

**Town of Sand Lake
Planning Board Minutes
November 20, 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, Rick Giolito, Jonathan Bernstein, William Glasser, Craig Crist
- MEMBER ABSENT:** Mary Ellen Trumbull, Michael Groff
- OTHERS PRESENT:** Damon Korszun, Katherine Korszun, Wayne Mortimer, Rocco Testo, Tom Lilly, Ken T. Cioffi, Lynn M. Thorpe, Ed Brzozowski, Monica Ryan
- RECORDING CLERK:** Laura Fedoreshenko, Clerk for the Planning Board and ZBA

Recommendation to ZBA for Area Variance Application

Rocco Testo
204 Rt. 151
East Greenbush, NY 12061
AR – Agriculture/Residential Zoning District

Tax Map #168.-4-58.21

Lot Size: 2 acres

An Area Variance Application for an insufficient lot width and an insufficient 3:1 depth to width ratio created as a result of a proposed Minor Subdivision.

Rocco Testo presented and stated that a proposed Minor Subdivision of a 5-acre parcel into two lots - one at 3 acres and the other at 2 acres - triggered the need for an Area Variance. He explained that the 2-acre lot would have an insufficient lot width and an insufficient 3:1 depth to width ratio. Mr. Testo added that he was unsure if anyone from the Planning Board (PB) was able to perform the site visit as discussed at the November 6 meeting. Ralph LaMontagna (RL) stated he was not able to do so and Arthur Herman (AH) replied that he had visited the site. Mr. Testo then shared a copy of a “quick” plot plan done by his engineer to reflect where the house would be located in accordance with what had been staked out on the property. AH commented that he noted it was a very steep lot and asked if the engineer thought a septic system could be installed. Mr. Testo replied yes. He added that that he had Michael Wager visit the site to review for issues and that Mr. Wager thought it seemed to be doable. William Glasser (WG) replied that the email received by the PB indicated that the setbacks were okay. He added that the septic system would sit right in a swale and wondered if there was a 200’ separation from the septic system to the well. Mr. Testo replied that the septic system would be set back quite a bit. AH asked if a stake he had noted during the site visit was the beginning of the septic system for which Mr. Testo replied yes. WG stated that he felt the proposed lot was an example for the incorporation of the 3:1 depth to width ratio. He added it would all need to be placed in the front ¾ acre. Mr. Testo replied that there was a buildable area at the top of the swale that would be feasible with some site work. He added that off of Route 151, it would not be that hard of an incline. Mr. Testo stated that with the proposed house a walk out basement could be done. WG then asked AH how should the PB proceed as there were two applications for the parcel yet one had the insufficiencies. AH replied that the first item of order would be recommendation to the

Zoning Board of Appeals (ZBA) prior to proceeding with the subdivision. RL asked PB members if it would help to go over the criteria set forth for an Area Variance. He added that he was hearing that the lot was unbuildable with the septic system uphill. AH replied that it seemed that the septic system would have to be placed at the very top. Mr. Testo replied that the system would have to be pumped up. WG asked the proposed location of the well. Mr. Testo replied that it would be out front. WG stated that from the road to where the house was staked may be 200'. Mr. Testo replied that it would be 150' off the road. WG clarified that the start of house would be 150' off the road for which Mr. Testo replied yes. WG then stated that a 200' separation was needed between the well and septic system; therefore, would the well be at the road. Mr. Testo replied that the well would be right around the 75' setback and then behind the house at approximately 100' would be the septic system. As the PB members agreed to go over the criteria for an Area Variance, Craig Crist (CC) read the entire statute:

3. Area variances.

(b)In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

- (1)** whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2)** whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (3)** whether the requested area variance is substantial;
- (4)** whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5)** whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

