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MEETING MINUTES
TOWN OF LLOYD PLANNING BOARD

Thursday, August 27, 2015

CALL TO ORDER TIME: 7:00pm

PLEDGE OF ALLEGIANCE

ATTENDANCE **Present:** Scott Saso, Lawrence Hammond, Fred Pizzuto, Fred Riley, William Odgen, Dave Plavchak, David Barton; Building Department Director, Teresa Bakner; Town Attorney
 Absent: Brad Scott, Carl DiLorenzo, Peter Brooks, Michael Horodyski; Town Board Liaison

ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.

Extended Public Hearings

Wang, James, 14 Roy Ln, Special Use Permit; SBL# 95.12-3-72, in R1/2 zone.

The applicant would like a special use permit to legalize an accessory apartment in his home. The apartment will be approximately 600sf.

Mr. Wang was present for the meeting.

Darcy Smith, interpreter for Mr. Wang, was present for the meeting.

Teresa Bakner, Town Attorney, was present for the meeting.

Scott Saso, Chairman, informed the audience that this public hearing was extended a number of months and deferred to Teresa Bakner.

Teresa: There was a public hearing many months ago and it was held open at Mr. Wang’s request. He has applied for an accessory apartment. He is in an appropriate zone for an accessory apartment. This is an opportunity for anybody to share any opinions or thoughts that they have regarding this application for an accessory use apartment. Please address your comments to the Board and then the Board will decide if they would like to hold the public hearing open, if they want to close the public hearing and make a decision or they would like to defer until the next meeting.

Scott Saso read the public hearing as follows:

TO THE EDITOR OF THE OFFICIAL NEWSPAPER:

New Paltz Times

Email: dale@ulsterpublishing.com

THE FOLLOWING LEGAL NOTICE IS TO BE PUBLISHED:
WEEK OF: August 20, 2015

FORWARD PROOF OF PUBLICATION AND ALL BILLS TO:
TOWN CLERK, TOWN OF LLOYD
TOM SHAY SQUARE, 12 Church Street
Highland, New York 12528

LEGAL NOTICE
TOWN OF LLOYD PLANNING BOARD
NOTICE OF EXTENDED PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Town of Lloyd Planning Board, Ulster County, State of New York, on the application of James Wang for property at 14 Roy Lane(SBL: 95.12-3-72), Highland NY, 12528, proposing special use permit for an accessory apartment.

The public hearing will take place at the Town of Lloyd Town Hall on Thursday, August 27, 2015, at 7:00PM, or as soon thereafter as may be heard.

Date: August 11, 2015

Any questions, call (845) 691-2735, Monday through Friday, 8:30am – 4:30pm, or email us at prober@townoflloyd.com

The Board had many comments from the last public meeting and welcomed new comments either adding on to old comments or from someone who was not heard yet.

Scott asked Mr. Wang if he had anything he would like to add for the record.

Mr. Wang: I remember starting the application process in February, and I think we have not had any problems or concerns about safety. I have seen kids in the neighborhood and have not seen any problems; I still have my two boarders. I have not gotten any feedback of any problems over the summer but I certainly am open to that if that is the case.

Scott: The public hearing is already officially opened, are there any public comments?

Lambros Violaris of 16 Roy Lane: This is the first time I have been to one of these meetings; my wife has been to the previous ones. We are next door neighbors. I am sure some of this has been touched upon with some of the other individuals that have spoken here but I wanted to give my input. I was born and raised in NYC; I lived there for 40 years. We moved here to get away from the hustle and bustle of the city and raise my family in a safe environment. Last summer I've seen law enforcement more times in a few months over the last summer than quite frankly, I have touched my entire time living in NYC. My biggest concern and I think the biggest concern of all the families in the neighborhood has really been the judgment of the type of people that have been introduced, through no fault of our own, to our community. Yes, it has quieted down but I think the track record is there where I do not think a lot of thought or any type of screening has been given to the type of individuals. My children, if the wrong person is introduced in the neighborhood, could be impacted not in a very positive way. There have been a lot of instances maybe you are aware of or not. There are probably 30, 40, 50 children under the age of 10 in Highland Hills, maybe more. My biggest concern is if a green light is given to this particular project my understanding is that this is a permanent situation even if Jim

moves away the next individual, whether they have good judgment or not, is going to be able to introduce individuals that we do not know and possibly not have been screened as far as their police record or any other activity could impact not only the adults but more importantly the children in the community. I just want to make sure that the right decision is made considering the community in general as opposed to any type of individual interest that Jim might have.

