

**Town of Sand Lake  
Planning Board Minutes  
June 19, 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:** Ralph LaMontagna, Vice Chairman, called the meeting to order at 7:30 PM

**MEMBERS PRESENT:** Rick Giolito, Dominick Bates, Jonathan Bernstein, Michael Groff, Craig Crist

**MEMBER ABSENT:** Arthur Herman, Mary Ellen Trumbull

**OTHERS PRESENT:** Nancy Perry, Geoffrey R. Gamache, Danforth H. Chriss, Maryellen & Kevin King, Don Moore, Dee Erickson, Shane Cahill, Monica Ryan

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

**Site Plan Review**

Danforth Chriss  
125 Kipple Road  
Sand Lake, NY 12153  
RR – Rural/Residential Zoning District

**Tax Map #161.-2-3**

Lot Size: 18.5 acres

A Site Plan Review Application for construction of a 40' x 60' steel garage.

Danforth Chriss presented his plan to construct a 40'X 60" steel garage. He stated he had received approval from the Zoning Board of Appeals (ZBA) for an Area Variance for the garage to be 20' in front of the house. Mr. Chriss added that the colors would be green and brown to blend in with the property and that the garage would mainly be utilized for storage and cars. Ralph LaMontagna (RL) asked Planning Board (PB) members if there were any questions. Rick Giolito (RG) asked if the garage would be seen from the street for which Mr. Chriss replied yes. RG then asked if the garage would be the same color as Mr. Chriss' home. Mr. Chriss replied that his home is a greenish color with red trim and showed a picture. RL asked if there would be any lighting on the building. Mr. Chriss replied yes and added it would be located outside on the front part of the garage which would face his house but not his neighbor's house. RL stated that lighting should be of a low emittance so as not to extend beyond the property to which Mr. Chriss agreed. RG clarified that the structure was going up on an 18.5-acre lot. Mr. Chriss replied yes and added that he has 600' of road frontage. Mr. Chriss further added that if the structure were to be pushed back, it would require going into an embankment and would be close to his septic system. RL clarified that the reasons mentioned were what the ZBA used to base the Area Variance approval to which Mr. Chriss agreed. With no further questions from the PB members, RL motioned to list this as a Type 2 action under SEQR; seconded by RG and all approved. RL then motioned to approve the Site Plan Review Application as submitted with no conditions; seconded by Dominick Bates (DB) and all approved.

**Site Plan Review**

Donald Moore (Contractor)  
Ian Osterlitz (Property Owner)  
34 Boylan Road  
Averill Park, NY 120198  
R – Residential Zoning District

**Tax Map #159.4-1-4.2**

Lot Size: 1.0 acres

A Site Plan Review Application to construct a 28’ x 40’ single-story garage.

Contractor Donald Moore was present, however due to medical issues, RL described the project on behalf of Mr. Moore and stated the Site Plan Review application was submitted for construction of a 28’x40’ single story garage in the front yard. RL advised Mr. Moore that if he had anything to add, he should feel free to do so. RL explained that after a thorough review by the Zoning Board of Appeals (ZBA), approval for an Area Variance Application had been received as it was determined that the proposed location was the only area to place the structure. RL added that all other setbacks were in order. RL then asked if there was a color scheme for the building and Mr. Moore replied that the colors would be the same as the residence. RL then asked about outside lighting. Mr. Moore responded there would be lighting above the garage doors and the entry/exit door. RL then stated that lighting should be of a low emittance so as not to extend beyond the property. DB then asked if the approximately 1 1/4 acre of property towards the lake was the same owner. Mr. Moore responded that was a separate residence and accessed via a private road. RL commented that it was his understanding that the area was heavily treed to which Mr. Moore agreed. With no further questions from the PB members, RL motioned to list this as a Type 2 action under SEQR; seconded by Michael Groff (MG) and all approved. RL then motioned to approve the Site Plan Review Application as submitted with no conditions; seconded by RG and all approved.