RL then asked if the unfeasible placement for the septic system was the adverse impact. AH stated that the project would not affect the neighboring properties; however, the situation would be self-created and a hardship. RL stated that while he did not perform a site visit, the documentation seemed to reflect that the road frontage was okay and that it was a 2-acre lot that was in the woods. Monica Ryan pointed that the lot width was insufficient at the setback line which was one of the area variances needed. She explained that the lot narrowed and there was also the existing well for the house on the other lot. RL stated that he understood and it was a tough decision as he would be relying on the lot being buildable based on the builder's information. AH commented that it may be a buildable lot. WG stated that without seeing the grading plans for the lot, it is unknown if the lot would be buildable. RL asked for the conclusion from PB members who made the site visit. Mr. Testo then asked who had visited the site. Both AH and WG replied that they had visited the site. AH commented that it looked like it was a difficult site to access and without a shared driveway, unsure as to how access would be gained. Mr. Testo replied it would be off of Route 151 and on the right side a road existed along the property line that went into the fields. AH asked about the grading plan. WG replied that it looked to be over the 10% slope for the driveway. He then asked what the site distance was on Route 151 as it has a 55-mph speed zone. He further stated that Route 151 had a slight curve which would shorten the site distance; thus, requires a site distance of 500' for stopping. Mr. Testo asked who would determine the site distance. WG replied that Mr. Testo's surveyor could determine the site distance based on certain criteria. Jonathan Bernstein (JB) asked how the in-depth analysis fitted in with the criteria for an Area Variance versus that of the Site Plan Review for which the applicant would need to come back into the PB. CC replied that the criteria for the Area Variance is what should be reviewed for either a positive or negative recommendation and not the Site Plan Review Application. He then recited the two Area Variances needed were for insufficient lot frontage and insufficient 3:1 depth to width ratio. JB then asked if any of the previous conversation fit into the five criteria for an Area

Variance. CC replied that it would be the PB's determination if the discussion was relevant to one of the five criteria. Ms. Ryan pointed out that the challenge to the proposed site is its narrowness and PB members should consider the effects of the configuration. CC agreed with Mr. Ryan. WG stated that with the two needed Area Variances, the lot should not be subdivided as the terrain on the lot was not feasible. He added that a creek ran through the left-hand side of Lot 1 and then noted that the SEQR form should be amended to reflect that wetlands existed on the main parcel. WG then stated that the 3:1 depth to width ratio issue was being created in order to meet the required 2-acre lot minimum; thus, would not be in favor of the proposed lot for the Area Variances nor Subdivision. RL asked if it was fair to say that the issues seen by WG was the short site distance and slope of the driveway. WG replied that in general he felt that the terrain of the lot did not lend itself to be subdivided. AH stated that due to the slope he did not believe that a separate driveway would be feasible off of Route 151. He added that a shared driveway may be the only possibility. Rick Giolito (RG) stated that Mr. Testo was hearing that the proposed lot was very problematic for building based on PB members who had done a site visit, it is way beyond the 3:1 depth to width ratio and would not have sufficient road width. AH then made a motion to recommend denial for the Area Variance Application on the insufficient 3:1 depth to width ratio and road frontage; seconded by WG and all approved. RL explained that while the PB makes a recommendation to the ZBA, they may view it differently. He added that for PB members the proposed lot seemed difficult due to the slope, site of distance and safety of the area.

Minor Subdivision Application – Preliminary Plat

Rocco Testo
204 Rt. 151
East Greenbush, NY 12061
AR – Agriculture/Residential Zoning District

Tax Map #168.-4-58.21
Lot Size: 5.30 acres
Lot 1 – 3.30 acres
Lot 2 – 2.0 acres

A Minor Subdivision Application to subdivide a 5.30-acre parcel into two lots.

This agenda item was tabled based on the previously motioned recommendation to the ZBA that the Area Variance Application to be denied.