Kory VanZandt of 12 Roy Lane: Things have quieted down but we have to look at the track record for the past two or three years, that has to be taken into account. I don't know if these are appropriate questions to ask Jim, because we do not communicate as neighbors. In the past he has told us that he will be leaving is that a question we can ask him now? Is he long term here at this address?

Scott: Is it true that a special use permit for an accessory apartment will continue use if the homeowner leaves?

Dave B: Yes. As long as it is owner occupied.

Terresa (to Mr. Wang) Do you intend to live in the house or do you intend to move away?

Mr. Wang: We had talked before about this, I am involved in a federal lawsuit with IBM. I am waiting for the next step in that, it may involve a trial, I am not sure where the federal court process is going to go. It is impossible to move it along any faster than it is; I have a lawyer who is taking care of that. So I anticipate having to be available for that and don't anticipate going anywhere until then. I would not even consider moving or selling the house until when and if I have a successful trial.

Mr. VanZandt: So his intentions are to move after that if it all comes to a closure?

Mr. Wang: That is assuming that I win the case and have a settlement.

Dave P: That may not even be relevant as long as it is owner occupied.

Terresa: I guess a concern is that this was in front of the Planning Board and then there was a three month gap, at least, before Mr. Wang was back in town. The concern is that with an owner who occupies a place so infrequently with long absences that they would have less of a control over the people that live there. The idea with the whole accessory use apartment was to take the mother-daughter apartment that really could not be enforced and to liberalize it. But the idea was never to have people living in a house and not be there to supervise their tenant, so that is the problem.

Mr. VanZandt: At the first public hearing Jim was very open about not doing background checks, and it was very clear that he had never done background checks. I am wondering in the last couple of months, because of our concerns, has Jim began to do background checks. And I am also concerned that he is still advertising on Craigslist.

Mr. Wang: I do an informal background check. I ask people if they have a job, I do not check the criminal history but I do check that they have enough money and a solid job or that they are college students. Those are the things that I look for a full time college student, someone working at IBM for example. I ask basic questions. I do not have the money to be able to afford a full background check on potential tenants. If I could somehow offset those costs, it may be helpful to you to share that information; I wonder if the neighborhood would be willing to help share the fees so that they would have full access to what is going on with these people.

Mr. VanZandt: Part of my concern is that I think this is on a month to month lease, the turnover is like you would not believe every month there is someone new in there. Every month it is someone else you can't even have a conversation with someone to get to know them; they are in and out monthly I do not think there is any long term contract with them.

There were no additional comments.

A **Motion** to close the public hearing was made by Lawrence Hammond, seconded by Dave Plavchak. All ayes.

Terresa: Tonight you have heard some of the same concerns from the neighbors that you heard previously with the last public hearing. We did check with the village police and they do not have any record of incidents in the past several months. There was a long list of police/tenant interaction involving execution of warrants and other things, not typically what you would find in a residential area, somewhat extraordinary. You have heard the people here indicate that there are a lot of children living in the area and they have concerns about the month to month nature of the tenancies. We cannot impose conditions like long term tenancies or background checks. There is nothing in the law, that you have, that enables you to do that. That is something that you can talk to the Town Board about to see if you think for the accessory use apartments you want to have sort of a different quality of tenancy in terms of length tenancy and requiring people to do background checks.

The standards for a special use permit, the procedure that you have gone through here; you have done everything right. You looked at the application and you looked at the special permit standards for an accessory apartment. I prepared a draft version of a Planning Board resolution, (copies were passed around to Board members). This is allowed in the R ½ zoning district by special permit, but your Town code says all uses subjected to special permit possess characteristics of such unique and distinct form that each specific use shall be considered as an individual case. So you are allowed to take into account issues that have been raised by the public or raised by the police department or that you have investigated on your own. In order for you to give a special permit for this use you would have to find that the proposed project meets all of the general and specific requirements for a special permit use. The coordinated review you went through is listed in this resolution. One of the things you need to do is make a finding with respect to the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it; the prevailing character of the neighborhood within the district; and the public health, safety and welfare. Those are the primary things that you are looking at.

