

**Town of Sand Lake  
Planning Board Minutes  
October 7, 2020**

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, Mary Ellen Trumbull, Jonathan Bernstein, Rick Giolito, William Glasser, Craig Crist

**MEMBER ABSENT:** Michael Groff

**OTHERS PRESENT:** Ken Bailey, Andrew Gilchrist, Mark Millspaugh, Tom & Vicki Simons, Heather Hinman, Mr. Pascarelli; Monica Ryan (Town Planner)

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

**Special Use Permit Application and Public Hearing**

Heather Hinman (applicant)

**Tax Map # 159-1-68.11**

Cheryl Morey (property owner)

28 Schreiner Way

Averill Park, NY 12018

Lot Size: 42.40 acres

R – Residential Zoning District

A Special Use Permit application to place an accessory dwelling on a residential property with acreage.

Heather Hinman was present and summarized the project initially presented at the September 16, 2020 Planning Board (PB) meeting. She explained that an Area Variance was needed as the proposed accessory dwelling (tiny home) would be located in the front yard and not able to meet the 200' front yard setback required to place accessory structures in the front yard as it would be approximately 165' from the road. AH asked if the wheels would be removed from the proposed tiny home. Ms. Hinman replied yes, in order to preserve them and in a manner that they could be put back on. AH asked if the tiny home would be placed on a concrete slab. Ms. Hinman replied no, and other options were being reviewed. It had been recently discovered by the Town's Code Compliance staff that the property was not in compliance as a number of unregistered vehicles were out in the open on the property. Ms. Ryan updated the PB that according to Code Enforcement staff, to date, the non-compliance situation had not yet been remedied however the 30 days to comply had not expired. Ms. Hinman stated that the property owner was aware of the time constraint and informed her that it would be cleaned up. Ralph LaMontagna (RL) stated that a Special Use Permit could not legally be given a determination while the property was in violation to which Craig Crist (CC) agreed. Ms. Hinman replied that she understood. It was decided that as the Public Hearing had been published in the Troy Record and Advertiser, the Public Hearing would be opened however no determination would be made until the issue was resolved. AH opened the Public Hearing

meeting at 7:52pm; seconded by MET and all approved. RL then read the Public Hearing notice. There had not been any written public comment submitted.

Input from Mr. Pascarelli was heard. He asked if the tiny home would have electricity, water or sewer and added, if not, then the Town would be setting a precedent for allowing a trailer or sort of camp vehicle on a vacant lot. Mr. Pascarelli further stated that it had taken a couple of years to have a couple trailers removed; thus, he did not want a similar structure or situation. He also stated that only permanent structures should be allowed on a vacant lot. Monica Ryan and AH explained that the lot was not vacant as the proposed location was part of the primary parcel which had a home on it. Ms. Hinman stated that it would not be a permanent structure as it could be moved, if needed. She stated that the plan was to utilize a composting toilet for the black water and gray water would be used to water plants on the property as no harmful products would be used by her. She explained that fresh water would be taken care of by her in that she would utilize a self-contained unit and use the property's owner water. She also stated there would be electricity that Ms. Hinman would pay to have installed and if ever vacated, it could be taken up and removed. With no further public comments, AH motioned to leave the Public Hearing written comment period open for two weeks; seconded by RL and all approved. AH explained that the project could be placed on the next agenda provided the violation issue was resolved. Ms. Hinman agreed to return to the next PB meeting and added that she was very serious about the project as well as invested.

**Scenic Preservation Review Application**

Tom and Vicki Simons

21 Windmill Way

Sand Lake, NY 12153

RR – Rural Residential Zoning District

A Scenic Preservation Review Application for the design of a new residential dwelling in replacement of an existing dwelling within a 100' of Big Bowman Pond.