Major Conservation Subdivision Preliminary Plat Application

E. W. Birch Builders & Construction, Inc.
3975 NY 150
West Sand Lake, NY 12196
AR – Agriculture/Residential Zoning District

Tax Map #158.-1-26.11
Total Acreage: 75.73 acres
Project Area: 52.78 acres
Remaining Parent Lot – 22.95acres

A Major Conservation Subdivision Application to create 7 residential lots from a 75.73-acre parcel of land in Phase 2 of the Karl Farm Subdivision.

Ed Brzozowski presented and stated that a few things had changed as the engineers were in the process of creating a SWPPP document for the Town. He further stated that Steve George had been to the site to flag Lot 7 and look at Lot 4 on Biittig Road in regards to the neighbor's indication of wetland/vegetation. Mr. Brzozowski stated that a report would be forthcoming. He added that Mr. George had verbally indicated that for Lot 4 no issues had been identified that would prevent the building of a single-family home on the site. Mr. Brzozowski stated that they also had a surveyor locate wetland flagging on Lot 7. He added that he unfortunately did not have the map with him however would submit it to the Town the next day. Mr. Brzozowski then explained that they currently had an application in with the NYSDOT for driveway permits for the six lots on Route 150. Mr. Brzozowski then stated that he believed their engineer was through the 5th lot for drawing up the septic systems to submit to Rensselaer County. He then asked if a Lead Agency had been identified per the conversation at the

last PB meeting. AH replied that the Town of Sand Lake Planning Board would be the lead agency. CC stated that while NYSDEC had responded to the Lead Agency letter, there was no intention on their part to serve as such. He then recommended that the PB assume the status Lead Agency. RL motioned to declare this as an unlisted action under SEQR with the Town of Sand Lake Planning Board as Lead Agency and other interested agencies included: NYSDEC, NYSDOT, Town of Sand Lake Highway Dept., Rensselaer County Dept. of Health, Army Corps of Engineers, and the Rensselaer Land Trust. RG seconded the motion and all approved. AH then stated that the next steps for Birch Builders would be to complete the permitting for the SWPPP and submit the information to the Town's engineer for review along with the septic design. Mr. Brzozowski asked to whom the information should be submitted. Monica Ryan replied that the information should be submitted to Michael Wager for submission to the Town's engineer and consult with the PB. Ms. Ryan then explained how the escrow process would be handled within the Town if the PB was satisfied to the point of granting the preliminary Plat approval. AH then motioned to grant preliminary Plat approval in order that Birch Builders could move onto next steps. RL seconded the motion and all approved. AH then asked if the PB were to receive written letters from concerned folks, could the letter be passed onto Mr. Bonesteel. Ms. Ryan replied yes.

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 presented and stated that the property had been bought from Ms. Walsh over 14 years ago. Mr. Korszun added that they had been slowly fixing up the inside and added a new driveway and well. He then stated that the chain link fence was over 70+ years old and needed to be replaced. Mr. Korszun explained that they had met with attorneys and had a new survey completed prior to contracting with a fence company to perform the work. He further explained that the fence company reviewed the survey and began to remove the old fence when the stop order had been issued as it was not realized that approvals were needed to replace the fence. RG restated the issue revealed at a previous PB in which Mr. Korszun had attended and involved the neighbor's dispute of the survey concerning a lot line. Katherine Korszun replied and stated that the neighbor's attorney had not answered any of the several attempts made by the Korszun's attorney to try and resolve the dispute. RG asked if the neighbor reached out to them. Mr. Korszun replied that the neighbor had said it was under litigation for which Mr. Korszun disagreed. RG asked if the fence was being replaced in the exact same spot and line for which Ms. Korszun replied yes. RL asked if the chain link was being replaced with a stockade fence for which Mr. Korszun replied yes. RL then stated that the other issue was that the new fence was proposed at a height of 8' however the Zoning Code limit was 6'. Mrs. Korszun replied that the Zoning Code stated that if the fence was in the backyard, it could be 8'. Ms. Ryan referred to the site pictures and explained that it could be considered either a side yard or a backyard and the PB members would need to decide which one it was. Mr. Korszun explained that it would be an "L" shaped fence and run to the corner of the cooler for Kay's Pizza. Mrs. Korszun added that the Kay's Pizza cooler was technically on their property. Mr. Korszun explained that the survey company had informed them not to remove any of the existing markers. He then referred to the site pictures and indicated where markers had once existed and were removed by the previous owner of Kay's Pizza. RL stated that the current situation needed to be dealt with. He then asked if it was fair to say that the replaced fence would be in the same footprint as the one that had existed. Mr. Korszun replied yes and added that due to a problem with the removal of the old chain link fence posts, there may be a slight difference in where they are to be placed. RL stated to AH that the PB needed to decide if the location was considered a side yard or backyard at which time the PB members reviewed the site pictures. WG asked if the