**Special Use Permit**

Kevin and Maryellen King  
4478 NY 150  
West Sand Lake, NY 12196  
R – Residential Zoning District

**Tax Map #146.-5-6.2**

Lot Size: 2.03 acres

A Special Use Permit to add an in-law apartment on an existing dwelling.

Mary Ellen and Kevin King presented. Mr. King stated that the proposed plan for an 800 square foot in-law apartment would be for his mother and ailing father. Mr. King explained that all setback requirements were in place and the addition would truly be an in-law apartment with access to the rest of the house for additional living space. Mr. King added that the color of the addition would be the same as the main house and include appropriate landscaping around the addition. RL then asked PB members if there were any questions. Craig Crist (CC) asked what their intentions were when the parents are no longer living there. The King’s responded that they would most likely downsize to a single-family home. Jonathan Bernstein (JB) then asked CC if the permit stayed with the land or the tenant. CC responded that the use variance would stay forever with the property. Monica Ryan added that, if the permit is approved, the property would then be a two family as current owners would be not expected to convert back to a one family when no longer needed or selling. A discussion then ensued and CC explained that in other towns, approvals of such Special Use Permits resulted in numerous changes for an area so those towns had begun placing a condition on those types of approvals for such things as disconnection of a secondary utility. RG added that it was his understanding that the area under review does not consist of two-family homes. Mr. King replied that where they resided on Route 150, a non-conforming use

existed next door to them and added while his area was zoned residential there seemed to be some mixed use. RL stated that placing a condition on the permit is something for the PB members to think about as they proceed through the review process. RG clarified and stated that would mean reverting back to a one family home for whatever reason. RL stated he wished to hear from the public and then asked if there were other questions. CC mentioned that cost is another consideration if a condition was placed for reverting back to a one family home. Monica Ryan then explained that previously approved Special Use Permits for this purpose did not carry a condition or request for the structure to be reverted back to a one family. Mr. King stated that he would welcome PB members or other Town employees to do a drive by of the area to see how it is not considered a normal neighborhood. RL commented that the reasons outlined were all good to consider. RG commented that according to the site plan, the addition would be connected to the house versus being separate. He then explained that the PB members just needed to consider allowance of a two-family home on a one-family lot. CC then read Section 250-84 C from the Town's Zoning Code: A special use permit may be issued as:

**(1)** Permanent, except where the permitted use is discontinued for any reason for a period of two years or more, in which case the permit shall expire.

CC then stated that the PB does have the power to grant a permanent Special Use Permit. He then continued reading the rest of Section 250-84 C, D & F:

**(2)** Temporary, to cease on a specified date and not to be renewable.

**(3)** Renewable within a specified period of time set by the Planning Board.

**D.** A special use permit may be revoked by the Planning Board if the conditions of the special use permit are violated.

**F.** All special use permits shall run with the land and will be transferred to successive property owners provided the permit has not expired and it is not revoked for failure to meet the permit conditions.

RL then asked if the King's would have to renew the permit for which both CC and Monica Ryan replied no unless made as a condition. JB then questioned whether the King's application should have asked for the addition to be permanent. Monica Ryan replied that unless a condition was placed on them, approvals have been treated as continuous. DB questioned if the Department of Health would need to get involved if down the road two families moved in yet only one septic tank existed. Monica Ryan replied that the King's would have had to meet those requirements for the addition as a result of proposed plan for folks to live there. Mr. King clarified for all that they are on sewer. RL set the Public Hearing for July 3, 2019 at 7:30PM and the King's agreed on the date and time.

### **Boundary Line Adjustment Application**

Geoffrey Gamache (Applicant and Receiving Parcel)  
157 Kipple Road  
Sand Lake, NY 12153

**Tax Map #149.-2-39**

and

Elton and Loren Dobert (Donor Parcel)  
110 Kipple Road  
Sand Lake, NY 12153

**Tax Map #161.-2-1.1**

RR – Rural/Residential Zoning District

**Donor Parcel Tax Map #161.-2-1.1** 110 Kipple Road, Sand Lake, NY 12153 Current Lot Size 185.77 acres/

**Receiving Parcel Tax Map #149.-2-39** 157 Kipple Road, Sand Lake, NY 12153 Current Lot Size 115.34 acres/Receiving 118.83 acres/Proposed Lot Size 234.17 acres

A Boundary Line Adjustment Application to donate 118.83 acres to an existing residential lot.