Terresa went over the list of eight steps included in the Planning Board's coordinated review (see attached resolution) noting that in #2 as SEQRA lead agency the Planning Board adopted a determination of non-significance, this is actually a Type II action not an unlisted action under SEQRA so really the environmental issues do not go into this at all. (This is addressed again below).

Terresa continued review of the resolution reading over the WHEREAS' striking out a paragraph regarding reports from the Sheriff and New York State police concerning additional emergency calls, because we did not receive anything from them.

Terresa added: The Town of Lloyd commenced an enforcement against Mr. Wang for having too many boarders which has been resolved. Mr. Wang currently rents rooms in his house to two tenants but has not really presented clear evidence that the residence is continually owner occupied. You have heard tonight that his intention, as soon as the lawsuit is over, is to sell the property. Tonight we heard, as you did in March, comments from the public regarding concerns about how the house is being run and the tenants are being dealt with at the location including nighttime disturbances, concerns about safety, particularly children's safety related to the use of the house. Initially the Planning Board had determined that this was an unlisted action pursuant to SEQRA, there are two exemptions that make it a type II action. It is a construction or expansion of a single family residence (even if you add on to a single family residence it is exempt from environmental review) and a construction expansion or placement of a minor accessory or pertinent residential structures (if someone comes in and builds a shed for an accessory apartment) it would be a type II action as well. You do not usually have type II actions, that is usually the Zoning Board of Appeals. The Town Code specifically says that an accessory apartment is not counted as a residential unit for the purposes of determining density and that goes to the fact that it is a type II action as well. In the law there is the ability, before you make a final decision, to correct past actions. I recommend that you rescind the negative declaration and make the determination that it is a Type II action. (That is worked into the resolution.)

This resolution recites that you considered the public comments tonight and additional information entered into the record concerning the first half of 2015 that things have quieted down at the residence.

Terresa read through more of the resolution as follows:

NOW THEREFORE BE IT RESOLVED that the Determination of Non-significance adopted January 22, 2015 is hereby rescinded and superseded by the Planning Board’s determination that the action is a Type II action;

BE IT FURTHER RESOLVED that the Planning Board adopts the following findings:

Terresa: (To the Planning Board) This can be changed or addressed however you would like.

1. Due to the unusually large number of police service calls and arrests at the location of the proposed accessory apartment, allowing further expansion of the residence with an accessory apartment would threaten the public health, safety and welfare;
2. Further expanding the residence with an accessory apartment will increase the nature and intensity of the operations conducted in connection with the residence, endangering the public health, safety and welfare;
3. Allowing an accessory apartment at this residence will be inconsistent with the prevailing character of the neighborhood within the district;
4. As evidenced by nighttime disturbances by tenants, additional traffic and parked cars in the neighborhood, and numerous visits from police, operations in connection with an accessory apartment will be more objectionable to nearby properties by reason of traffic, noise, and flashing of lights than would be operations of permitted uses not requiring a special use permit;
5. The proposed accessory apartment does not meet the standards and conditions for the granting of special use permits;

Because there are other accessory apartments in the area number #3 will be taken out.

Mr. VanZandt: About the boarders, he will be allowed two boarders plus two boarders with the accessory apartment, so he could have four boarders?

Dave P: You are allowed two borders plus a one bedroom accessory apartment.

Mr. VanZandt: And how many people could live in that one bedroom?

Larry: You are allowed so much square footage per person.

Dave B: 75sf. per person.

Terresa continued reading the resolution.

The Board discussed voting as comments and concerns were the same and decided they were comfortable voting this evening.