new fence would be on the property line for which Mr. Korzsun replied yes. AH stated the neighbor, Tom Lilly, had a concern and asked if he could speak for which Mr. Korzsun replied sure. Mr. Lilly explained that his concern was that it was stated that the new fence would be right up against his building and presented a diagram which reflected where posts were staked to be placed. He added that as litigation was in process, he felt nothing should be finalized until such time as it was resolved. AH asked if the Kay's Pizza building was on the Korzsun's property. Mr. Lilly replied that he awaited finalized results from his surveyor. Mr. Lilly stated that his concern was that the Korzsun's would not be following the existing fence line from the evidence of where posts are to be placed. WG stated that an option may be for the Korzsuns to run the fence up the property line however not to the cooler due to the dispute on the property line. CC stated that the PB was not the surveyor nor a court; thus, valid proof would be needed in the form of a survey or the Korzsuns proceed with the project at their own risk. JB asked if the attorneys could talk in order to have a resolution and then return to the PB in two weeks. He added that he would not be able to vote on the issue until such time. AH stated that the location of the fence would be considered a side yard; thus, in order to go 8' an Area Variance Application would need to be filed and approved. Mr. Korzsun replied that the old 8' chain link fence would be reinstalled. AH replied that while a new fence at that height could not be installed, the old fence could be reinstalled. RG added that the old fence would need to be in the same place as previously existed. RG asked that both parties come to an agreement as the PB could not solve the issues brought forth. JB agreed. AH stated that the applicant would be given two weeks for a new survey to be received.

Boundary Line Adjustment (1 of 4 BLAs for Applicant Cioffi)

Ken Cioffi (Executor/Applicant)

The Estate of Mary Jane Cioffi (Donor Parcel)

Tax Map #170.1-1-2.111

Evergreen Drive

Averill Park, NY 12018

R – Residential Zoning District

Current Lot Size 1.05 acres/Donating .53 acres/Proposed Lot Size .52 acres

And

Richard Thorpe (Receiving Parcel)

Tax Map #170.1-1-2.2

25 Evergreen Drive

Averill Park, NY 12018

R – Residential Zoning District

Current Lot Size 1.01 acres/Receiving .53 acres/Proposed Lot Size 1.54 acres

Ken Cioffi presented and referred to the site plan maps. He explained that a lot existed between his house and his sister's house as his father had originally divided it into three parcels. He further explained that to settle the estate the vacant lot would be divided in half for his sister and himself. He then added that the parcel behind it was originally a part of the Lakeridge subdivision and utilized to provide a buffer for him and his sister from the rest of the subdivision done at that time. Mr. Cioffi explained this his attorney had advised that all the lot line adjustments be done at one time which was the reason for the four Boundary Line Adjustment Applications. PB members reviewed the site plan maps. RG asked the sister, Lynn Thorpe, if she had access to the property. Ms. Thorpe replied that she had two access points as the one driveway on Candlestick Lane was steep. Mr. Cioffi replied that he had access via Evergreen Drive. RG asked if there were any plans for the additional land. Mr. Cioffi replied no and that he wanted it to be a part of his whole parcel for more of a buffer. With no further questions, AH made a motion to classify this Boundary Line Adjustment as a Type 2 action under SEQR and declared the Town of Lake as the Lead Agency with no other interested or involved agencies. Seconded by WG and all approved. AH then motioned to approve this Boundary Line Adjustment Application as submitted. Seconded by RG and all approved.