**Tax Map # 149.7-1-10**

Lot Size: 0.47 Acres

Tom and Vicki Simons were present. AH summarized the proposed project which had been initially presented at the June 3, 2020 PB meeting and had given the applicants permission to build a new home with an expanded footprint that just squares up the existing house footprint. This review is for proposed house itself. Renderings were provided. Tom Simons stated that there was a tree within 6' of the house that would need to be removed as the root system would be compromised when the foundation was dug. He added that would not change the view as three large hemlocks existed which would remain. Mr. Simons then referred to a sample picture of an Adirondack style home with light stain and a green roof and stated it be within the footprint discussed at the June 3 meeting. A picture of the trees was reviewed to clarify the one proposed for removal to which AH agreed that it would be compromised during construction. Mr. Simons added that when done with construction, they may add some birch trees. William Glasser (WG) asked if a survey had been done yet on the property. Mr. Simons replied that one was done years ago. WG commented that the boundary line offsets shown for the side of the house (10-15-20) did not seem correct. Mr. Simons replied that the neighbors had a survey done and he utilized that information along with previous stakes on his property. He added that the squaring up of the footprint would not bring them any closer to the boundary line for which WG agreed. RL stated that the proposed tree to be removed made sense along with the addition of a couple of a few new trees would be a positive. AH made a motion to classify the project as a Type 2 action under SEQR and declared the Town of Sand Lake Planning Board as Lead Agency; seconded by RL and all approved. AH motioned to approve the Scenic Preservation Application as submitted and proposed dwelling footprint on the Site Plan with the following conditions: 1) before, during and after construction, proper precautions will be taken to prevent

any discharge of sediment into the Lake and proper erosion controls will be put in place to prevent future erosion into the Lake. This motion was seconded by Rick Giolito (RG) and all approved. **Special Use**

**Permit/Site Plan Review Application**

Ken Bailey  
204 Barnes Road

**Tax Map #157.-3-34.1**

West Sand Lake, NY 12196

Lot Size: 64.66 acres

AR – Agriculture/Residential Zoning District

A Special Use Permit/Site Plan Review Application to establish a seasonal event venue on an agricultural/residential property.

Ken Bailey, attorney Andrew Gilchrist and engineer Mark Millsbaugh were present. Mr. Gilchrist stated that on October 7, 2020 he submitted to the Planning Office for PB members, a response to the public comments raised at the PB Public Hearing meeting of September 16, 2020. He stated that he wanted the PB members to have a full opportunity and adequate time to review the response in order for the record to be complete; thus, was not seeking any action to be taken at this meeting. He explained that the reason for the response being submitted on October 7<sup>th</sup> was due to the PB Public Hearing being held September 16<sup>th</sup>, with the written comment period ending on Sept. 23; and, during that time period he had been involved in a meeting in which an attendee tested positive for COVID-19 which interrupted his work schedule. He stated that public comments had been raised that indicated new information had been submitted regarding a lean-to being mentioned and an issue about the sprinkler system. Mr. Gilchrist briefly addressed these concerns. He stated that the mention of the lean-to by Mr. Bailey was nothing more than a covered patio area that had been included in the initial submission by the applicant. He then stated that in regards to the sprinkler system, it had been discussed previously that it would ultimately be a building/fire code determined by the Building Department. He stated that should a sprinkler system be required, the appropriately sized holding tank will be placed on the property and filled by a water supply company; thus, no well drilled or impact on ground water resources. Mr. Gilchrist added that to maintain/supplement the holding tank at full capacity, an option, which had been reviewed by Mr. Millsbaugh, would be to have the roof drains plumbed into the tank to utilize rain water. He stated that based on the above information, the application was not incomplete and potential impact to ground water resources had been adequately addressed. Mr. Gilchrist stated that many of the public comments reiterated those that had been previously raised such as sound, traffic, light pollution impacts, ground water resources, sprinkler system, lack of enforcement as well as general comments that the proposed venue was not needed – all of which had been addressed in the written response for the PB members to review. Mr. Gilchrist then stated that a significant number of public comments related the proposed project to June Farms – he reiterated that Mr. Bailey was not proposing another June Farms as it would not have a permanent restaurant nor hold holiday events. He stated that they tried to clearly represent the project and, once again, addressed exactly what Mr. Bailey proposed – construction of an agricultural barn proposed to be used for 5 months of the year as a wedding reception venue; a total of 20 events, with an average of 4 per month; no kitchen facility or septic system; outside vendor and portable restroom facilities would be brought in for each event. Mr. Gilchrist concluded that the issues and perceptions conceived were not Mr. Bailey’s application. Mr. Gilchrist then asked Mr. Bailey to clarify the lean-to he had referenced at the previous meeting. Mr. Bailey stated that either at his initial or second PB meeting he had submitted a picture of the proposed venue structure which reflected a porch roof on the right side – he stated that in architectural renderings, this area was referred to as a “lean-to”. The site plan picture is reviewed for clarification on the proposed location of the lean-to. RG asked what would be the purpose of it. Mr. Bailey stated it would be like an outdoor porch with a door to enter and exit the barn and would be closed when the function started. RG then asked if when the music was playing would that mean that

