

**Town of Sand Lake  
Planning Board Minutes  
September 18, 2024**

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:** Andrew Karl, began meeting at 7:00 PM

**MEMBERS PRESENT:** Andrew Karl (AK), Ralph La Montagna (RL), Michael Slavin (MS), Arthur Herman (AH), Edward Patanian (EP), Rick Giolito (RG) Mary Ellen Trumbull (MET), Craig Crist, Esq. (CC)

**MEMBERS ABSENT:**

**OTHERS PRESENT:** Joseph Mone, Jo Anne Mortimer, Wayne Mortimer, Norman McAfee, Nicole McAfee, Ray Peterson, Kevin McGrath, Matt Baumgartner, Josh Vicks, Matt Bond, Justin Sherwin, Kiley Sherwin, Chris (owners' representative-Capital Land Companies), Ed Brzozowski

**RECORDING CLERK:** Sarah Jones (SJ), Clerk for the Planning Board and ZBA

**PLEDGE OF ALLEGIANCE**

**APPLICATIONS**

**Major Subdivision Application with public hearing**

EWB-KFIII, LLC

Biittig Rd

Averill Park, NY 12018

AR-Agricultural Residential Zoning District

**Tax Map #:** 158.-1-35

**Lot size:** 22.95 +/- acres

A Major Subdivision Application to create eleven new lots with 750' of new streets from a vacant property.

Matt Bond was present and reviewed phase 3 of the Major Subdivision Application for EWB-KWIII that had been reviewed at several additional Planning Board meetings over the 2024 year.

With no additional questions or comments from the board, RL read the Public Hearing Notice that was placed in the September 7, 2024, edition of the Troy Record.

AK motioned seconded by MET and carried unanimously to open the public hearing at 7:05 PM.

Wayne Mortimer, a resident on Biittig Rd across from the proposed subdivision, said he was not aware perc tests had already been performed as the soil does not perc in that area and he was concerned that the retaining pond could not handle multiple storms as he feels the water is not going to leach into the ground but would evaporate instead. He was also concerned about the septic systems. He continued that he bought property across the street from Birch Builders during Phase 2. He took a photo of his perc hole test, saying the 6" hole drilled down was all blue crushed stone, the 4' hole was 1/2 full of water overnight after it had rained. He spoke to Rick Elder from the Department of Health as he thought the perc test had to be done when an engineer was present. Mr. Elder told him the policy was that it is done ahead of time. Mr. Mortimer

asked Mr. Elder what if there was cheating, to which Mr. Elder said if there was any cheating the Engineer would lose his stamp. Mr. Mortimer asked that someone from the town verify the holes are done properly. AK said that he understands that this had already been done and the stormwater pond was not meant to percolate. Mr. Bond said the stormwater pond was designed to DEC standards and was not meant to hold water but release water at a rate equal to or less than the current conditions. He said the county did witness both the perc hole test and the deep hole test. He said Mr. Mortimer is correct that it is not great there and that is why there is a fill system on each property for septic systems.

Ray Peterson then came forward who is also a neighbor and said his property is clay and there is bad stormwater runoff in the back indicating a low spot on his property line and he said he has videos of roughly 8-inches inches of water running downhill. (He indicated with his hands 8" this was not stated verbally.) He said when he built his house, he had to have roughly 1000 yards of gravel brought in and indicated that the farmer that hays the field adjoining his property left hay bales on his property line which has not significantly helped. He also put a French drain through his back property. AK said that stormwater does need to be accounted for both on and off property and he believed that had been accounted for. Mr. Bond said all the septic systems are built with swales around them. AK also stated that the town engineer had reviewed all the information as well.

With no additional comments from the public and no written comments received by the Planning Board office, AK said the Public Hearing was being left open to review and confirm all conditions for the Resolution.

Reviewed potential conditions are as follows, this is not an exhaustive list:

- HOA for governing the storm water area in perpetuity
- Each lot will have a deed covenant stating there is an HOA associated with the lots and the covenant will run with the land
- Security Bond posted and held by the town for construction up to the binder course and storm water facilities
- Security Bond posted and held by the town for the top course in the event the road is not completed as it is to be dedicated to the town.
- The applicant will be responsible for obtaining the quotes for the above securities and it the town engineer would need to approve.
- Before the 5<sup>th</sup> building permit is issued the binder course will be installed and approved by the town highway department.
- The town will decide when the top course is laid
- The storm water detention pond is maintained by the HOA
- The practices in accordance with the SPDES (State Pollutant Discharge Elimination System) through the town MS4 coordinator must be reviewed and approved and subject to approval of the town Engineer by the town.
- Map not to be filed until binder is laid and approved by the town
- Security amounts need to be reviewed and confirmed with the Town Engineer

EP asked about the 5 building permits, CC said that was recommended by the Town Engineer.

