

**Town of Sand Lake
Planning Board Minutes
October 17, 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, Jonathan Bernstein, Michael Groff, Mary Ellen Trumbull, David King and Lawrence Howard, Esq.

MEMBER ABSENT:

OTHERS PRESENT: Ed Patanian, Kevin Kronau, Stuart Nippes, Sara and Jeff Blair, Sally Lawrence, Michael TenEyck, Rich Smialek, Cathy Floetke, William Hoffay, Russ and Crystal Blair, Scott Blair and Kevin McGrath

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

Minor Subdivision Application and Public Hearing

Sheila Lobdell (Trustee for Harry Ackner)
17-19 Teal Road
Averill Park, NY 12018
HMU – Hamlet Mixed Use Zoning District

Tax Map #159.2-2-10
Lot Size: 2.01 acres
Lot 1 – 1.10 acres
Lot 2 – .91 acres

A Minor Subdivision Application to subdivide a 2.01-acre parcel of land into two lots.

Art Herman (AH) asked Ralph LaMontagna (RL) to read the Public Hearing Notice. Kevin McGrath, Surveyor, presented before the Planning Board (PB) on behalf of the Harry Ackner Family Trust. He explained he had met with the PB a month earlier on the Application and said after the family looked at the survey, they asked for a revision of one of the lines to make one lot a little bigger than the other. The lot with the two dwellings on it is now a little bigger. He said the PB had asked him at the last meeting to confirm whether the sewer had been installed. He confirmed it was installed up through both properties and said he has now reflected the sewer easement on the survey map. He said there are two dwellings on the one acre of land in the HMU Zone. He said it is only a 15,000 sq. ft. lot with a 50’ width. He mentioned there was another issue with the barn under construction and wasn’t sure how that came about. AH said he remembered the sewer came across the property. Mr. McGrath said

he could see where the sewer line was installed and he reflected a 10' wide sewer easement on the survey map.

Mary Ellen Trumbull (MET) mentioned there is a shed on Lot #2 in the front of the residence and said it would be a violation of the Zoning Code. Mr. McGrath explained that the house is accessed from Lot #1 and driving in you would think that the shed was in the side yard. Monica Ryan (MR) stated the frontage for Lot #2 is on Teal Road and the Zoning Code does not allow the shed to be in front of the house and the shed was placed there without Town permission. Mr. McGrath asked if the PB would make the shed a condition of their approval or would they need to get an area variance from the ZBA. MR suggested to the PB they make a condition of their approval to either gain area variance approval or move the shed.

AH motioned to open the Public Hearing at 7:40 PM. MET seconded the motion and all approved. Dick Smialek from an adjacent property wanted to see where the sewer easement was on the survey map and asked the purpose of the minor subdivision/were they going to sell. Mr. McGrath walked Mr. Smailek through the survey map and explained the Town required the Ackners do the subdivision to bring the properties into compliance with Town Code. With no other questions/comments, AH motioned to close the Public Hearing at 7:43 PM. David King (DK) seconded the motion and all approved.

AH stated he had motioned to declare this Minor Subdivision Application as an unlisted action under SEQR at a previous meeting. 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. David King (DK) seconded the motion and all approved. AH asked the PB if they wished to make a conditional approval for the subdivision. Dominick Bates suggested the condition be either the shed on Lot 2 be moved or an area variance be pursued with the ZBA. AH made a motion to grant approval to the Minor Subdivision Application, as presented, with the condition that the shed be moved or area variance approval be obtained from the ZBA for Lot 2 and granted preliminary and final approval of the plan and waived the final hearing. Dominick Bates (DB) seconded the motion and all approved. Kevin McGrath said he would advise the Ackner family about the conditional approval.

Major Subdivision Application and Special Use Permit and Public Hearing

EJP, Inc.
222-246 Springer Road
West Sand Lake, NY 12196

Tax Map #147.-3-3/147.-3-5.12

Lot Size: 12.6428 +/- acres
Lot 7 – 1.6246 acres
Lot 8 – 3.7546 acres
Lot 9 – 1.2731 acres
Lot 10 – 1.7893 acres
Lot 11 – 4.2012 acres

A Major Subdivision Application to subdivide parcel into a five-lot subdivision and related Special Use Permit Application for site preparation excavation.

