

**Town of Sand Lake
Planning Board Minutes
December 4, 2019**

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: Nancy Boyea, Pat McFarland, Damon Korszun, Katherine Korszun, Kevin McGrath, Monica Ryan

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

Scenic Preservation Application

Damon Korszun

14 Walsh Lane

Averill Park, NY 12018

R – Residential Zoning District

Tax Map #169.2-1-51

Lot Size: 1.02 acres

A Scenic Preservation Application to replace an existing fence with a new fence within 100' of Burden Lake.

Katherine and Damon Korszun stepped forward. Mrs. Korszun presented a drawing on the survey concerning a previous discussion on what was considered the front, back and side yards. She added that the proposed replacement fence would actually be in the backyard; thus, wished to go with the 8' height. She explained that one piece of the old fence would remain as it contained a marker and the rest would be replaced with stockade and run up the property and partially around the corner to the cooler of Kay's Pizza. Mary Ellen Trumbull (MET) stated that the fence would be 2' higher than what the Zoning Code allowed. Mrs. Korszun replied that if it was considered the backyard then it could be 8' high. AH asked the Korszuns why they considered it the backyard. Mrs. Korszun referred to a site picture and replied that the house front was on Walsh Lane, the side yard had a retaining wall with a current fence and the back yard is where the deck had been. Arthur Herman (AH) asked if Walsh Lane wrapped around their house. Mr. Korszun replied yes and that the side yard was on the other side of Walsh Lane. AH asked if that meant that they had a side entry garage. Mr. Korszun replied no, it was straight in from Walsh Lane. Planning Board (PB) members reviewed site pictures to gain an understanding of what would be considered as the backyard. AH asked if the garage was then considered the backyard. Mrs. Korszun replied that the front of the garage faced Walsh Lane; however, the back of the garage would be considered the backyard. Rick Giolito (RG) stated that while not being difficult, the fact that a fence is in the backyard did not indicate a back fence. He added that the fence would be 90 degrees to the front of the house which would make it a side yard. Mrs. Korszun explained that the proposed fence would be perpendicular to the other side of the yard which has the retaining wall and stockage fence. Site pictures are reviewed by the Korszuns and PB members for clarification on location of fence. RG stated that backyards do have side fences and added that if

the fence is not parallel to the front door then it would not be the backyard. Mrs. Korszun replied that it would be parallel and referred back to the site pictures. RG asked how long the fence would be as it appeared to have a turn into the back. Mr. Korszun replied it was 16 1/2' and straight back was 32'. RG then asked the height of the existing stockade fence. Mr. Korszun replied it was 6', would not be removed and added that the new fence would not be attached to it. Ralph LaMontagna (RL) pulled up an aerial view and reviewed it with the Korszuns. William Glasser (WG) concluded from that review that the location of the proposed fence would be the side yard. AH asked the reason for wanting the fence to be 8' high. Mr. Korszun replied it would be privacy and added that it would just replace the chain link fence that had been removed. RL stated that it is different as the new fence post would be right near the cooler. He added that while the certified map indicated that area was part of their property, it would not however be in the same exact footprint as the old chain link fence. Mr. Korszun replied the majority of it would be except for where it would turn by the cooler. RL then stated that the fence would then limit the neighbor's access to that part of the property. Mr. Korszun agreed and added that it was their property. RL asked if they had been maintaining that part of the property all of these years. Mr. Korszun replied that it was a hill that was barely walkable. RL then stated that the two things for the Scenic Preservation Application review/determination were: 1) is it a side yard and 2) the height of the fence allowed. RL asked PB members their thoughts. RG and Michael Groff (MG) replied that they thought it was a side yard. Jonathan Bernstein (JB) asked if there was a legal definition for a side yard. AH stated that approval could be granted to replace the fence at the height of 6' or an Area Variance could be sought for an 8' fence. AH added that as the majority of the PB members see the location as a side yard, the 6' fence is what would be allowed. Mr. Korszun replied that they would then reinstall the 8' chain link fence. RL replied that he did not see that as an option due to it having been removed and asked Craig Crist (CC) if that was correct. CC replied that would be a determination by the Building Inspector and the PB members would need to vote on what would or would not be approved. Ms. Ryan added that regardless of the review by the Building Inspector, the old chain link fence would need to be done in the same footprint if reinstalled. She added that to do so otherwise, such as a jog to the cooler, would be considered a new location/activity. Mrs. Korszun asked who handled the area variances for which AH replied the Zoning Board of Appeals (ZBA). Mrs. Korszun asked if the ZBA had a legal definition for a side yard. CC read the following definitions from the Zoning Code, Article XXII:

B. LOT, CORNER

A lot located at the intersection of and fronting on two or more intersecting streets and having an interior angle at the corner of the intersection of less than 135°.