EP said based on our Zoning Code CO's cannot be issued before the base course is laid.

RL complimented Mr. Bond and EWB-III for their patience and continued dedication to providing information as requested.

**Scenic Preservation Review**

Charles Bogosta

699 Taborton Rd

Sand Lake NY 12153

**RR** – Rural Residential Zoning District

**Tax Map #:** 149.11-1-15

**Lot Size:** .91 +/- acres

Scenic Preservation Review Application to remove and replace dwelling in Scenic Preservation Zone on Big Bowman Pond

AH Recused due to personal conflict.

Kevin McGrath represented the application; he explained that Mr. Bogosta owns both properties showing where the existing 2 story camp is located. The new camp will be single level and slightly father back from the water. There are about 11 trees flagged for removal to construct the new camp. One of the pines is split and appears to be dead. The map reviewed the topography explaining that they are planning to install a septic system as it was simply pumped into a tank previously but not currently being used.

RG asked if they were drilling the well, AH spoke up confirming that they will be installing a well at least 200' from the sewer system.

EP asked, why is it not kept 100' from the lake being it is a new build. Mr. McGrath said that due to the terrain the majority of the property is on a hillside.

MS confirmed that property was previously abandoned.

Mr. McGrath indicated the new building with the covered porch would be about 29' from the water.

It was confirmed that the Zoning officer did review the map and determined no side-yard setback Area Variance would be needed.

AK motioned seconded by RG and carried unanimously that the Town of Sand Lake be lead agency with no other interested parties.

AK motioned seconded by RG and carried unanimously to classify this as a Type 2 action under SEQR.

AK motioned seconded by RG and carried unanimously to approve this Scenic Preservation application as presented.

**Special Use Permit Application**

Norman McAfee  
2831 NT HWY 43  
Averill Park, NY 12018  
**R** – Residential Zoning District

**Tax Map #:** 148.3-4-9  
**Lot Size:** 1.28 +/- acres

Special Use Permit Application to Construct a 2-car garage with mother-in-law apartment.

Mr. McAfee presented his Special Use Permit Application explaining that he is proposing a 2-car garage with an attached mother-in-law apartment. He said he presents 2 options. Option 1 building outside of the flood zone and Option 2 building in the flood zone which is code compliant based on the location of the dwelling.

AH suggested if the applicant is not in a rush, he may want to seek a variance to build outside of the flood zone.

AK confirmed that it was 1 story.

There was discussion around which option was preferable and the time frame surrounding each option. After lengthy discussion Mr. McAfee determined that he would prefer to go with Option 1 and would apply for a Variance with the ZBA.

**Site Plan Review**

Matt Baumgartner/June Farms  
274 Parker Rd  
Averill Park, NY 12018  
**AR** – Agricultural Residential Zoning District

**Tax Map #:** 157.-3-2.1  
**Lot Size:** 77.30 +/- acres

Site Plan Review Application to:

- 1) Construct an additional building (a second hobbit house).
- 2) & 3) Add bathrooms to and renovate the Timbertown Cabins.
- 4) Construct a swimming pool with a hot tub and a cold plunge.
- 5) Installation of new septic system to service proposed Hobbit house 2 and Timbertown.

Mr. Didio and Mr. Baumgartner presented the Site Plan Review for June Farms reviewing construction of an additional building (a second hobbit house), adding bathrooms to and renovating the Timbertown Cabins, construction of a swimming pool with a hot tub and a cold plunge and the installation of a new septic system to service proposed Hobbit house 2 and Timbertown.

Mr. Didio reviewed the proposed fenced in pool/hot tub/cold plunge with eating and 2 tier built in seating and cabanas located off of the Pony Barn patio. He stated they do need to relocate the existing septic line. Rensselaer Department of Health has approved the pool and Mr. Didio is working to develop the design.

