

Minutes of the Town of Lake George Planning Board meeting held on July 10, 2018 at 6:00 p.m., at the Town Center, 20 Old Post Road, Lake George, New York.

Members Present: Sean Quirk, Chairman
Fred Pape, Vice Chairman
Heath Mundell
Robert Flacke
Nathan Hall
David Meixner
Rich Askew

Also Present: Dan Barusch, Adele Behrmann, Leah Everhart, Esq., Mike Stafford, Esq., Kurt Koskinen, Kevin Mulcahy, Caryn Mlodzianowski, Beth Crane, Scott Wood, Sheila Galvin, Esq., Don Pidgeon, John Salvador, Bob Jojo, Tim O'Brien, Jon Lapper, Esq., Nick Mazzeo, Bridget Madison, Uncle Tony, Holly Hohne, Mike Riley, Brian Morris, Chris Navitsky and others.

Chairman Quirk opens the meeting at 6:00 p.m.

Acceptance of the Minutes

A motion is introduced by Fred Pape; seconded by Nathan Hall to accept the minutes of the June 12, 2018 meeting in the record.

All in favor, motion carries.

PUBLIC HEARINGS

1. Application for Site Plan Review SPR6-2018 submitted by John Salvador with Kurt Koskinen as agent, with a proposal to conduct commercial timber harvest on both sites, for property located at the end of Shaw Road & West Shaw Road Ext. Tax Map Nos. 225.00-1-64.1 & 225.00-1-43. Lots size is 183 acres +/- . Zoning Classifications are RR-5 & RR-10. Code Reference is 175-15. SEQRA is Unlisted.

Nathan Hall recuses himself.

Kurt Koskinen is the forester and agent for John Salvador. The goal is to do a harvest of trees approximately 12 in. and larger in diameter encompassing about 45 sq. ft. per acre thus leaving 51 sq. ft. per acre untouched. This is their third appearance in front of Boards and it seems as though the concern is the maintaining a buffer with neighboring properties. As he previously mentioned no streams will be crossed and the same landing and driveway used for a prior harvest will be utilized for this one. Chairman Quirk states that he'd like to see a 50 ft. to 75 ft. no cut zone by the residential neighbors' boundary lines as it has been imposed by the Town to other timber harvest projects. Secondly, he believes that a bond for potential damage to the Town portion of Shaw Road should be obtained.

Sheila Galvin, Esq. represents Mr. Salvador in this matter as his attorney. She begins by stating that buffers are typically needed in residential areas, however in this case, the area is forested that already serves as a buffer. With respect to a bond, she believes that this is the first time the Board is seeking to impose a bond for a timber harvest project and feels that it would serve as a penalty imposed on Mr. Salvador. She then asks if the reason for the bond is due to a prior litigation with Mr. Salvador. Chairman Quirk replies that it is due to damage done to the road during a prior harvest that was never repaired. Ms. Galvin responds that Mr. Salvador opposes the imposition of a bond since during a prior timber harvest, the damage on the Town's portion of Shaw Road was never clarified and no request was made for repairs; he, therefore feels that this would be a unique request targeting him personally. Chairman Quirk states that he is trying to protect the neighbors since they are the ones who use the road and brought up the damage.

Ms. Galvin continues by stating that although anyone can speak to the Board, Mr. Stafford, who represents the Hymans, Mr. Salvador's neighbors, is a Town Justice for the Town of Lake George and as such he is not supposed to be appearing before the Planning Board representing a private client. She reiterates that anyone is free to speak however in this case it is a violation of judicial ethics and it is something that this Board should be taking into consideration. She and Mr. Salvador strenuously oppose the imposition of a bond and a 50 ft. to 75 ft. boundary lines buffer. Chairman Quirk adds that neither he nor anyone on the Board are lawyers and are not familiar with State laws. Dan Barusch informs the Members that the Town Board passed a resolution at their July 9, 2018 meeting effective immediately to limit with weight on Shaw Road to a maximum of 40,000 lbs.

Kurt Koskinen states that this is a 910 property with the old Fisher Act and foresting timber is allowed and cannot be stopped. He is concerned with the imposed new weight limit since a typical empty logging truck weighs approximately 30,000 lbs.; the 40,000 lbs. weight limits the number of logs on the truck to 4 or 5 making the logging prohibitive and not cost effective as well as lowering the property value. Any vehicle that carries anything is 40,000 pounds including emergency vehicles. Chairman Quirk agrees and states that timber harvesting is a major industry in the Adirondacks however the road is bound by the resolution on the weight limit. As for the buffer distance, the Planning Board has imposed buffers of 50 ft. to 75 ft. on prior projects.

