 2, 2020 agenda in order that they may respond to the comments raised by WG earlier.

DRAFT RESOLUTION APPROVALS

Revisit of Resolution for Scenic Preservation Review Application for Andrew Bulmer

Mr. Bulmer had requested that the Resolution approved at the June 17, 2020 PB meeting be revisited in regards to the conditions set forth. AH noted that the request was for one condition to be removed. He stated that the removal request was specifically for the condition listed on the Resolution as #5: the drainage system will be upgraded using sound engineering practices as determined by the Building Department. Mrs. Bulmer stated that they were unsure why the issue became part of this approval and added that the Building Department staff told her this determination was not in their scope. AH pointed out that he reviewed the taped version of the June 17, 2020 PB meeting where the Bulmer's had agreed to this condition 4-5 times. Craig Crist (CC) stated that while the ZBA had a rehearing procedure, the PB did not for a Scenic Preservation area overlay in that portion of the Code. He then stated that he believed there would need to be an amendment to the existing decision, which at a minimum would require a submission to the PB that it be amended. RL asked if that would trigger a full review again. CC replied that he did not see how it could be done any other way as that is what the code requires. Ms. Ryan stated that while such an issue had not been raised before, she believed that the project would just need to be placed on a future agenda. At that point, Ms. Bulmer stated that she was not interested in having any

additional meetings with the PB. Mr. Bulmer agreed by stating absolutely not and added that he felt it was a recommendation versus upgrading the entire system. Ms. Bulmer stated she had a legal civil matter which she would pursue with her attorney and go after the neighbor. She reiterated that she was not interested in meeting again with the PB and accepted the original Resolution as worded.

Negative Declaration for William Momrow

AH motioned to waive the full reading of the draft Negative Declaration; seconded by MET and all approved.

AH motioned to approve the Negative Declaration in its entirety; seconded by MET and all approved.

Minor Subdivision for Howard & Susan Read

AH motioned to waive the full reading of the draft Resolution; seconded by MET and all approved.

AH motioned to approve the Resolution in its entirety; seconded by MET and all approved.

Negative Declaration for Howard & Susan Read

AH motioned to waive the full reading of the draft Negative Declaration; seconded by MET and all approved.

AH motioned to approve the Negative Declaration in its entirety; seconded by MET and all approved.

Scenic Preservation Review Application for Andrew & Suzanne Fraser, Sybil Carven

AH motioned to waive the full reading of the draft Resolution; seconded by MET and all approved.

AH motioned to approve the Resolution in its entirety; seconded by MET and all approved.

Scenic Preservation Review Application for Morrissey Contracting LLC

AH motioned to waive the full reading of the draft Resolution; seconded by MET and all approved.

AH motioned to approve the Resolution in its entirety; seconded by RG and all approved.

Sign Placement Application for Jiff- E-Mart/Stewart Shop Corp.

AH motioned to waive the full reading of the draft Resolution; seconded by MET and all approved.

AH motioned to approve the Resolution in its entirety; seconded by MET and all approved.

MINUTES: MET motioned to accept the February 19, 2020 minutes as presented; seconded by RL and all approved.

ADJOURNMENT – AH motioned to adjourn the meeting at 10:01 pm; seconded by MET and all approved.