Mr. Didio then reviewed Timbertown outlining the existing parking, trail to the air stream and hobbit house. The proposed hobbit house is not going to be constructed right away. The Timbertown cabins are seasonal as there are no restrooms-currently guests use the bath house. They are

working with the county as the perc test is completed and compiling plans for installation of the septic. The Rensselaer Department of Health has approved the septic.

Mr. Didio said there have been site updates including a widening of the entry drive, adding a fire lane and room for fire trucks to get with in 100' of buildings.

MET asked for clarification on the location of the proposed Hobbit house. Mr. Didio said it is going almost across from the current house.

CC Confirmed that all existing buildings on the property were approved in the prior Site Plan Review.

RL asked the capacity of the pool. Mr. Didio said it is a sq ' per bather but he would have to confirm the number. RL also asked if this is open to the public or just the campers. It was indicated that the pool will be for cabin guests and from Memorial Day to Labor Day will include membership-based access. RL also asked about storage of cabanas, chairs etc, Mr. Baumgartner said the chairs and any non-permanent fixtures would be stored in the pole barn. RL questioned changing facilities. Mr. Baumgartner said there are changing rooms (the current bath house) should they be needed. RL said the board would need information regarding lighting and hours. Mr. Didio and EP said the county has very strict requirements regarding the pool and the pool would be governed by the county, however, they would provide any additional information requested. RL asked how the number of people in the pool area will be controlled to keep it safe. Mr. Baumgartner said he does have a membership pool in Florida and at that place you must sign up ahead of time and if the pool is at capacity regardless of membership you are sent a text when you are able to enter the pool area. RL confirmed the members could use the restaurant. RL asked about a lifeguard and first-aid station. Mr. Didio said a lifeguard is not required under a specific square footage but there is a dedicated station for first aid.

RG asked who would manage the number of people. Mr. Baumgartner said there will be someone monitoring the entrance of members and the only entrance to the pool is through the Pony Barn and there would also be staff verifying membership before pool entry. RL also confirmed that the county would oversee the hours of the pool.

AK confirmed there will be no glass containers around the pool. He also verified that the entire road from Parker Rd had been widened to two lanes. AK said it would be helpful to have an updated Special Use Permit/Site Plan Review so that all information would be in one place vs various applications. AK also would like to know the location of dumpsters.

MET said in 2018 you were approved for 12 events. Mr. Baumgartner said this was an area of confusion for him as he understood the definition of large events differently. AK said it would be helpful to have a list of prior events.

Mr. Didio said they will compile a clear project narrative for the next meeting.

CC said because you are returning with a plan with everything on it he recommended that a vote be made to deem the application incomplete. MET motioned seconded by AK and carried unanimously that the application be marked incomplete.

**Site Plan Review**

Justin & Kielely Sherwin-Capital Land Companies  
4 Teal Rd  
Averill Park, NY 12018  
**HMU-** Hamlet Mixed Use Zoning District

**Tax Map #:** 159.2-2-12  
**Lot Size:** .90 +/- acres

Site Plan Review Application to use newly purchased land for equipment storage.

Kiley and Justin Sherwin along with Chris who indicated he was the owner’s representative presented their application, Chris said the company would like to purchase the Main Care building for storage of fleet vehicles and storage of tools used for their business. It was stated they have not purchased the building as it is contingent upon the approval of this application. EP asked if there would be a great deal of outdoor storage. Mr. Sherwin said on occasion there may be items stored there but they preferred to move materials and vehicles from site to site as it is not conducive to continually return to the shop daily and on occasion a pool may need to be drilled out, but this is something that could be done inside as it is a very large building. EP asked about the radius going in and out. Mr. Sherwin said his biggest vehicle is 40’ and the intention is to enter the property from the RT 43 side. EP asked if they were purchasing the showroom portion of the building. It was indicated they were, but it was not going to be a standard showroom as it would be rare that people would be invited to the building.

EP asked about a site visit. AH said a public hearing is also an option to which AK said he was considering for full transparency. RG asked if it was necessary. The applicants expressed concern as they indicated closing on the property was contingent on the approval of the application and they had anticipated closing a couple weeks prior to this meeting.

AK motioned seconded by MET and approved by RL, MS and EP the motion was opposed by AH and RG to hold a Public Hearing on this application October 2, 2024. A public hearing will be scheduled.