Leah Everhart, Esq. is the Town's attorney. She confirms that the public hearing is still open however the Town Board is the Board that needs to be approached about the weight limit on the road. She reminds the Members that when instituting conditions, their role is to identify the harm that could arise from the approval and the condition would be a way to address that harm. A bond is a perfectly legal condition to impose on an approval if the Board feels that it would mitigate a potential problem regardless of whether or not it has been done before.

Chairman Quirk opens the meeting to the public.

Kevin Mulcahy is the adjacent property owner and former Planning Board Member. He was able to confirm and verify that all the boundary lines have been marked clearly and the nearest house is between 500 ft. to 1,000 ft. away; as for a bond, no bond was ever imposed when he served on the Board. He questions how the Town Board could put a weight limit on a public road thus jeopardizing the safety of the people who live on this road; he feels it should be challenged.

Bob Jojo is the adjacent neighbor. He knows that his house is far away but would feel much more comfortable if a buffer would be kept since he is not in his house on a full time basis. He is concerned that someone who has been hired may not be as prone to take care and monitor that the boundary line is not encroached. He would also prefer that there might be a different access point for Mr. Salvador's endeavor as others have suggested; additionally Mr.

Salvador stated at a Zoning Board meeting in 2015 that both the town and the private road are not safe for access by fire and emergency vehicles which then poses the questions why would logging trucks be allowed.

Don Pigeon confirms that a complete survey has been done with the lines heavily and visibly marked so they can't be missed. Kevin Mulcahy informs the Members that he is very familiar with the property and prior to any homes being built the road was just a logging road. Mr. Salvador has over 200 acres of logging land and a Forestry Act which obligates him to harvest timber on his property and now he is being told he can't. As for the boundary line, he believes that a 20 ft. buffer is sufficient.

Sheila Galvin states that since Shaw Road is a Town road, the Town has an obligation to provide a safe and secure road with access by emergency vehicles. She understands that the original subdivision called for a road with a maximum weight of 60,000 lbs. to accommodate emergency vehicles.

Michael Stafford, Esq. represents the Hymens, Mr. Salvador's neighbors. He states that he takes his ethics extremely seriously and his research indicates that he has every right to be at the meeting. He quotes Town Law, Ordinance 320 which holds a logger responsible for damages to a Town road while logging with vehicles over the weight limit in which case the liability is triple the amount of damage done to the road. He continues by informing the Board that Kevin Mulcahy is the owner of the road since Mr. Salvador deeded two parcels to him immediately after Mr. Mulcahy resigned from the Planning Board making the application incorrect and strongly believes that it is about the road and not the logging. Shaw Road is in disrepair because it wasn't built well and additional stress will further damage it. Sheila Galvin, in response to Mr. Stafford's comments, expresses that Mr. Salvador owns the portion of Shaw Road Extension as evidenced by the deeds filed in the Warren County Clerk's office therefore the application is correct. Mr. Stafford adds that the public record shows that Kevin Mulcahy owns a 2 acre parcel which goes to the center of Shaw Rd. Kevin Mulcahy clarifies that land exchange with Mr. Salvador had nothing to do with his resignation from the Planning Board.

Chairman Quirk suggests tabling the application and leaving the public hearing open in order to research it further and that closing the public hearing will still give them 62 days to make a decision.

A motion is introduced by Heath Mundell; seconded by Fred Pape to close the public hearing.

Ayes:	6	Flacke, Mundell, Pape, Meixner, Askew, Chairman Quirk
Nays:	0	
Abstain:	1	Hall

All in favor, motion carries.