RL read the Public Hearing Notice. AH stated that at the last PB meeting, EJP had received comments from Hank LaBarba's engineers report and EJP had taken care of recommendations related to water retention basins, etc. EJP said all remaining comments will be addressed. AH confirmed the PB had obtained Rensselaer County 239 Referral approval for Special Use Permit. DK stated one of Hank LaBarba's comments was to place a condition in all property deeds that the property owner will be responsible for drainage and EJP said he expected that to be a condition of his approval.

AH motioned to open the Public Hearing at 7:50 PM. MET seconded the motion and all approved. Kay Bradley asked to review the Site Plan. EJP walked Mrs. Bradley through the contour maps. Mrs. Bradley and her daughter, Dee, reviewed the maps with EJP asking questions regarding Lot 11 being set aside as a possible aquifer for the Town, Lot 8 being the closest lot to Mrs. Bradley's house, no cutting of trees on Bradley Park land and the entire hill on Springer to be removed. Dee Bradley asked where the haul road would be located and was told in the vicinity of Lots 5 and 6. Mrs. Bradley asked about the timeframe for clearing the land and EJP said DEC gives two years for the excavation and he may need a one-year extension. He explained he would remove the back side of the hill first for erosion purposes. Mrs. Bradley asked EJP for a reduced version of the map she was reviewing. She stated she wanted to keep the integrity of the neighborhood and asked EJP to place restrictions on the new properties to which EJP said he would handle the restrictions as he has done in his other developments. He told Mrs. Bradley that his higher end homes would be built closer to Bradley Park. Mrs. Bradley stated that gravel is important to a developer but wants the trucks to be respectful.

Mike TenEyck from 225 Springer Road said that he and EJP have talked and EJP has been forthcoming with the occasional incidents that came up with the Phase 1 subdivision. He said EJP has done a lot since then to accommodate the neighbors. Mr. TenEyck asked what the hours of operation would be and was advised 7:30 AM to 4:30 PM, Monday-Friday. He asked if there would be any changing of hours due to emergency situations. The PB, EJP and Mr. TenEyke revisited some of the after hour working issues that came up during the Phase 1 subdivision and acknowledged that several houses have now been built on the Phase 1 lots. Mr. TenEyke asked if the sewers will be extended to the Phase 2 lots and was told yes. He stated he had pond erosion issues on his properties during Phase 1 and has similar concerns about Phase 2. EJP said he would be doing retention ponds and AH said the engineer's report had pointed out those issues and recommended the expansion of the retention ponds. RL explained that the property owners will be required to maintain those retention ponds going forward. Mr. TenEyke said EJP has given him reassurance the subdivision will be handled appropriately and said he hopes he follows through on his promises and continues an open dialogue.

Jeff and Sara Blair said they own the house at 3553 NY 43 right behind Lots 6 and 7. The PB, EJP and Jeff Blair looked at the maps. Jeff Blair asked where the haul driveway will be and was told Lot 5. He said no one in the neighborhood has had to deal with more issues than they have. He explained they have to stare at the equipment and are hoping the equipment will eventually go away. They said they had watched the prior PB meetings on TV and that EJP had stated if he moved the haul road and equipment further down the subdivisions, those property owners would not want the haul road/equipment near them. RL acknowledged remembering their concerns from last year's Public Hearings. Mr. Blair pointed out that there will be no drainage issues on Springer Road once the

remaining hill comes down. RL and the Blairs talked about their land elevation vs. the EJP property and how exposed they are. Mr. Blair said they have spent thousands of dollars on fencing and trees. RL asked if temporary "blind" fencing would help with the truck lighting. He said those familiar with their house elevation and the EJP property would not be helped by any temporary fencing. Mr. Blair said they would like the haul road and equipment to be moved as soon as possible. EJP explained the whole back of the property would need to be removed first to control storm water drainage on the road side. The PB, EJP and the Blairs continued to discuss moving the haul road and equipment. The Blairs said they have been dealing with these issues for a decade and that it was disappointing to have purchased their dream home and then had this happen to them. They provided many details and many timelines of what they have been put through. Sara Blair asked if any of the required DEC tree plantings could be planted near their property. They requested the haul road and equipment be moved down the subdivision as soon as possible and thanked the PB for getting the Phase 1 property moving ahead with the building of homes on the lots.

