

**Town of Sand Lake
Planning Board Minutes
July 18, 2018**

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, Dominick Bates, David King, Jonathan Bernstein, Michael Groff, Mary Ellen Trumbull and Lawrence Howard, Esq.

MEMBER ABSENT:

OTHERS PRESENT: Joseph Hill, John Hill, Helen Middleton, Luke Shea, Mary Ellen Bielawa, Ann Morris, Rich Kuperberg and Robert Morrell

RECORDING CLERK: Karol O’Sullivan, Clerk for the Planning Board and ZBA

Minor Subdivision Application and Public Hearing

Dennis and Ed Milkiewicz

3878 NY 150

Averill Park, NY 12018

AR – Agricultural/Residential Zoning District

A Minor Subdivision Application to subdivide a 14.35 +/- acre parcel into two lots in an AR Zoning District.

Tax Map #158.-1-23.1

Lot Size: 14 acres

Lot 1A – 1.70 acres

Lot 1B – 12.70 acres

Dennis and Ed Milkiewicz presented before the Planning Board (PB). Art Herman (AH) asked them to explain to the public what they wished to do. Dennis Milkiewicz explained they were trying to subdivide a 1.7-acre lot from the 14-acre agriculture farm. The PB looked over the survey maps while the Clerk explained the PB had previously made a recommendation to the ZBA for an area variance for the property. The negotiated lot size was recommended at 1.7 acres and the ZBA did approve the area variance on May 23, 2018.

AH asked for questions from the PB. Mary Ellen Trumbull (MET) asked if this was the application to have livestock on the agriculture property and was told yes. AH motioned to open the Public Hearing at 7:35 PM. MET seconded the motion and all approved. AH asked Ralph LaMontagna (RL) to read the Public Hearing Notice. With no public comment, AH motioned to close the Public Hearing at 7:36 PM. MET seconded the motion and all approved. MET followed up on her question regarding how many bales of hay does a cow eat. Dennis Milkiewicz said he did not know and would have to Google it.

AH made a motion to declare this Minor Subdivision Application as an unlisted action under SEQR, declaring the Town of Sand Lake Planning Board to be the Lead Agency. MET seconded the motion 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 ensuing discussion, the proposed activities will not present a significant

adverse effect on the environment. Dominick Bates (DB) seconded the motion and all approved. AH made a motion to grant approval to the Minor Subdivision Application, as presented, granting preliminary and final approval of the plan and waived the final hearing. David King (DK) seconded the motion and all approved.

Special Use Permit Application

Peter Ludder
11 Denver Drive

Tax Map #146.2-4-64

West Sand Lake, NY 12196

Lot Size: .40 acres

R – Residential Zoning District

A Special Use Permit Application to add a four-bedroom, 2,000 sq. ft. addition on an existing dwelling for operating a Family Type Home.

Peter Ludder presented before the PB. AH asked RL to read the Public Hearing Notice. AH asked Mr. Ludder to explain his Special Use Permit Application and stated that the PB had received the requested well water test which showed the well produced 5 gallons per minute over 2 hours. Mr. Ludder said it was actually producing 8 gallons per minute until the last 15 minutes when it went down to 5 gallons per minute. Mr. Ludder stated he has been running a family-type home for the past 4 to 5 years and wants to add a few more bedrooms to the home to be more client friendly. He explained he wanted to add a 2,000 sq. ft., 4-bedroom addition. He explained it would be the same family-type usage as before and there seems to be a high interest in our area and the Capital District for such services, so this is a natural progression to expand.

Mr. Ludder said that a Family Type Home is a residential home for people to live together and get help. He said it is not a facility because it is a residential home in a residential area. RL asked Mr. Ludder to talk about the parking plans on the backside of the property. Mr. Ludder said the parking was being improved to add 3 to 4 parking spots in the back for all employees and deliveries which leaves the parking area in the front for visitors and clients. He explained they typically have a couple of visitors each day and 2 staff parking each day. He added this removes the parking issues on Denver Drive and View Avenue. RL explained the concern from the public regarding the on-street parking and said the structural changes planned for the new driveway and parking area should help, but asked Mr. Ludder to let visitors know not to park on the street by signage. They agreed that holiday/birthday visitation may increase visitor parking for short periods of time.