An additional concern of Mr. Jojo is whether someone will be monitoring the harvest possibly on a daily basis. Chairman Quirk asks if there will be monitors although Mr. Koskinen has been in front of the Board many times and he believes he does a good job. Dan Barusch comments that the Planning and Zoning office does monitor projects and then suggests that perhaps Kurt Koskinen can submit weekly reports on the harvest to his office as well. Leah Everhart confirms that a 20 ft. buffer to prevent accidental access was discussed as a potential condition. She expresses that the Board is in a strange position because if the weight limitation of 40,000 lbs. stays in place, the Board may feel that nothing else is necessary to protect the town road. Alternatively if the Town Board decides to raise the limit to 60,000 lbs., this Board's concerns would not be addressed. She asks if the Board members are concerned that the town road would be further damaged with the logging. Some of Members feel that it would be up to Code Enforcement to monitor the project however Dan Barusch adds that the lower weight limit would help the road however conditions can

be imposed to an approval, i.e. bond, buffer, etc. It is correct that bond was imposed on a previous timber harvest projects, but other projects have had bonds imposed in order to mitigate any potential damages. Leah Everhart comments that a bond is not a penalty but rather it is an insure policy to insure that if any damage occurs during the logging, there are funds available to pay for the repairs. If a bond is imposed, it is important for the Board to state their concerns and have a discussion about them on the record.

A motion is introduced by Fred Pape; seconded by Heath Mundell to approve Site Plan Review SPR6-2018 with the following conditions:

- The applicant shall maintain a 20 ft. buffer around the entire perimeter of the properties when harvesting.
- The Town of Lake George shall be named as “Additionally Insured” on the logger’s liability policy. The logger shall submit a copy of such insurance to the Zoning Administrator.
- The Forester, Kurt Koskinen, shall monitor the logging and submit weekly progress reports to the Zoning Administrator.

Ayes: 5 Flacke, Mundell, Pape, Askew, Chairman Quirk
Nayes: 1 Meixner
Abstain: 1 Hall

Motion carries.

2. Application for Site Plan Review SPR11-2018 submitted by Hix Snedeker Companies c/o Bohler Engineering MA with Hix Snedeker Companies as agents, with a proposal to replace all existing structures on the site with a new 9,300 sq. ft. +/- retail store. All existing curb cuts will be closed except for one. Parking, utilities, stormwater management, lighting, landscaping and signs are proposed as part of this project; for property located at 1858 Route 9. Tax Map No. is 277.02-1-47. Lot size is 1.5 acres. Zoning Classification are 175-15 & 175-37. SEQRA is Unlisted.

Nathan Hall recuses himself.

Caryn Mldozianowski represents Hix Snedeker Companies. She gives a brief overview of the project stating that their proposal is to redevelop the site by constructing a 9,300 sq. ft. Dollar General retail store. The structure is compliant with the required setbacks in the TC-A district and although 47 parking spaces are required, they feel that 29 spaces would be sufficient. Two variances were received, one for the number of parking spaces and the second for the wider parking spaces. The current 4 curb cuts will be consolidated into one 30 ft. curb cut which was approved by DOT. The site is designed to accommodate a full tractor trailer for deliveries so it never backs out to Route 9 with enough room to pull forward and back up to the ramp of the loading area. A new drilled well and septic system will be installed. A 6 ft. privacy fence has been added along the neighboring property line as per comments at last month’s meeting. As per a comment from the Board, the front landscaping was beefed up with boulders and a landscape buffer; the second comment was to have windows on both sides of the building which have been added. The architecture for this building is above and beyond a typical one for Dollar General Stores and it is designed to complement the area. The County has reviewed and recommended approval of the project and sign offs have been received from both the APA and the State Historic Preservation office.

Chairman Quirk opens the public hearing.

Richard Aulocino, owner of the building across the street. He asks about the height of the building; Caryn informs him that it slopes from 18 ft. in the front and 15 ft. in the back. Mike Riley is also a neighbor who fully supports the projects in lieu of the fact that it will be a year around business and will most likely bring more people in the area. Anthony Kypreous who is a direct neighbor, is in full support of the project. Joyce Zeloukas, leases the building directly across from the project and states that it will be a great asset to the community as well as bring year around business.

Dan Barusch reminds the Board that the applicant addressed all of last month's Board concern. He also spoke to Doreen Masiello, the adjacent motel owner, and addressed most of her concerns from the last meeting including the lighting; he informed her that there is only one free standing pole in the parking lot, on the opposite side from her property.. As for the hours of operation and waste removal schedule, Caryn replies that the hours are from 7:00 or 8:00 am to 9:00 or 10:00 pm but the best way to determine the time of trash pickup is while the store is in operation. Another concern is the noise from the hvac units on the roof; Caryn replies that should not cause a problem since the building is far enough removed from the property lines.

A motion is introduced by Heath Mundell; seconded by Bob Flacke to close the public hearing.

All in favor, motion carries.