the door to the porch area would not be opened. He noted that in Mr. Gilchrist's letter it is stated that air conditioning would be utilized along with sound deadening materials. RG also asked if bands would be allowed to play to which Mr. Bailey replied that he would say no and asked what was considered a band. PB stated that two or more folks playing live music would be considered a band. AH then asked what would be the difference between a band and a DJ as either type of music could also be loud. Mr. Bailey stated that the barn would be airconditioned and closed. AH asked if the lean-to area would be utilized for the wedding party would enter or as a smoking area. Mr. Bailey replied yes, it would be used for the wedding party to enter and then he would utilize it to park equipment. RL stated that there had been discussion of a wedding being held outside with the possibility of folks singing or guitars being played and that was a lot different than a band and/or DJ. He then asked what was planned for the patio. Mr. Bailey stated the music would be inside. WG then stated that the 2' contours which had been added to the last site plan for parking on both sides of the road did not match up with what those that had been shot on the ground. He stated that he felt a grading plan for updated contours and elevation should be done as more had been added around the proposed barn; thus, unsure of total area to be disturbed. He added that a profile should be submitted with some cross-sections reflecting existing grading and what the proposed parking on each side of the road would look like for cutting, filling. WG then stated that a detail of the materials to be utilized for the parking area should be submitted. He also stated that a detailed lighting plan with photometric analysis should be submitted as the current plan did not reflect lighting for the parking area along the road or the sidewalk. WG noted that the SEQR form submitted listed that there would 70 parking spaces, however the site plan reflected 86 and stated the form should be corrected. He added that the detailed lighting plan information would also be utilized for SEQR in regards to an effect on the neighborhood. WG stated that he had been informed that the applicant had talked to the Fire Department and changes were needed for the entrance in order to access the property. Mr. Bailey replied that was correct as the entrance needed to be widened. WG added that staff from the Fire Department informed him that they were fine with parking on both sides of the driveway. WG stated he would like to see the above-mentioned items on a completed site plan. RG noted that the traffic section information submitted addressed concerns on traffic for a wedding event; however, he felt a concern was for the possibility of there be a wedding at the proposed venue and an event at June Farms on the same day and asked if a study had been done for when June Farms held a wedding. Mr. Gilchrist stated he did not believe that the traffic study performed had been done at a time when June Farms held any specific event to which Mr. Bailey agreed. Mr. Gilchrist stated that the question of impact becomes cumulative for June Farms and Mr. Bailey's. RG stated that was correct as there had been concerns regarding enforcements. RG then stated that Mr. Gilchrist noted that no expert proof had been offered by any commentor to address the applicant's traffic assessment; thus, was it suggested that the neighbor letters in reference to traffic should be dismissed. Mr. Gilchrist replied no, that was not the intent of the response. He added that any board who reviewed a record, looked at the proof submitted. He added that all he had observed is that the applicant's submission was what an engineer had provided and the neighbors had submitted their opinions – the PB could weight that information as deemed appropriate. RG reiterated that the public concern was for events at Mr. Bailey's and June Farms taking place at the same time; which had not been addressed. Mr. Gilchrist stated he may have misinterpreted his review of the written and public comments. He added that he took the significant number of negative comments in relation to how June Farms has been operated and if any conditions had been placed by the Town PB and then enforced. Mr. Gilchrist stated that the impact of the Bailey project is what should be reviewed. He stated that the issue raised about cumulative environmental impacts carried certain standards for when it must be analyzed under SEQR and then certain thresholds met. He added that the request to have a cumulative traffic assessment would be reviewed with the engineer. RG clarified that he did not make it a request but rather only asked if it had been looked into. Jonathan Bernstein (JB) asked Mr. Gilchrist to elaborate on the cumulative traffic assessment information. Mr. Gilchrist replied that the