Scott Blair asked the PB about truck count. Scott Blair discussed the standard 6 trips per hour, average 9 hours per day, averaged on 243 working days per year with no tractor trailers allowed. The hours of operation were reiterated as 7:30 AM to 4:30 PM and no tractor trailers. The PB discussed with EJP and Scott Blair the estimated number of cubic yards that could be moved per day/month/year and how a traffic study of the intersection Springer Road and Rt. 43 determined no tractor trailers were allowed at the intersection. RL mentioned the optimal time to move the gravel was during the winter months when trucks were available and work was slow and all agreed. AH stated there was an issue with a tractor trailer being snuck in during Phase 1 and the issue was rectified by EJP and will not be allowed going forward.

William Hoffay said that according to present Zoning Law, this gravel operation on a Town road should be bonded. He pointed out that Greg Gardner would not be allowed to bring gravel out on a Town road. He said to cut the grade, a developer must get performance bonding to protect and use the roads. LH pointed out that there is a different provision of the Code for a construction exemption and this is not a mine. There was discussion between EJP and LH that the language reads "may" rather than "shall."

With no other public comment, AH motioned to close the Public Hearing at 8:25 PM. MET seconded the motion and all approved. RL asked the PB for their thoughts on a temporary blind for Scott and Sara Blair's property. AH said he did not think the Blairs wanted it and all agreed it would not solve the issue. DK asked EJP about development of Lot 6. The PB and EJP discussed needing Lot 6 for removal of product and the impact on the surrounding lots. AH asked if the haul road could eventually be moved to Lot 8 to which EJP said the TenEycks would not like that. DB stated it would be nice to get the haul road moved down to Lot 7 for the Blairs. Although the Public Hearing was already closed AH invited Mr. TenEyck to speak regarding moving the haul road to lot 7. They looked at the map and Mr. TenEyck said the water issues came from Phase 1 and explained how the water crossed the road.

EJP asked the PB if they wanted him to revise the Site Plan maps to move the haul road further down the subdivision. Michael Groff (MG) and RL said they would like to see those revisions made on the

map. AH asked the PB if they wanted to make a decision during the meeting. It was agreed between the PB and EJP that he would remove the backside of Phase 2 first and when he got to Lot 7, he would move the haul road. EJP said he would get his plans amended for the next meeting.

Rezoning Proposal – Advisory Report to the Town Board

Kevin Kronau, Jr.
208 Reichard’s Lake Road
West Sand Lake, NY 12196
R – Residential Zoning District

Tax Map #147.-2-2.1

Lot Size: 10.18 acres

A referral from the Town Board for an Advisory Report on a rezoning of a residentially zoned property to a Planned Development District (PDD).

AH stated he needed to recuse himself from this PB discussion as he owns property adjacent to the property to be discussed. He explained that RL would be acting as Chairman for the discussion. Kevin Kronau presented before the PB. RL asked him to give a summary of his plans. Mr. Kronau explained he wished to rezone the land from Residential to a PDD. Mr. Kronau explained his parcel was on the Sand Lake/Poestenkill boarder and he wanted to build a shop for his excavation business, a self-storage facility and a second building for flex rental space. He said he had heard from community members about the need for an indoor athletic building in Town and would not be opposed to the second building being used for that instead of the flex rental space. RL and Mr. Kronau discussed that it could be a year-round facility using indoor turf fields for soccer/softball. Mr. Kronau was unsure of the size of the building but said he would not be opposed to looking into such a business instead of the garage rental. RL pointed out that the current site plan does not include such an idea and would need to be revised. Mr. Kronau said he was just throwing the plan out there. RL said it was important that he decide and Mr. Kronau said he could pursue it in more detail and come up with numbers on size requirements to fit the property. RL said he is proposing light industrial for his business, an athletic facility and storage units. RL and Mr. Kronau agreed it was preliminary at this point. RL said an athletic facility changes the plan because of parking.