Dan Barusch informs the Board that all needed permits were received except for a SPEDES Permit which they will get after the approval by the Board.

A motion is introduced by Heath Mundell; seconded Fred Pape to approve Site Plan Review SPR11-2018 with the following condition:

- The applicant shall obtain a sign off from Chazen for the stormwater review.

Ayes: 6 Flacke, Mundell, Pape, Meixner, Askew, Chairman Quirk
Nays: 0
Abstain: 1 Hall

All in favor, motion carries.

REGULAR MEETING

3. Application for Site Plan Review SPR12-2018 submitted by Timothy Shawn O'Brien with the owner being Douglas Johnson, with a proposal to have a staging area for wood carving projects for Chainsaw Creations as well as storage of materials; for property located at 2813 Route 9. Tax Map No. is 251.05-1-26. Lot size is 1.5 acres. Zoning Classifications are RCH & RCM-1. SEQRA is Type II.

Nathan Hall rejoins the Board.

Nathan Hall clarifies with Tim O'Brien whether the drawing and the survey both depict the same thing, specifically the location of the wood carving; Tim O'Brien replies that it is the same location and then continues by saying that he is not at this location very often but rather it will be a staging area for sculptures he donates and is not intended for retail use.

Dan Barusch brings up the noise ordinance which for chainsaws is 7:00 am to 10:00 pm. The applicant was in front of the Board a few years back when he leased the Mike Lanfear's property; at that time chainsaw noise tests were measured by the Planning Board Members resulting in the numbers being either at or below the noise level allowed. Nathan Hall confirms that no wood chips or other materials will end up in Westbrook to which Tim O'Brien replies that he is quite far from the stream.

Fred Pape reads the application into the record.

A motion is introduced by Heath Mundell/seconded by Robert Flacke to accept the application as read.

All in favor, motion carries.

A motion is introduced by Fred Pape; seconded by Heath Mundell to approve Site Plan Review SPR12-2018 as submitted.

Ayes: 7 Hall, Flacke, Mundell, Pape, Meixner, Askew, Chairman Quirk
Nayes: 0
Abstain: 0

All in favor, motion carries

4. Application for Site Plan Review SPR14-2018 submitted by Vincent Crocitto with Jon Lapper, Esq. as agent, with a proposal to build a 2,619 sq. ft. single family dwelling with attached garage; for property located at Gage Road & NYS Route 9. Tax Map No. is 264.06-3-23.2. Lot size is 5.45 acres. Code References are 175-37 & 148-11. Zoning Classifications are RCH & TC-A. SEQRA is Type II.

Nathan Hall recuses himself.

Jon Lapper, Esq. begins by describing the project as a single family home on a 5 acre lot and the only reason for the need for site plan approval is because of an area with a steep grade in excess of 15%. The driveway entrance to the site has been designed so the steepness of the slope will be reduced after construction. No fill will be brought in but rather they will be digging in the side of the cliff. The site is on Town water but not septic.

Fred Pape asks about the septic being designed for 3 bedrooms while the plans show 5 "future" bedrooms and reminds the applicant that the septic needs to be designed accordingly. Dan Barusch states that the septic system can be easily changed to accommodate the extra 2 bedrooms however he doesn't see any soil tests on the plans; Jon Lapper informs him that the septic site is all sand and agrees to have the soil tests indicated on the final plan. Dan Barusch adds that the reason for the septic is that the distance to the nearest manhole is quite long and it would be very expensive to extend the main to the road or put a lateral that long possibly causing extensive damage to Gage Road. The entire application has been sent to Chazen for their review as a major stormwater project minus the SWPPP which

is yet to come in. There are a few lot lines adjustments in progress for this applicant; one of them is to add a triangular shaped lot also owned by Vinnie Crocitto in order to give this site better road frontage.

David Meixner reads the application into the record.

A motion is introduced by Heath Mundell; seconded by Fred Pape to accept the application as read.

All in favor, motion carries.

A motion is introduced by Fred Pape; seconded by Heath Mundell to approve Site Plan Review SPR14-2018 with the following conditions:

- The applicant shall obtain a sign off from Chazen for the major stormwater review.
- The septic system shall be designed for 5 bedrooms.

Ayes: 6 Flacke, Mundell, Pape, Meixner, Askew, Chairman Quirk

Nayes: 0

Abstain: 1 Hall

All in favor, motion carries.