Boundary Line Adjustment (2 of 4 BLAs for Applicant Cioffi)

Ken Cioffi (Applicant)

Lakeridge Group C/O Ken Cioffi (Donor Parcel)

Tax Map #170.1-1-1.30

Candlestick Lane

Averill Park, NY 12018

R – Residential Zoning District

Current Lot Size 1.03 acres/Donating .52 acres/Proposed Lot Size .51 acres

And

Richard Thorpe (Receiving Parcel)

Tax Map #170.1-1-2.2

25 Evergreen Drive

Averill Park, NY 12018

R – Residential Zoning District

Current Lot Size 1.54 acres/Receiving .52 acres/Proposed Lot Size 2.06 acres

Based on previously presented information for the 1 of 4 Boundary Line Adjustment Application above, AH made a motion to classify this Boundary Line Adjustment as a Type 2 action under SEQR and declared the Town of Lake as the Lead Agency with no other interested or involved agencies. Seconded by WG and all approved. AH then motioned to approve this Boundary Line Adjustment Application as submitted. Seconded by RL and all approved.

Boundary Line Adjustment (3 of 4 BLAs for Applicant Cioffi)

Ken Cioffi (Executor/Applicant)

The Estate of Mary Jane Cioffi (Donor Parcel)

Tax Map #170.1-1-2.111

Evergreen Drive

Averill Park, NY 12018

R – Residential Zoning District

Current Lot Size .52 acres/Donating .52 acres/Proposed Lot Size 0 acres

And

Ken Cioffi (Receiving Parcel)

Tax Map #170.1-1-2.12

45 Evergreen Drive

Averill Park, NY 12018

R – Residential Zoning District

Current Lot Size 1.19 acres/Receiving .52 acres/Proposed Lot Size 1.71 acres

Based on previously presented information for the 1 of 4 Boundary Line Adjustment Application above, AH made a motion to classify this Boundary Line Adjustment as a Type 2 action under SEQR and declared the Town of Lake as the Lead Agency with no other interested or involved agencies. Seconded by RL and all approved. AH then motioned to approve this Boundary Line Adjustment Application as submitted. Seconded by WG and all approved.

Boundary Line Adjustment (4 of 4 BLAs for Applicant Cioffi)

Ken Cioffi (Applicant)

Lakeridge Group C/O Ken Cioffi (Donor Parcel)

Tax Map #170.1-1-1.30

Candlestick Lane

Averill Park, NY 12018

R – Residential Zoning District

Current Lot Size .51 acres/Donating .51 acres/Proposed Lot Size 0 acres

And

Ken Cioffi (Receiving Parcel)
45 Evergreen Drive
Averill Park, NY 12018
R – Residential Zoning District

Tax Map #170.1-1-2.12

Current Lot Size 1.71 acres/Receiving .51 acres/Proposed Lot Size 2.22 acres

Based on previously presented information for the 1 of 4 Boundary Line Adjustment Application above, AH made a motion to classify this Boundary Line Adjustment as a Type 2 action under SEQR and declared the Town of Lake as the Lead Agency with no other interested or involved agencies. Seconded by RG and all approved. AH then motioned to approve this Boundary Line Adjustment Application as submitted. Seconded by RL and all approved.

Special Use Permit/Site Plan Review Application

Ken Bailey
204 Barnes Road
West Sand Lake, NY 12196
AR – Agriculture/Residential Zoning District

Tax Map #157.-3-34.1

Lot Size: 64.66 acres

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.