AH motioned to open the Public Hearing at 7:45 PM. MET seconded the motion and all approved. Rich Kuperberg said he lives on the west side of 11 Denver Drive where the addition will be added. He said he was concerned that the addition foundation may require blasting as his dwelling required blasting when built. He said it is all shale there. He said he had to drill his well down to 350 feet and still had to frack the well. He said the well driller stated the well water is not being replaced due to the sewers. He said he was concerned about the addition of 4 more residents in the building. He said it is a nice, quiet business. He asked if Mr. Ludder was to sell the property what could go in there, citing a drug rehab facility or some kind of business. RL said the property was not zoned for a business and residential standards would remain in place. AH added anything other than residential use would have

to come before the Planning Board and ZBA. Mr. Kuperberg confirmed the lighting for the property would be regular residential lighting.

Helen Middleton from 19 Denver Drive stated her driveway was across the street from the Ludder property. She said it was hard for her to get out of her driveway when people park on View Avenue. She also shared concerns about there not being a new well for 11 Denver Drive for the addition of 4 bedrooms. AH explained that the well was tested and proven to generate 5 gallons per minute for 2 hours which should be sufficient. Mr. Ludder walked Ms. Middleton through his site plan showing her where the new driveway and parking area would be placed behind the dwelling. He said the existing driveway will be for visitor parking and assured her that he will ensure visitors no longer park on View Avenue.

Joe Hill said his father lives in this neighborhood. He asked the PB if the Ludder plan will impact the value and tax base of adjacent properties. AH said it will still be a residential house and is just increasing in size by 2 bathrooms and 4 bedrooms. He said the home is not a commercial business. Lawrence Howard (LH) explained that the State has determined this Family-Type Home is residential and is a permitted use in this residential area. He said Mr. Ludder is capped at a maximum of 6 clients and that keeps it as a residential use in a residential district. He explained the PB's role is to review the Site Plan for lighting, parking, etc. AH added that the increased size of the house should actually increase the value of the 11 Denver Drive property.

Ann Morris raised the question regarding blasting again. Mr. Ludder said there is a septic field in the back. He said a good portion of the lot was sloped and fill had to be brought in when the dwelling was built. He said he does not expect there to be any blasting. He said they will move dirt where the footings will go. AH said this addition will not have a full foundation. Mr. Ludder said he has had excavators look at the plan and no one has issued any concern. He added the septic has been perking fine.

With no other public comment, AH motioned to close the Public Hearing at 7:59 PM. DK seconded the motion and all approved. DB raised the blasting issue again stating this was the first he has heard of it and asked whether blasting has impacted anyone's well. Mr. Ludder said he did not anticipate blasting; possibly some heavy equipment. He explained this is an older neighborhood. He explained the upper neighborhood was new, but he was never aware of any blasting during that neighborhood being built. He explained his house at 10 Denver Drive is a 50-year old house/well. He said his well was just dug down 100 feet more which is normal for the neighborhood. LH said that if blasting was required, they would have to come to the Town for a process of approval and such a request may not get approved. RL added blasting would be in a controlled manner if it were allowed. MET said she shared the same concern about blasting but was satisfied with LH's explanation. LH said he did not think it would be allowed in a residential neighborhood.

AH said he had made a motion at the last meeting to declare this Special User Permit and Site Plan Review as an unlisted action under SEQR, declaring the Town of Sand Lake Planning Board to be the Lead Agency. AH made a motion to give this action a negative declaration under SEQR. He stated the Town of Sand Lake Planning Board, as Lead Agency, has determined from the information presented

and ensuing discussion, the proposed activities will not present a significant adverse effect on the environment. A determination of non-significance will be recorded and a Draft Environmental Impact Statement need not be prepared. DK seconded the motion and all approved. AH made a motion to grant approval to this Special Use Permit and Site Plan Review Application as submitted with the condition that a sign be placed in the existing View Avenue parking area stating that additional parking is available behind the building and no parking is allowed on View Avenue. DK seconded the motion and all approved.