5. Application for Site Plan Review SPR13-2018 submitted by Dennis L. Dickinson with Jon Lapper, Esq. as agent, with a proposal to replace an existing structure with a new 28 ft. x 60 ft. single family dwelling, adding a 30 ft. x 50 ft. storage building to the northern part of the property with a new driveway and a new septic system; for property located at NYS Route 9. Tax Map No. is 238.17-1-8. Lot size is 1.62 acres. Zoning Classification is RCM-1. Code References are 175-34 & 175-37. SEQRA is Type II.

Nathan Hall joins the Board.

Jon Lapper, Esq. begins by stating that this is a small non-confirm pre-existing cottage and the proposal is for a modest expansion. Two variances will be needed; one for expanding a non-conforming structure by adding a second floor, a front porch and a screened-in porch on the side; the second variance is the setback to the brook. Since the home is small, the Morton building will serve as storage as well as being away from English Brook. The second variance is the setback to the brook but the way the site lays out any potential flooding would occur in the back (lower bank) while the higher bank is towards the road although Dennis Dickinson reassured him that there has been no flooding in that area. Chairman Quirk asks if the foundation will be changed. Jon's response is that it will be enlarged to 16 ft. from the current 14 ft. wide but not closer to the stream.

Dan Barusch states that this project received Consolidated Board of Health approval two years ago on the septic design. At that time the project was reviewed by the Planning Board and was tabled for additional information which was not submitted by the applicant. The hot topics in 2016 were potential wetlands on the site. Mary Odell, a wetland biologist with the APA, visited the site and flagged very small areas of wetlands closer to the cottage and concluded that the cottage is close to the wetlands but not in the wetlands however a JIF has been submitted to the APA and the Planning & Zoning office is waiting for a response. The second item of discussion was the size of the dwelling. He then asks Jon Lapper to submit the topography around the cottage and a calculation of the clearing on the site in order to determine if it's a major or minor stormwater project. A minor stormwater plan design has been

submitted with the application which will be sufficient if it is deemed that the project is a minor stormwater one. An additional concern at the 2016 review was whether or not the structure can be considered a residential structure; the assessor validated it as a residential cottage therefore there is no change in use. This project is very similar to other ones in that a volume variance is needed because of the expansion of a pre-existing, non-conforming dwelling. As for the well and the dispersal area separation distance, the code calls for 100 ft., in this case the tank is 50 ft. The cottage itself is not in good shape with the foundation being in dire need of repairs which leads Dan Baruch to believe that it will turn out to be a demolition and rebuild project. Nate Hall confirms that the proposed expansion is not in the direction of the stream.

A discussion ensues among the Board Member with an agreement to hold a public hearing for this project.

A motion is introduced by Nathan Hall; seconded by Heath Mundell to table Site Plan Review SPR13-2018 to the August meeting in order to set up public hearings.

All in favor, motion carries.

Dan Barusch recaps that the items pending are the APA JIF response and the outcome from tomorrow's Zoning Board meeting.

6. Application for an extension of approved Site Plan Review SPR7-2016 submitted by Nick Mazzeo with a proposal to replace an existing structure with a new 28 ft. x 60 ft. single family dwelling; for property located at 33 Birch Avenue. Tax Map No. 264.10-1-57. Lot size is 0.42 acres. Zoning Classification is RCH. Code References are 175-37 & 175-13(B)(2). SEQRA is Type II.

Nathan Hall asks if anything has changed in the Town's Code in the past two years that would effect this application; Dan Barusch replies that there have been no changes nor will future proposed revisions affect it. He explains, in response to Chairman Quirk's question, that our Code has a two year expiration time for issued permits while many other municipalities either have longer terms or for perpetuity; the Board can choose the renewal term, for instance it could be for three years. Nick Mazzeo replies that three years would be great; his initial goal was primarily to see if he could get approvals for his project and now he has to procure the funds.

A motion is introduced by Heath Mundell; seconded by Fred Pape to extend the renewal date for Site Plan Review SPR7-2016 for three years namely July 11, 2021.

Ayes: 7 Hall, Flacke, Mundell, Pape, Meixner, Askew, Chairman Quirk
Nays: 0
Abstain: 0

All in favor, motion carries.

A motion is introduced by Chairman Quirk; seconded by Fred Pape to adjourn the meeting at 7:40 p.m.

Respectfully Submitted,

Adele Behrmann
Planning & Zoning Clerk