Geoffrey Gamache presented and stated that the Boundary Line Adjustment (BLA) was needed to add the Dobert property that had been for sale on the west side of Kipple Road to his property. He further explained

that one parcel in the center would be excluded as it contained the Dobert's barns and fields which would stay with their house. Mr. Gamache also stated that there was only one new lot line created as the other boundary lines existed. RG referred to the site plan map and asked Mr. Gamache to point out the new lot line. Mr. Gamache clarified the new lot line and explained the topography. RG also asked for clarification on the property layout. Mr. Gamache utilized RG's copy of the site plan map and outlined current and future boundary lines. RL clarified for the record that the Dobert's would be donating 118.83 acres and would leave them with 66.94 acres and the new lot would go from 115.34 acres to 234.17 acres. RG then asked what the plans were for this property. Mr. Gamache explained it would be a one home residence for him in the future. RG asked if Mr. Gamache lived there now for which he replied no and added that he resided approximately 3 miles from this property on Taborton Road. RG asked if there was currently a home on this property. Mr. Gamache replied no. He further explained that on his 115 acres there was originally a home that he took down due to being unsafe. He added that there is only one barn on property now. With no other questions, RL motioned to list this as a Type 2 action under SEQR declaring the Town of Sand Lake as the Lead Agency; seconded by RG and all approved. RL then motioned to approve the Boundary Line Adjustment Application as submitted with no conditions, provided that signed deeds and new maps to reflect adjustments are recorded with Rensselaer County within 60 days of maps being signed by an authorized Town of Sand Lake Planning Board member. This motion was seconded by Dominick Bates (DB) and all approved.

**Scenic Preservation Application**

Frank Garcia  
62 Methodist Farm Road  
Averill Park, NY 12018  
R – Residential Zoning District

**Tax Map #170.2-2-1**

Lot Size: 2 acres

A Scenic Preservation Application to make landscaping improvements and remove two trees within 100 feet of Crooked Lake.

Frank Garcia presented and stated that he and his wife reside at 62 Methodist Farm Road which is on Crooked Lake with approximately 240' of lakefront. He referred to the site pictures and explained a 50' shoreline area that goes approximately 20' inland that is currently filled with weeds and rocks; thus made that area inaccessible. He stated that their proposed plan is to clear that area and plant grass to match the adjacent side for the lake to be accessible from that location. He also stated that he is working with a local contractor who is familiar with work performed near lakes and would put up a silt fence prior to any work being done. Mr. Garcia then stated their goal is to clean up the weeds and rocks in order that they may access the lake. He then referred to the site pictures and stated that a hemlock evergreen tree and deciduous tree, which he believed to be a maple, may have to be taken down as a result of rocks being removed and needed grading. He further stated that he has been in contact with Zema's Nursery who indicated those trees are available, thus, the plan is to replace with the same exact trees should they need to be removed. He also added that they would eventually like to add additional trees to beautify the area. While PB members had no questions, they did comment on being pleased with the fact that Mr. Garcia was willing to replace any trees that may need to be removed. RL motioned to list this as a Type 2 action under SEQR; seconded by RG and all approved. For the record, CC asked PB members to clarify that for each motion rendered thus far as a Type 2 classification action under SEQR also meant that they declared the Town of Sand Lake as the Lead Agency. RL made such motion; seconded by Dominick Bates and all approved. RL then motioned to approve this Scenic Preservation Application as submitted with aforementioned proper erosion controls; seconded by Michael Groff and all approved.

**Site Plan Review – Revisit of April 2018 Conditional Approval**

Bob Hale/Bob's Rental Center

**Tax Map #146.4-3-10**

3731 NY 43

West Sand Lake, NY 12196

HC – Hamlet Commercial Zoning District

Original Site Plan Review Application was for expanded parking and other site changes. Applicant is requesting a revisit of the discussion resulting in an April 18, 2018 conditional approval of a tube slat chain link fence.