F. LOT LINE, FRONT

The lot line separating the lot from the right-of-way of any public or private road. For purposes of this chapter a private way created solely for purposes of establishing a more distinctive Emergency 9-1-1 address that would otherwise be considered a driveway may not be considered a private way for lot frontage purposes.

G. LOT LINE, REAR

The lot line opposite and most distant from the front lot line.

H. LOT LINE, SIDE

Any lot line other than a front or rear lot line.

PB members agreed that the parcel was not considered a corner lot. AH then motioned to classify the Scenic Preservation Application as Type 2 action under SEQR and declared the Town of Sand Lake Planning Board as the Lead Agency with no other involved or interested agencies. Seconded by MET and all approved. AH made a motion to approve the Scenic Preservation Application for installation of a 6' stockade fence on the property line. The applicant was advised the he would need to seek a variance from the ZBA if he wished to pursue his requested 8' stockade fence. Seconded by MG and all approved.

Minor Subdivision Application – Preliminary Plat and Public Hearing

Betsy Owens (Executor and Applicant)
The Estate of Jackson Lawrence (Property Owner)
Eastern Union Turnpike
Averill Park, NY 12018
R – Residential Zoning District

Tax Map #159.-1-13.51

Lot Size: 10.62 acres
Lot 1 – 4.77 acres/Lot 2 – 5.85 acres

A Minor Subdivision Application to subdivide a 10.62-acre parcel into two lots.

Surveyor Kevin McGrath presented and stated that it was his second time in front of the PB. He then advised PB members that he had been in front of the ZBA one time thus far to seek an Area Variance as one of the two proposed lots would not meet the 3:1 depth to width ratio. He added that the first ZBA meeting went well and awaited the 2nd meeting which would include the PB recommendation as well as a Public Hearing. He explained that due to the scheduling of the PB and ZBA meetings, their hope was to now present to the PB for the second time and receive a conditional approval based on the outcome of the future ZBA meeting. AH asked PB members if they were in favor of proceeding without ZBA's approval of the Area Variance for which all agreed. Craig Crist (CC) explained that the application had been delayed due to a minor clerical error on the previously issued Public Hearing notice which had been reissued. Mr. McGrath then stated that this would be a minor two lot subdivision of an estate and the property would be divided amongst the son and daughter. He stated that only a driveway and gazebo existed at this time as both the son and daughter lived out of state. He added while there may be a future vacation home built; the minor subdivision was only to settle the estate as evenly as feasible. Mr. McGrath explained that he worked with the son to draw up maps. WG pointed out to PB members that subdivisions should include typography. He then added that while it could be waived, Lot 1 lent to the typography being needed on the site plan maps as the grade was over 15% to the lake and the subdivision regulations did not allow for it to be over 10% for the driveway. He stated that he felt this should be addressed in case a house was built in the future and fire apparatus needed to access it. Mr. McGrath explained that when entering the main driveway, the top of the lot was relatively level and restated that there were no current plans for a house, just estate planning at this time. WG continued to be concerned over the steep slope to the lake. Mr. McGrath explained that enough room existed on level land at the top for two houses and referred to the location on site plan maps. RL pointed out that the request was for a minor subdivision of a 10-acre lot into two parcels of approximately 5-acres each and as not being developed, asked if there was a reason for Mr. McGrath to prove developability. AH and RL agreed that the responsibility would be on the new owners should they wish to build. Mr. McGrath added that the worse part would be the septic system however a sewer system could come into the area. AH pointed out that there could easily be a one to two-acre area on each parcel that would be buildable for which MG agreed. Mr. McGrath then stated that should a future build(s) be done, Site Plan Reviews as well as Health Department approvals would be needed. He added that he did not believe that Lot 2 would have any issues and Lot 1 could utilize a grinder pump for which the future owners were made aware. With no further questions, RL read the Public Hearing notice. AH then motioned to open the Public Hearing at 8:04pm; seconded by RL and all approved. Pat McFarland then asked which lot required the Area Variance. Mr. McGrath replied that the 5.85-acre lot would need the Area Variance. Ms. McFarland then asked if a driveway would be shared for which Mr. McGrath explained that a deeded easement existed from when the lots had been previously divided. He further explained that the other neighbor did have frontage and could build another driveway. He added that since the property had been all one family previously, they all had used the same driveway. A discussion then ensued between Ms. McFarland and WG on the topography for which Mr. McGrath replied that, if needed and for an added expense to the future owners, the topography could be added to the site plan maps. WG stated that it would only become an issue should anyone wish to build a house down by the lake. AH added that the lot had been there for 40 years and the only manner in which it was used for was the