Minor Subdivision Application

Luke Shea

#5 and #9 Tin Can Alley

Averill Park, NY 12018

R – Residential Zoning District

Tax Map #148.3-6-35

Lot Size: .48 acres

Lot 1 - 6,404 sq. ft.

Lot 2 – 8,265 sq. ft.

A Minor Subdivision Application to subdivide a lot, which has two existing dwellings on it, into two lots.

Luke Shea presented before the PB stating this property is currently 1 deed with 2 houses on the deed. He explained his parents live in one house and he and his wife live in the other. He said his parents are in their 80s and thinking of possibly selling and moving into something more appropriate. He said he wants to create 2 deeds to separate the properties so when his parents choose to sell their house, he and his wife can remain in their home. Monica Ryan explained to the PB that this existing lot has 2 houses, 2 driveways, 2 septic tanks and 2 wells. AH commented the houses are spaced properly. Mr. Shea said his house was built in 1984 and his parents' house was built in the late 1800s. MR advised the PB that the Shea's had to come before the ZBA for area variances for insufficient road frontage and insufficient lot size in the prior month and received area variance approval from the ZBA.

The PB, LH and MR discussed the process of the ZBA receiving a Recommendation from the PB. LH said the ZBA could seek a PB recommendation but it is not necessary. MR said the house built in 1984 was during Zoning Code years, but the Town files do not show that it required a variance for it. LH added that the Town did require approvals to build the house, just not a variance. RL acknowledged that the 2 houses, 1 deed was not-self created. LH said everything was already set on the land, so adding an extra meeting for the applicant did not seem necessary in order to get a PB recommendation for the area variance. They all discussed the difference between a new subdivision improving land with this application with the buildings already there.

MET confirmed 1 deed with 2 homes and the desire for 2 deeds for property sale. DB said it was a no brainer. AH and MR said the side yard setbacks are met. MR said the rear yard setback was never met before. Mr. Shea said there are separate tax bills for each house. AH said there are 2 wells, 2 sewer connections and 2 driveways. RL said the area variances have been approved by the ZBA. LH said that did not force the PB to approve the subdivision, but all agreed that if they did not approve the subdivision there would be bigger problems. All also agreed the Town should have required area variances in 1984 but there is nothing in the files that reflected that. AH confirmed there may have been some Building Department transitions during that timeframe that could have led to the issue.

AH made a motion that the application was an unlisted action under SEQR. RL seconded the motion and all approved. AH made a motion to hold a Public Hearing on August 1, 2018. MET seconded the motion and all approved.

Scenic Preservation Application

Mary Ellen Bielawa
12 Calkins Farm Road
Averill Park, NY 12018
R – Residential Zoning District

Tax Map #169.2-1-66

Lot Size: .43 acres

A Scenic Preservation Application to install a 6’ tall fence along property line of dwelling on Burden Lake.

Mary Ellen Bielawa presented before the PB. AH asked her to explain her application. Ms. Bielawa said she wished to put a 6-foot, cedar fence up between her property line and her neighbor’s. She said she brought her survey and some pictures of the area on her property. AH asked how close would the fence be to the lake and was told it would be placed 25’ back from the lake. Ms. Bielawa said the roads are close and she wants some privacy. MET asked about reference on the application to disturbance within 100 feet of waterfront. Ms. Bielawa said digging the post holes would be the disturbance. AH asked if the fence would be stained and was told no it would be natural cedar.

The PB looked at the pictures and remembered some tree removal issues in the past. Ms. Bielawa said that was the neighbor on the other side of her neighbor. RL confirmed that Ms. Bielawa was not removing any trees. AH confirmed the fence would be approximately 112 feet long. One of the pictures provided showed property owner, Mr. Bennet’s, fence right on the property line. MET asked how close Ms. Bielawa’s fence would be to her property line. Ms. Bielawa said she would like to get it as close to her property line as possible, but the fencing company said it won’t be easy due to the fact that Mr. Bennet’s fence is right on the property line. While Ms. Bielawa didn’t have any picture samples of the fence she was planning on, she explained it will be a nice fence installed by ABSCO for an estimated price of \$5,000, so it will be a nice fence.