At 8:06PM, RL motioned for a brief adjournment to allow time for Mr. Hale to appear at the meeting. Seconded by JB and all approved. With the presence of Mr. Hale, RL motioned to resume the meeting at 8:13PM; seconded by Dominick Bates and all approved. Mr. Hale presented and stated while the expansion has been done, the condition placed at the time was not something he wanted to do nor was he sure of the reasoning behind it. He further stated that the fence he had put up is 90' from the road. Mr. Hale then shared pictures he had taken that day from the road to reflect the view and stated that from his perspective, he did not see why it was necessary to add the tube slat to the fence as nothing could be seen. Mr. Hale then asked if the PB members could change/remove the condition placed on 4/18/18 for his Site Plan Review approval. RL then asked the PB members if they had any questions. Mr. Hale commented that he had come with 10 reasons why he did not want the tube slats on the fence. RL responded that it has been over a year since the condition was placed with no prior communication to the Town from Mr. Hale. RL then asked when the fence was put up. Mr. Hale responded that it was done back in December. RL then stated that he recalled from the 2018 conversation that the reasoning for the condition was based on site issues as equipment was being stored and the prior wood fence was deteriorating which made it hard to maintain. RL added that he recalled a lot of input from the community which assisted in the formation of their decision at that time and also mentioned the neighbor who had put a fence up. RL also recalled that residents were looking for a walkable community without seeing the equipment. RL recalled Mr. Hale agreeing with the tube slats in 2018 and while RL had proposed metal, Mr. Hale asked to do plastic. Mr. Hale responded that at the time, he was given two choices: to either put the slats up or there would have been a Public Hearing; thus, he had chosen the tube slats. RL indicated that while the Public Hearing was waived, the PB members had received some feedback from folks. RL then stated that the condition was placed in order that there would be a structure that could not be seen behind. Mr. Hale asked if things could be seen from the road and PB members responded yes. Jonathan Bernstein (JB) asked what was behind the U-Haul to which Mr. Hale responded lawn mowers however did not think it could be seen from the roadway. JB replied the items could be seen which had been the purpose of their original approval with condition and he would deny any changes of that approval. Mr. Hale stated that in his drive to the meeting, he noted that businesses such as the gas station, Bonded Concrete, the hardware store nor auto stations were screened yet had items right by the road. RL replied that at this time, the focus was on Mr. Hale's property. He further added that discussion regarding proper screening would be part of Site Plan Reviews. Mr. Hale responded that he did not see it. RL replied that while Mr. Hale may not see it being enforced, the tube slat was conditioned for his Site Plan Review as a good solution based on location of the business as well as community feedback. Mr. Hale commented that he has cleaned up the area and it is kept nice compared to other local businesses. RL agreed and added that the shape of backyards is temporary and could change at any time; however, the tube slat fence would be permanent which is why the Town has continued to ask Mr. Hale to comply with the condition previously set forth. Mr. Hale responded that at the time he had brought his plan to the Building Inspector, and both Mike Wager and Monica Ryan had reviewed and stated he did not need the Board's approval to perform the work. Monica Ryan clarified that conversation and stated that Mr. Hale had been informed that a Site Plan Review was not needed for the proposed minor expansion of the parking lot to add a few spaces. She then added that as the proposed plan had also included movement of the fence and an accessory structure, that was what