**Sign Placement Review**

Justin & Kielely Sherwin-Capital Land Companies  
4 Teal Rd  
Averill Park, NY 12018  
**HMU-** Hamlet Mixed Use Zoning District

**Tax Map #:** 159.2-2-12  
**Lot Size:** .90 +/- acres

Sign Placement Application to use install a sign reading “Capital Land Companies”

Kiley and Justin Sherwin along with Chris who indicated he was the owner’s representative presented their application, Chris said they propose to mirror the business card. Black on white coloring the size being 3’ x5’. EP asked where it was being placed. Mr. Sherwin said he would like to place it on the building.

Because there were so many variables it may be best if the applicants returned with a solid Sign Placement plan to review with the board.

**Scenic Preservation Review**

Joseph Mone  
1242 Burden Lake Rd  
Averill Park, NY 12018

**Tax Map #:** 158.4-5-17.2  
**Lot Size:** .70 +/- acres

**R – Residential Zoning District**

Scenic Preservation Review Application to remove and replace room and add a second story to the new build. Additionally, add a deck over the existing sunroom.

Mr. Mone presented his application to the board indicating it is his full-time residence purchased in June. He would like to remove a portion of the building that appears to have been poorly built and replace it. He will remain 39’ from the lake which is in the existing footprint.

EP confirms this home is on the town sewer. Mr. Mone said because of the poor condition he would prefer to remove and replace it rather than add to the existing building.

With no additional questions from the board, AK motioned seconded by MET and carried unanimously that the Town of Sand Lake be lead agency with no other interested parties.

AK motioned seconded by AH and carried unanimously to classify this as a Type 2 action under SEQR.

AK motioned seconded by RL and carried unanimously to approve this Scenic Preservation application as presented.

**RESOLUTIONS**

**Site Plan Review Resolution for Lilly-Kays Pizza SPR 24-07**

AK motioned seconded by MET and carried unanimously to waive the full reading of the Site Plan Review Resolution **SPR 24-07 Lilly-Kays Pizza.**

MS abstained

**Site Plan Review Resolution for Lilly-Kays Pizza SPR 24-07**

AK motioned seconded by RL and carried unanimously to approve the Site Plan Review Resolution **SPR 24-07 Lilly-Kays Pizza.**

MS abstained

**Negative Declaration for EWB-KWIII, LLC**

AK motioned seconded by RL and carried unanimously to waive the reading of the negative declaration.

AK motioned seconded by MET and carried unanimously to adopt a negative declaration.

**Scenic Preservation Review Resolution for Fandl II SPZ 24-06**

AK motioned seconded by MS and carried unanimously to waive the full reading of the Scenic Preservation Review Resolution **SPZ 24-06** for Fandl II

RL, MET, RG abstained

**Scenic Preservation Review Resolution for Fandl II SPZ 24-06**

RL motioned seconded by MS and all approved to waive the full reading of the Scenic Preservation Review Resolution **SPZ 24-06** for Fandl II

RL, MET, RG abstained

**Site Plan Review for Main Brothers Oil Co, Inc. SPR 24-08**

AK motioned seconded by EP and carried unanimously to waive the full reading of the Site Plan Review Resolution **SPR 24-08** for Main Brothers Oil Co, Inc.

RL, MET, RG abstained

**Site Plan Review for Main Brothers Oil Co, Inc. SPR 24-08**

AK motioned seconded by EP and carried unanimously to waive the full reading of the Site Plan Review Resolution **SPR 24-08** for Main Brothers Oil Co, Inc.

RL, MET, RG abstained

**Site Plan Review for Schroeder SPR 24-09**

AK motioned seconded by MS and carried unanimously to waive the full reading of the Site Plan Review Resolution **SPR 24-09** for Schroeder.

RL, MET, RG abstained

**Site Plan Review for Schroeder SPR 24-09**

AK motioned seconded by EP and carried unanimously to waive the full reading of the Site Plan Review Resolution **SPR 24-09** for Schroeder.

RL, MET, RG abstained

**DRAFT MINUTES FOR APPROVAL**

AK moved **August 21, 2024**, minutes as presented seconded by EP and carried unanimously.  
MS Abstained

AK moved **September 4, 2024**, minutes as presented seconded by RG and carried unanimously.  
RL, MET, RG abstained

**ADJOURNMENT**

AK motioned, seconded by EP to adjourn the meeting at 8:57PM and all approved.