dock. Ms. McFarland then asked if it was incumbent upon the PB to point out obstacles that may be encountered. AH replied that the existing driveway had been used for many years and was not being sold as building lots. RG added that it would be incumbent upon the owner of the property. RL explained that it would be between the owners and Mr. McGrath and the plan would then be presented to the PB. AH made a motion to close the Public Hearing at 8:10pm; MG seconded and all approved. AH then motioned to waive the typography on the two-lot subdivision as it was being done to settle an estate; seconded by JB and all approved. AH motioned to declare this Minor Subdivision Application as an unlisted action under SEQR, declaring the Town of Sand Lake to be the Lead Agency with no other involved or interested agencies. Seconded by MET and all approved. AH made a motion to give this action a negative declaration under SEQR. He stated that the Town of Sand Lake Planning Board, as Lead Agency, has determined from the information presented and ensuring discussion, the proposed activities will not present a significant adverse effect on the environment. Seconded by RG and all approved. AH then made a motion to grant preliminary and final approval as well as waive the final Public Hearing with the condition that the 3:1 depth to width ratio be approved by the ZBA. Seconded by MG and all approved.

Minor Subdivision Application – Preliminary Plat

William E. Momrow
502 Momrow Road
Sand Lake, NY 12153

Tax Map #159.-2-7.1
Lot Size: 141.49 acres
Lot 1 – 4.02 acres
Lot 2 – 137.48 acres

RR – Rural Residential Zoning District

A Minor Subdivision Application to subdivide a 141.49-acre parcel into two lots.

Surveyor Kevin McGrath presented and referred to the site plan map to explain the subdivision. He stated that the neighbor’s daughter planned to buy the 4-acre lot to build a house and referred to a field on the site plan map. WG questioned whether it was flat as he noted a 20’ change in elevation. Mr. McGrath explained the layout of the 4-acre parcel. WG asked if a building currently existed on the parcel. Mr. McGrath replied no and added that daughter wished to be near her family and discussions had taken place for the last few years on the purchase of this parcel. Mr. McGrath added that Mr. Momrow was also looking to sell additional property. The site plan map was reviewed in regards to the proposed 4-acre lot and Mr. McGrath stated that he would provide new maps to reflect that the proposed parcels were not for development. AH pointed out that the proposed lot would meet the 3:1 depth to width ratio. AH then motioned to waive the topography on the two-lot subdivision; seconded by RL and all approved. AH then motioned to declare the Town of Sand Lake to be the Lead Agency with no other involved or interested agencies; seconded by MET and all approved. AH then scheduled the Public Hearing for December 18, 2019 at 7:30pm.

DRAFT RESOLUTION APPROVALS:

Boundary Line Adjustment 1/4 for Ken Cioffi/Richard Thorpe for donor parcel of .53-acres

AH motioned to waive the full reading of the drafted SEQR Resolution; seconded by RL and all approved. AH motioned to approve the Resolution in its entirety; seconded by MET and all approved.

Boundary Line Adjustment 2/4 for Ken Cioffi/Richard Thorpe for donor parcel of .52 acres

AH motioned to waive the full reading of the drafted SEQR Resolution; seconded by RG and all approved. AH motioned to approve the Resolution in its entirety; seconded by MET and all approved.

Boundary Line Adjustment 3/4 for Ken Cioffi/Ken Cioffi for donor parcel of .52 acres

AH motioned to waive the full reading of the drafted SEQR Resolution; seconded by RL and all approved.

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

Boundary Line Adjustment 4/4 for Ken Cioffi/Ken Cioffi for donor parcel of .51 acres

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

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

MINUTES –

ADJOURNMENT - AH motioned to adjourn the meeting at 8:26pm; seconded by MG and all approved.