

TOWN OF PLATTEKILL
PLANNING BOARD
P.O. BOX 45
MODENA, N.Y. 12548

September 8, 2015

THE MEETING OPENED WITH A SALUTE TO THE FLAG BY CHAIRPERSON CINDY HILBERT AT 7:30 P.M.

ROLL CALL, Cindy Hilbert, Darryl Matthews, Thomas Wilkin, Judith Mayle, Kathie Beinkafner, Richard Gorres

Absent: Nathaniel Baum

Discussion with the Building Inspector

Mr. LoCicero was present to discuss the concerns the Planning Board had on a proposed Dollar General which is located at 1280 Route 32. Mr. LoCicero stated that originally the plans stated that the building would be two stories, offices and retail. The builders came in and said they wanted to downgrade and take the second floor off the building. Mr. LoCicero stated he told the builders to move the well location and would need something from the Ulster County Health Department. Mr. LoCicero stated the Builder and Ken Lytle came in with their paperwork, the timeline for the site plan was still valid, and they signed off on it. Mr. Gorres stated the Planning Board was questioning the timeline. Ms. Mayle stated that site plan was approved five years ago, and site plan approvals are only good for two years unless there has been some substantial improvement on the property. Ms. Mayle added that even when there is a reduction in the size of the project, it is still a modification to a site plan. Mr. LoCicero stated that they did the driveway and the perk test holes on the property and cleared some trees, and the timeline was substantiated by letters in the file. Ms. Mayle stated that a site plan was approved by the Planning Board five years ago and given a two year extension. Ms. Mayle stated there has been no substantial construction on the project other than shale put down for an access driveway, some test holes and some trees cleared. Ms. Mayle stated the applicant has come in and modified the site plan from a two story to a one story building. Ms. Mayle asked Planning Board Attorney Jason Shaw if the applicant was required to come back before the Planning Board for a modification to the site plan. Mr. Shaw stated if the applicant has made changes to what the Planning Board has approved they have to come back to the Planning Board, and he didn't feel that the Building Inspector could give them a permit at this point. The Planning Board members expressed their concern that the building on the corner of Route 44/55 and State Route 32 did not go for a site plan, along with the building and restaurant on Route 44/55. There was a brief discussion regarding doing a more generic

Notice of Determination. The Planning Board thanked Mr. LoCicero for coming in and talking to the Board.

MINUTES

August 25, 2015

MOTION: Mr. Gorres made a motion to approve the minutes as written with Mr. Matthews seconding the motion. All ayes on the vote.

Hudson Valley Flyers Club-Site Plan Modification (Freetown Rd) SBL#101.2-3-6.1

Mr. Fred Schindler was present to represent the Hudson Valley Flyers Club. The Planning Board members asked Supervisor Croce, who was in the audience, about the August 26th. Memo from the Town Board regarding the Hudson Valley Flyers Club. Supervisor Croce explained the memo to the Planning Board members. There was some discussion regarding the Planning Board memo that was sent to the Town Board on June 25, 2015. Ms. Mayle stated that it appears that the code gives authority for the Town Board to take a look at a use that does not necessarily fit into a particular zone. Ms. Mayle added that was why the Planning Board sent the Hudson Valley Flyers Club to the Town Board, they had an existing use, and the Town Board could apply that particular provision to the zoning code. Mr. Shaw stated whether this provision in the code applies or doesn't apply, isn't that an issue for the Town Board and its Attorney to decide? Mr. Shaw added if it is a non-conforming use than this Board doesn't have anything to do with it, because it is a use that is no longer in the zoning code. Mr. Shaw stated that the Town Board would either have to change their zoning law or the applicant could apply to the ZBA for a use variance which is extremely hard to get. Ms. Mayle stated the Planning Board sent a letter to the Town Board stating that the applicant was previously approved under Recreation and Amusement, the zoning changed and it doesn't necessarily fit in that definition any more. Ms. Mayle stated the applicant feels that they are better defined as an air park. Ms. Mayle stated they sent it to the Town Board and said, under the code you can take a look at the air park and take a look at allowed uses in the code and see if it fits close enough to the zoning code. Mr. Croce stated if the Town Board decides that they were going to put the definition of an air park in the code, it would be allowed anywhere in the RR1.5. Mr. Croce added that he didn't think that would be a very wise decision by the Town Board to allow an airpark anywhere in the RR1.5. Ms. Mayle stated at the end of the day it is not the Planning Board who makes this decision, the applicant has two options; go to the Town Board to see if it would be allowed or go to the ZBA for a use variance. Mr. Shaw asked if the ZBA issued an interpretation on this. Ms. Mayle stated the ZBA did issue an interpretation and in this case they deemed this a recreation and amusement use. Mr. Shaw stated the Town Board may want to contact their legal counsel regarding this. Mr. Schindler asked when the next Town Board meeting would be held. It was indicated the next Town Board meeting would be held on September 16th. Mr. Gorres stated he would attend the meeting as a representative of the Planning Board to answer any questions the Town Board may have. Mr. Wilkin indicated he would be available to attend also. *The applicant was directed to go to the Town Board for further review.*