Ken Bailey presented and stated that he had resided at this location for 22-23 years. He added that his income taxes and DBA are filed as a farm and that he has a small horse farm and cuts a lot of hay for himself as well as others in the town. He further explained that he currently had three pole barns which are used to store hay and hay equipment. Mr. Bailey explained that they had held their daughter's wedding on the land a few years ago in October which lead him to the idea of constructing an elaborate post and beam Dutch type barn for similar events. He explained that he did possess a stamped plan which reflected such things as the concrete floor and the footings. Mr. Bailey stated that in speaking with the State Liquor Authority, he would not need a permit from them as caterers hired for the events would have a permit for the sale of liquor or he could obtain a temporary one-day permit for the sale of beer, wine or hard cider such as champagne. He added that there was not a septic system in place however he looked into a company that has trailers for that purpose which could be removed or emptied and left on site. He explained that he would want to see if the event barn was a success before investing in a permanent septic system. Mr. Bailey stated that his thoughts for the hours of operation would be morning until 10pm at night and be open from May through October on the weekends. He added that his house sets approximately 1200' from the highway and the structure would be located on a front hay field for which power could be extended from a nearby pond. Mr. Bailey explained that he would not disturb the land for parking as it would be up off the main driveway to the right along the hedge rows; thus, would not be parked on the highway/road. He added that the expectation for the events would be for 125-175 people and the whole project would take a few years to complete. He then shared pictures of the site and the barns that existed. JB stated that June Farms had been approved for 12 events per year and asked if this would be the same type of situation or was there a number in mind of how many events would be needed to sustain the business. AH referred to the application which indicated 5 months of operation which could potentially lead to 20 events. Monica Ryan explained that for June Farms, 12 events had been set as a parameter with PB review of the operation should more be needed. WG explained that a formal site plan would be needed per Article 8 of the Zoning Code and while Article 9 listed exempt activities, the proposed project was not one of them. He further explained that the formal site plan would need to be prepared by either a registered landscaper, architect, or a professional engineer. WG added that the site plan would need to include where the building and parking are

to be placed along with type of surface for parking, lighting and location of dumpster. WG stated that he did not see parking nor pickup for the dumpster to be on regular ground but rather on a hard surface. AH reiterated that a detailed site plan would be required to cover the items mentioned by WG as well as the contours. RL added that the PB would also look at the lighting as well as how any sound may affect the neighbors. He stated that while it was noted that a main sign would not be done, there may be signage for parking or direction within the site. RL explained that eventually the public would have an opportunity to comment on the project at a Public Hearing. AH pointed out that the Zoning Code regulations listed all items that would be required for the formal review and added that a site visit by PB members may also be performed. RG informed Mr. Bailey that information on the Zoning Code requirements was available on the Town's website for him to review. Mr. Bailey asked whom he may contact for preparation of the formal site plan. AH replied that Mr. Bailey may want to reach out to Michael Wager for a recommendation on names of contractors. RL closed by stating that while no one was rejecting the proposed project, more detailed information was needed.

DRAFT RESOLUTION APPROVALS:

Minor Subdivision for James Ford/Gerald Beer

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 RG and all approved.

Site Plan Review for Westfall Village

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

Minor Subdivision for Seth Roberts

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

Site Plan Review for Daniel & Zeinub Alber

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

MINUTES – RL made a motion to accept the September 19, 2019 minutes as submitted. Seconded by WG, AH recused himself due to absence and all others approved.

Additional Discussion: - A discussion ensued between PB members and the Town's Planning Coordinator Monica Ryan regarding applications being submitted with sufficient lead time for review prior to the project being placed on an agenda. Ms. Ryan explained that prior to the start of a preliminary background review, a majority of applications received required additional information from the applicant which could take days to receive. AH made a motion that effective January 1, 2020 all applications be submitted 14 days prior to a PB meeting. JB amended the motion and stated that effective January 1, 2020, all applications must be submitted 14 days prior to a PB meeting; otherwise shall not be considered until a subsequent meeting. Seconded by WG and all approved.

ADJOURNMENT - AH motioned to adjourn the meeting at 9:15pm; seconded by JB and all approved.