AH asked the PB if they had any additional questions/comments. He said the fence was not close to the lake. Ms. Bielawa said shrubs down by the lake block her view, but her fence will not block her neighbor’s view. AH made a motion to declare the activities proposed under the Scenic Preservation Application as an unlisted action under SEQR, declaring the Town of Sand Lake Planning Board, as Lead Agency. MET seconded the motion and all approved. AH made a motion to give this application a negative declaration under SEQR. He stated the Town of Sand Lake Planning Board, as Lead Agency, has determined from the information presented and discussion, that the proposed activities would have a non-significant impact on the environment. A determination of non-significance will be recorded and a Draft Environmental Impact Statement need not be prepared. DB seconded the motion and all approved. AH made a motion to grant approval to this Scenic Preservation Application, as submitted, subject to the condition that proper precautions be taken to prevent any discharge of sediment into the Lake. DB seconded the motion and all approved.

Boundary Line Adjustment Application

Robert Morrell (Applicant and Receiving Parcel)
83 Rabie Road

Tax Map #169.-2-3.3

Averill Park, NY 12018

And

Wayne Lawson, Executor for Estate of Joan Brown (Donor Parcel) **Tax Map #169.2-2-2.312**

3778 Rt. 150

West Sand Lake, NY 12196

AR – Agriculture/Residential Zoning District

Donor Parcel Tax Map #169.2-2-2.312 Estate of Joan Brown, 3778 Rt. 150, West Sand Lake, NY 12196

Current Lot Size 13.07 acres/Donating 10.29 acres/Proposed Adjusted Lot Size 2.78 acres

Receiving Parcel Tax Map #169.-2-3.3 Robert Morrell, 83 Rabie Road, Averill Park, NY 12018 Current Lot Size 84.4 acres/Receiving 10.29 acres/Proposed Adjusted Lot Size 94.70 acres

Robert Morrell presented before the PB reminding them that he had recently done another boundary line adjustment with his neighbor, Mrs. Bushey. He said Mrs. Bushey told his neighbor, Joan Brown, about her transaction with Mr. Morrell. He said Joan Brown contacted him to start the boundary line adjustment process but died prior to starting it. Joan Brown must have told her family about the idea, because her estate recently contacted him about doing the transaction. MET asked if he was purchasing the property and Mr. Morrell said yes, from her estate. The PB reviewed the survey map and talked with Mr. Morrell regarding his driveway access to the property and how the unusual property lines were drawn between the Bushey and Brown dwellings.

AH said he did not see any problems. AH made a motion to declare this Boundary Line Adjustment as an unlisted action under SEQR, declaring the Town of Sand Lake Planning Board to be the Lead Agency. RL seconded the motion and all approved. AH made a motion to give this action a negative declaration under SEQR. He stated the Town of Sand Lake Planning Board, as Lead Agency, has determined from the information presented and ensuing discussion, the proposed activities will not present a significant adverse effect on the environment. A determination of non-significance will be recorded and a Draft Environmental Impact Statement need not be prepared. DK seconded the motion and all approved. AH made a motion to grant approval of this Boundary Line Adjustment Application, as submitted, subject to the following condition: the signed maps and a new deed for each parcel as adjusted be recorded with the Rensselaer County Clerk within 60 days of the maps being signed by an Authorized Representative of the Town of Sand Lake Planning Board. MET seconded the motion and all approved.

MINUTES – MET motioned to approve the May 2, 2018 meeting minutes. DK seconded the motion, RL abstained due to his absence from the meeting and all others approved. DK motioned to approve the May 16, 2018 meeting minutes. MET seconded the motion, RL abstained due to his absence from the meeting and all others approved. DK motioned to approve the June 6, 2018 meeting minutes. MET seconded the motion, RL abstained due to his absence from the meeting and all others approved.

ADJOURNMENT

AH motioned to adjourn the meeting at 8:35 PM. Michael Groff seconded the motion and all approved.