Scott we are voting to accept this resolution

	AYE	NAY	ABSTAIN	ABSENT
Chairman Scott Saso	X			
Brad Scott				X
Lawrence Hammond	X			
William Ogden	X			
Carl DiLorenzo				X
Dave Plavchak	X			
Fred Pizzuto	X			
Alt, Peter Brooks				X
Alt, Fred Riley, Jr.	X			
6 Ayes, 0 Nay, 0 Abstain, 3 Absent				

Motion Carries

Scott: We have approved this resolution, which is a denial.

Mr. Wang: Asked if he could have a copy of the resolution as he would need it for his records and court purposes.

A copy of the resolution will be given to Mr. Wang.

Mr. VanZandt: (To Mr. Wang) This is not a vendetta against you this is about the well being of the children in this neighborhood. It has nothing to do with you; you seem like a really nice guy, it is just about the kids.

Set Public Hearing

Behnke, David, 244 Pancake Hollow Rd, 2 Lot Subdivision; SBL#87.3-2-21.150, in R1 zone.

The applicant proposes to subdivide their 9.863 parcel of land. The existing house lot would have an area of 1.085 acres, and the vacant lot would have an area of 8.778 acres. The vacant lot is to be conveyed to their son with the expectation of building a 4 bedroom house. The vacant lot would have a new driveway from Pancake Hollow Rd, a drilled well and a subsurface sewage disposal system.

Mr. and Mrs. Behnke were present for the meeting.

Mr. Robert James of A. Diachishin & Associates PC, the applicant's representative, was present for the meeting.

The Board reviewed this application last week at the workshop.

Mr. James updated the Board: This 9.8 acre parcel is the remaining land of the former Behnke Farm. This has an existing house, garage, septic, well and above ground swimming pool which we plan to cut off and have the new lot be 8.63 acres. The plan shows the newly proposed house, driveway, well, and septic. There is an existing culvert over the Black Creek. The proposed driveway, about 550 ft., is 12% grade with good sight distance each way. We have applied to Ulster County Dept. of Public Works for a driveway permit and we have applied to Ulster County Board of Health for a septic permit. We plan to disturb about 2 ½ acres in regrading and cutting and filling for the driveway. We will need an Erosion Control for the disturbance and silt fence this will come in the next submission. Your code asks for a turnaround or pull off for emergency vehicles can I put this on the flat?

Scott: That is probably the preferred place.

Larry: You have a turnaround down here at the house too. That is a good thing.

The Board discussed disturbance and water runoff.

Bill: It looks like the water is going to run down and run right into the Black Creek, is that a problem?

Mr. James: Are you talking about the drainage? No, there is a low spot between the Creek and the house in the driveway.

Scott: So you are going to mitigate the water there before it goes into the Creek?

Mr. James: You come down from Pancake Hollow to a low spot just past the Creek and then back up. Water will flow off of the driveway and rip rap it so it is not a point of discharge.

Bill: Will the driveway be lower than the land around it?

Mr. James: You do not want to run water onto the driveway; you want it to run off of the driveway.

Scott: So you think you will be able to sheet flow it off of the driveway.

Mr. James: Yes with rip rap in there.

The Board reviewed the EAF form and issued a SEQRA determination of non-significance.

Scott read over the resolution. (See attached)

A **Motion** to accept the resolution of negative declaration and setting of the public hearing was made by Lawrence Hammond, seconded by Dave Plavchak. All ayes.

The public hearing has been set for September 24, 2015 at 7:00pm.

This will be submitted to the Fire Department for review.

Selux Corp., 5 Lumen Ln, Siteplan; SBL#88.1-6-6.100, in GB zone.

Selux is planning 2 additions and other future improvements to the building at 5 Lumen Lane.

Selux-South is an 8,800 sf. light industrial addition with a loading dock that will be used for product assembly and warehouse space, starting construction as soon as possible.

Selux-North is a 5,980 sf. commercial addition for a showroom and office space, starting construction this fall. The 4,560 sf. first floor will be completed in phase 1; the 1,420 sf. second floor will be completed in phase 2.

David Todor of Bolder Architecture PLLC, the applicant's representative, was present for the meeting.