cumulative environmental assessment under SEQR was a legal issue that had been analyzed significantly and litigated with certain standards for when it is needed. He added that they would address that issue through a written submission however added that this project was not a situation where a cumulative traffic assessment was warranted. He noted that the issue of existing public infrastructure and whether it is adequate to support the use and referred to the response letter and restated that Barnes Road was an existing Town road. He then asked if the issue of a cumulative traffic review for a specific event at June Farms was being requested by the PB to be addressed. RG replied that he did not know if the whole PB would be in favor of that request. Mr. Gilchrist stated the SEQR information on that topic would be reviewed. JB asked Mr. Gilchrist what his opinion was. Mr. Gilchrist replied that, in his opinion, it was not legally required however that did not answer RG's question or others of the PB. MET stated that as there would be a possibility of the two venues having wedding events at that same time, she believed it was important to look at the stress on the road as well as the traffic during such times. CC reiterated that, as stated, in Mr. Gilchrist's letter of Oct. 7 information set forth would need time to review and as such Mr. Gilchrist was asking the PB to postpone further consideration of the matter and extending the time for appropriate review by the PB – he then asked Mr. Gilchrist if that was correct to which he replied yes. AH asked if that postponement request included SEQR in order for all information submitted to be digested. Mr. Gilchrist replied that the applicant was offering that option to the PB and found it to be fair. He added that the additional time would allow for review on their part of the additional issues raised which would need to be reviewed with Mr. Bailey and Mr. Millspaugh. Mr. Gilchrist asked if the PB, as a whole, concurred with WG comments regarding the need for a grading plan, driveway profiles with lighting plan and photometric analysis. AH replied that more specific information on the lighting would be helpful to which RG agreed. WG commented that in dealing with the 1-acre disturbance, it would be hard to tell if the applicant has gone over the 1-acre or not without the grading plan coupled with having to widen the entrance. Mr. Gilchrist replied that he found it to be appropriate for the applicant's engineer to review the contour information in regards to WG's comment so it may be addressed. He added that the proposed project was well under an acre for proposed disturbance as stamped by a P.E. WG stated that the Zoning Code required a grading plan which is what he was going by as well. AH stated that the contours could be reviewed by the engineer to certify that they are correct. Mr. Gilchrist agreed that it would be addressed. RL commented that he agreed with WG that additional information on lighting was needed for safety concerns. Mr. Gilchrist agreed to share a copy of the letter from the Fire Department when received. It was agreed by all that the proposed project would be placed on the next PB Agenda.

#### **DRAFT RESOLUTION APPROVALS**

##### Scenic Preservation Review Application for Susan Burns

AH motioned to waive the full reading of the draft Resolution; seconded by RG and all approved.

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

##### Scenic Preservation Review Application for Andrew Fraser; Sybil Carven

AH motioned to waive the full reading of the draft Resolution; seconded by RG and all approved.

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

#### **MINUTES:**

MET motioned to accept the March 4, 2020 minutes as presented; seconded by RL and all approved.

MET motioned to accept the August 19, 2020 minutes as presented; seconded by AH and all approved.

MET motioned to accept the September 2, 2020 minutes as presented; seconded by AH and all approved.

**ADJOURNMENT** – AH motioned to adjourn the meeting at 10:01 pm; seconded by MET and all approved.