triggered the need for a Site Plan Review. Mr. Hale recalled differently and stated he just about left with no action needed. Monica Ryan reiterated that the proposed parking lot change did not require Site Plan Review however the other business element changes did. RL stated he knew of the Building Inspector's visits however the condition placed is a difficult one for the PB to reverse as it is expected the property owner would comply. Mr. Hale asked if anyone has complained. RL responded he did not know of any complaints however if anyone were to do so, the Town would not look good for failing to ensure compliance. Mr. Hale responded that was his reasoning for asking that the condition to be removed. RL responded that removal/reversal of that condition would be a hard one as the equipment needs to be screened and while it had been previously screened, it is now unscreened and a problem. RL added that a lot of time and information had been gathered for that determination. He further added that it took from April to December for Mr. Hale to install the fence and then time lapsed before the violation was cited. RL stated he did not know why Mr. Hale had not come back to the PB a week or even month after the condition had been placed to discuss it. Mr. Hale replied that he thought the condition was more of a suggestion versus a demand. RL explained that it was a condition of the approval and suggested Mr. Hale review that video. Mr. Hale stated he was only given the two choices; slat tubes or public hearing. JB stated that the request creates a very dangerous precedent as proposed plans are reviewed/approved with conditions; thus, no motion to reargue as no hardship has been mentioned. He added that conditions set forth for any approvals are meant to be complied with and not stated as a suggestion. Mr. Hale then stated with the screening installed, he would then have problems with security/safety of equipment as he would not be able to see certain areas with the cameras from the main building. RL replied there would be plenty of room for cameras and, in essence, no different then what had been there previously. DB pointed out that the conditions had been brought up and Mr. Hale agreed to them; thus, viewed as a cut-and-dry situation for screening of the fence. CC stated that he heard three PB members comment against any request to modify the existing conditions and asked that PB members be polled to record those not in favor based on comments. Mr. Hale then proposed a different type of screening and shared a sample picture of a greenish color nylon mesh privacy screen and asked if that would be approved or if the screening had to be a slat tubing. RL asked PB members their thoughts on the proposed nylon mesh screen. RG reviewed the picture and stated he had no issues with it. DB reviewed the picture and indicated it would serve the same purpose as the tube slat. RL asked CC if PB members did agreed to modify the condition, should a timeframe be set. CC replied yes considering it was now June and added that it would be a motion to modify the conditions imposed on April 2018. JB commented that procedurally he would continue to be against any modifications to the original conditions. CC pointed out that Code Enforcement had relayed a concern of wear and tear, such as ripping, for the newly proposed mesh fence cover and suggested that any modified condition include that such issues be immediately remedied. Mr. Hale then asked about plantings versus the screening. PB members responded no as plants can die off thus left with no screening. RL stated he would motion to make an amendment to the condition and then go with what the Board decides. RL then motioned to amend the conditions approved in April 2018 of tube slat chain link fence to be replaced with the green color nylon mesh screening, per documentation submitted, and that it be used to screen the full fence. He further stated that the fence is to be maintained by the applicant and be immediately repaired if any wear and tear. He closed by stating this condition was to be done within a 30 day timeframe. Mr. Hale asked if full fence meant entire fence for which RL replied yes. Mr. Hale replied he was under the impression that he only had to screen it from right to left. RL reiterated that the condition is for the entire fence. Mr. Hale replied that was not part of the deal for which RL replied the original condition was being amended. Mr. Hale stated he has a side fence that goes from the house to the barn and asked if he must cover everything. RL responded the side and front should be covered. Mr. Hale stated that was not part of the plan. CC then asked Mr. Hale if the proposed amended condition was something he was not agreeable to. Mr. Hale responded that he had been told differently by Mike Wager in that he only had to cover in front of the barn. He added that the other side did not previously have a fence so the visibility had not changed at all. DB asked what was located behind the side fence. Mr. Hale responded there was a tree and a 12'x12' shed. DB asked if the neighbors could see