RL confirmed the PB did a site visit the prior week. DB said it was a quiet neighborhood. He asked what the neighboring property in Poestenkill was zoned and was told residential. DB said it was a beautiful spot for a development and also pointed out he saw a tire dump and construction debris on the property and would not want to see that type of stuff there again. Mr. Kronau said that he had inherited a lot of old trailers and debris and will remove it all from the site. He added the pile of top soil that is overgrown at present time would provide a screen/berm for the land. DB said it is not a busy road but a nice quiet area. He said if the Poestenkill neighboring property was commercially zoned it could make sense to attach another commercial property, because there is a transfer station on one corner and a school on the other. LH confirmed during the discussion that the Poestenkill property was residentially zoned.

MET said that at the discussion two weeks prior, Mr. Kronau had explained there would be minimal in/out traffic at the beginning and end of each day and the storage facility would be sporadic. She said she was concerned about the traffic competition on the road with the schools, buses and kids walking

because the road is a significant connector. She said placing an office building or an athletic facility on the property would cause great concern for her.

DK said the layout as presented works for the property, but asked if it is an appropriate use given the Residential Zoning. He said it is the only area in Town that wouldn't allow this type of development. He said the reason for zoning is to plan for the future development of the Town and said he would have a problem with the plan. He said an athletic use was a nice idea and something the Town could use, but would not fit on the parcel because of necessary traffic patterns and parking. He added he did not believe the storage facility would fit on the property as presented. Mr. Kronau said he was unsure whether his plans could fit and was just mentioning recent ideas for the land. He said his office is now in Poestenkill and he wishes to stay local. He explained the problem is there is no vacant commercial property in the area for these types of businesses which forces businesses to move out of Town. He explained a project like his could benefit the Town as there are no roads, no sewers, grinder pumps to maintain, as opposed to a subdivision, and would be good for all.

JB said he was very intrigued with the idea of a sports complex for the Town. He also asked if the storage facility would be a franchise or privately owned. Mr. Kronau said it would be privately owned with no plans for climate-control units or multiple stories.

RL said his problem with the storage facility would be it is reflected right on the property line. He said the storage facility would need complete shielding from the next property over. He recognized that the property is all woods now, but it is a residential piece of land and houses could be built there in the future. He added he doesn't know how the storage area could be shielded and said the area may need to be moved on the plan. Mr. Kronau agreed and said he could rotate the storage layout, was not opposed to posting hours of operation and using motion detection lighting. RL said he understands the plan is doable but it is a pretty intense area for storage. RL said he noticed the parcel has a natural sinking of the land back from the main road which could serve as a natural buffer, but some shielding would still be needed. RL explained his opinion as being in the middle, acknowledging a need for light industry in the Town. He said there has been no public input on the subject. RL mentioned the property across the street, which was formerly Coopers, has cars and boats abandoned on the property which only can be seen from Google maps but not from street level.

Supervisor, Nancy Perry, reminded RL that the PB was only charged with making a Recommendation to the Town Board on the proposed rezoning and the Town Board would solicit public comment at a later date if the plan were to advance.

RL said the PB would be making a recommendation at the next meeting to the Town Board. MET said she was unsure what the PB would be making a recommendation on, listing she had heard plans for storage units, equipment storage, building rental and a possible athletic facility. LH advised the PB could comment on all of the ideas advising whether they support any or all of the proposals from a planning perspective. MR and RL discussed that if the Town Board were to approve the proposed PDD, the PB would then review the proposal from a site plan review perspective. RL said he understood that details such as placement of berms, use of buildings, lighting, etc., would all be discussed and approved as part of a site plan review.

MINUTES – DK motioned to approve the September 5, 2018 minutes. AH seconded the motion. JB and MET abstained as they were absent at prior meeting. and all approved.

EXECUTIVE SESSION – AH discussed with LH how the PB should handle going into Executive Session. It was agreed that no decisions would be made in Executive Session, the PB should move to another location and members of the public could remain in the court room if they choose to do so. AH then motioned that the PB would go into Executive Session.

ADJOURNMENT

The PB returned to the Court Room. AH motioned to adjourn the meeting at 9:47 PM. MG seconded the motion and all approved.