Mr. Todor informed the Board: The first addition will have a loading dock and is part of the product assembly. The second addition is the showroom and some offices. The first phase will be finishing off the first floor and in the future they will be finishing off a part of the second floor. When the workforce starts expanding they will be updating their septic system and there are some notes on the plans about the parking. We are working with a civil engineering firm, Brinner and Larios, so that the parking will give as need be for the septic system. The Board reviewed this at the last workshop; there were no changes and no new additional information. They await the Ulster County Planning Board's comment.

The Board reviewed the EAF form and issued a SEQRA determination of non-significance.

Scott read over the resolution. (See attached)

A **Motion** to accept the resolution of negative declaration and setting of the public hearing was made by Dave Plavchak, seconded by William Ogden. All ayes.

The public hearing has been set for September 24, 2015.

Shamrock Liquors (Khodiyar LLC), 3565 Route 9W, Siteplan; SBL#88.17-9-25.100, in GMU zone.

The applicant would like site plan approval for an addition of 7,520 sq. ft. to an existing 4,270 sq. ft. commercial building for use as a mixed commercial space building of retail business, service business, restaurant, office and medical uses.

Patti Brooks of Brooks & Brooks Land Surveying, the applicant's representative, was present for the meeting. After review last week the only outstanding issue was in regard to what the building will look like in the back.

Patti: Tinkelman Architecture has done a rendering. I would like to remind you that this is an aerial view and it could be a little misleading because you will be down on the ground looking up.

Bill: We were concerned about the fake facade.

Patti: In speaking with Tinkelman they wanted to make sure that I explained to the Board that although some of the front is a façade, all of the turrets are full structures.

Scott: The other concern will be because the turrets are on this side, chances are the mechanicals will probably be up there and in view, that is something to consider.

Patti: I will bring in some photos for a better representation.

The Board discussed the back of the building and visual concerns there, and that a condition of approval should be that the mechanicals are hidden from view.

Patti: Since the stormwater drainage report was submitted and showed that there was actually less impervious surface as a result of this revised plan, because the entire site is impervious now, and we are adding green spaces. I was wondering if Shari would feel comfortable do the review on this. We are not really creating

anything additional. My hope is that it could be done in house to minimize the cost to the applicant. I would also like to know of what other referrals need to be made.

Dave B. informed the Board that Morris already has this for a small review.

Larry informed Patti that the Water/Sewer meeting is Sept. 8th at 3:30pm here at Town Hall. Patti will review the sewer options.

This application has already been sent to the County for review.

The Board reviewed the EAF form and issued a SEQRA determination of non-significance.

Scott read over the resolution. (See attached)

A **Motion** to accept the resolution of negative declaration and setting of the public hearing was made by Dave Plavchak, seconded by Lawrence Hammond. All ayes.

The public hearing has been set for September 24, 2015.

Ireland, David, 66 Mayer Dr, Special Use Permit; SBL# 95.12-2-13, in R1/2 zone.

The applicant is requesting a special use permit to add a 425sf accessory apartment into his basement.

The Board reviewed this application at past meetings and is satisfied.

The Board reviewed the EAF form and issued a SEQRA determination of non-significance.

Scott read over the resolution. (See attached)

A **Motion** to accept the resolution of negative declaration and setting of the public hearing was made by Dave Plavchak, seconded by Lawrence Hammond. All ayes.

The public hearing has been set for September 24, 2015.

New Business

Apple Greens (Roehrs), 161 South St, Siteplan Amendment; SBL#87.3-5-15.100, in A zone.

The applicant would like a site plan amendment to include a barn wedding venue.

The existing barn is 2000 square feet.

The Board looked over the site plan and discussed where the road is shown that will be for the transporting of people to the parking lot and the need for a lighting plan.

The applicants were not ready for this meeting; they will be back next month.

Administrative Business

Minutes to Approve

A **Motion** to approve the minutes from the July 16, 2015 Planning Board Workshop was made by Dave Plavchak, seconded by William Ogden. All ayes.

A **Motion** to approve the minutes from the July 23, 2015 Planning Board Meeting was made by Dave Plavchak, seconded by Fred Pizzuto. All ayes with William Ogden and Fred Riley abstained.

A **Motion** to adjourn the meeting was made by Dave Plavchak, seconded by Lawrence Hammond.