it. Mr. Hale stated yes and added that neighbors have always been able to see it from their upstairs window. Monica Ryan then asked if the color of the mesh screening would be a bright green and if so may be too much if added onto the side fencing. RL responded it appeared to be more of a turf green. After review of the sample picture, Monica Ryan commented that the color seemed pretty bright for road traffic to look at and therefore thought the plain fence would blend in more for the side area. RL replied that it would be a standard color of turf green. RG pointed out that there was no mention in the previous record for what part of the fence was to be covered for which RL agreed. RG then stated the entire fence needs to be covered. CC then stated as the applicant was seeking the modification he would need to be in agreement to the new terms. RG agreed and stated Mr. Hale would need to agree to how much fence needs to be covered as well as the type of screening material. Mr. Hale replied that none of these items had been discussed previously. RG replied that the previous approval indicated that the entire fence would need to be slatted. RL then asked Mr. Hale if he was in agreement to this amendment. Mr. Hale replied no as he did not think that he was coming to the PB to have to cover more of the fence. RL replied that the previous approval was to cover the new fence and while not specified, it would have meant the entire fence. RL then asked Mr. Hale if he was in agreement to the amended condition changes. Mr. Hale then asked what choice he had. RL replied that Mr. Hale could either meet the original condition or the amended condition, if approved. CC then stated that Mr. Hale would need to request it. Mr. Hale asked if he used the slats, could he just cover the back fence. RL replied that the whole fence would need to be covered and asked Mr. Hale what he wished to do. Mr. Hale responded that he did not want any slats or covering of the fence. RL replied that was not an option. Mr. Hale then stated he would go with the green screen. CC stated that as it was Mr. Hale who applied for an amendment, PB members needed to ensure that all conditions placed on the approval be clear so there would be no confusion as to what Mr. Hale would be agreeing to. Mr. Hale then asked if asking for a clear screen, would the answer be no? RL stated correct. JB then asked PB members to vote either in favor of or against the application to amend the condition. CC then stated to Mr. Hale that it was his chance to come forth with his application for what he wished to do so PB members could make a determination. Mr. Hale stated he would cover the fence with the green mesh screen. RL asked Mr. Hale if he that he meant he was requesting that change for which Mr. Hale agreed. RL motioned to propose that Mr. Hale place the green mesh screen on the fence within 60 days and that the screen be maintained with immediate repairs for any wear and tear. RL then asked if Mr. Hale was agreeable to that motion for which Mr. Hale replied "sure". CC clarified that, for the record, the product of screening brought forth before the PB was called: Fence Wind Screen, Privacy Screen Shade Cover Fabric Mesh Tarp, green. Mr. Hale replied that the product brought forth was just an example of what he had seen online. RL then asked if it was an example or the intent for what Mr. Hale planned to use. Mr. Hale replied "I guess that is what I will use". DB stated "it is what you will use" to which RL replied "right". RL then motioned to amend the original condition replacing the tube slats with the green Fence Wind Screen, Privacy Screen Shade Cover Fabric Mesh Tarp. Monica Ryan then asked if the tarp comes in different colors, would the PB members like to see the color options versus the bright green that was submitted. A discussion then ensued about the available colors and whether the applicant would need to come back before the PB members for a determination. DB proposed that the applicant come back into the Town and present the alternate color option to Monica Ryan and the PB Chairman. RL then asked CC if the PB could approve the application pending approval of the color scheme by a PB member. CC replied as the application is a request of the applicant and as such, Mr. Hale would have to be agreeable to doing so. RL asked Mr. Hale if he would be agreeable to the change of color to an earth tone brown as well as bring a sample of the product into the Town for review/approval by RL. Mr. Hale agreed and added that the picture of the product was just an example he had printed as an alternative. RL then made a motion to amend the original condition of the chain link fence tube slats be replaced with the Fence Wind Screen, Privacy Screen Shade Cover Fabric Mesh Tarp, color to be determined after review of sample to be provided by Mr. Hale for approval by the Vice Chairman of the PB. RL added that the amendment includes that the entire fence be screened, done within 60 days and that Mr. Hale agrees to this amended condition. CC asked Mr. Hale if he was agreeable to all amendments stated by RL. Mr.

Hale replied "sure". The motion was seconded by DB and all approved except JB who replied that he was not in favor of the motion. RL informed Mr. Hale that the application to change the original condition has passed as outlined in the motion.

**MISCELLANEOUS** - RL announced that this would be the last PB meeting for Dominick Bates as he has submitted his resignation from the PB effective June 30, 2019. RL and Town Supervisor Nancy Perry recognized Dominick for his 23 years of service to the Town.

**MINUTES** –

**ADJOURNMENT** – RL motioned to adjourn the meeting at 8:49PM. DB seconded the motion and all approved.