NEW BUSINESS

Barbara Precour/Elixir Spring House Home Occupation Class II 95.1-6-2.13

Mrs. Precour was present. The Planning Board members reviewed the paperwork. Ms. Mayle asked Mrs. Precour what the square footage of the premises allotted for the bed and breakfast was. Mrs. Precour stated they were proposing to use 2044 square feet of the house. Mr. Shaw asked Mrs. Precour how many rooms she would be utilizing? Mrs. Precour answered eight bedrooms would be available. Ms. Mayle stated based on what Mrs. Precour is representing and based on the Home Occupation II standards, this application exceeds the threshold for a Home Occupation II. Ms. Mayle stated it would fall under a Site Plan, an escrow would have to be established for the review and documentation would need to be provided, and a SEQRA form would need to be filled out. Mr. Shaw stated that Mrs. Precour would have to understand what the NY State Fire and Building Code would require of her if she turned this building into an eight bedroom lodging. Mr. Shaw stated this may be cost prohibitive. Mrs. Precour asked the Board if she could reduce the bedrooms to five with the maximum of eight people. Mr. Wilkin stated there may not be enough density with just two and a half acres of property. After further discussion it was determined Mrs. Precour would review her proposal and determine what would be a cost effective way to continue a site plan on this proposal.

The applicant will review her proposal for a more effective way to proceed with a site plan.

Emily Estates Subdivision-Proposed 4 Lot Subdivision SBL#101.2-4-30.4

The Planning Board members reviewed the map and the SEQRA form for the original subdivision phase I along with minutes regarding completing the SEQRA process for Phase II. Ms. Mayle stated the Board was going to confirm that there were no alterations to the project. Mr. Gorres stated SEQRA was done for the whole subdivision process. Mr. Gorres added that he went and took a look at the property.

The applicant will be advised that a Short Form SEQRA should be completed and presented with their next submission

Liberty View Farm LLC-Site Plan SBL#95.1-7-16.1

(unscheduled addition to the agenda)

Mr. Peter Frank, Attorney for the applicant was present to present the Planning Board members with an escrow check in the amount of \$2,000.00. Mr. Frank stated they thought they would be on the agenda this evening. Mr. Frank stated he contacted Paul Keller, Town Attorney as he was directed by the Town Board. Mr. Frank stated he did talk to Paul Keller, and Paul Keller told him he was no longer handling this matter that the matter had been transferred to the Planning Board and he should be talking to Jason Shaw. Mr. Frank stated he got an email from Mr. Shaw which stated he was to

come to the next meeting with a \$2,000.00 check and they would talk about their project. Mr. Shaw stated he did have a conversation with Mr. Frank and subsequent to that conversation he received a letter from the Planning Board Vice-Chairman telling him not to do anything more on the project. Mr. Shaw stated he also has an email from the Planning Board Clerk dated August 26th. with an attached letter "... *The Planning Board determined at their meeting last evening that Liberty View Farm would not appear on a Planning Board agenda until their escrow is established. There is an outstanding voucher in the amount of \$684.00 for Planning Board Engineering review and your voucher (Jason Shaw) in the amount of \$472.50 and no money in escrow to pay these bills. I will notify Peter Frank and Patti Brooks that the applicant will need to put money in his escrow before they appear before the Planning Board and I will be sending a letter to the applicant indicating the escrow will need to be replenished.*" Mr. Gorres stated he thought the Board had asked for \$5,000.00. Mr. Frank stated that they really couldn't afford \$5,000.00. Ms. Mayle stated the problem was that the Board couldn't expect their consultants to look at the project without getting paid. Ms. Mayle stated if there is no escrow, they have to go back to the applicant and ask for more escrow. Ms. Mayle stated that the Board was trying to estimate what it could potentially cost for the applicant, so the Board wouldn't have to keep going back to the applicant asking for more money. Mr. Frank stated if anything, the project has reduced its scope, the Planning Board is only considering the bed and breakfast. Mr. Frank stated substantial monies were deposited and used to evaluate the site plan already and this is what they can afford. Mr. Frank added that he is not getting paid, and he would like the Planning Board to take the \$2,000.00 as a good faith deposit and schedule this application for the next Planning Board agenda. Ms. Mayle asked if there were any vouchers pending. Ms. Hilbert stated there were two outstanding vouchers for this application. Ms. Mayle asked Mr. Shaw if he had time expended beyond the other voucher. Mr. Shaw stated other than his initial review of the documents from the AG & Markets, correspondence and the original site plan, no. Mr. Shaw stated his suggestion to the Board would be to accept the escrow with the strict understanding that if by the end of the process there is more money needed, then it will be paid before approval is given. Mr. Frank stated that was their intention. Ms. Mayle stated that over the years, the Planning Board has repeatedly run behind on bills that should be paid by the applicant's. Supervisor Croce stated that the Town has been stuck with the bills. Ms. Mayle stated she would not have a problem modifying the original \$5,000.00. Ms. Brooks stated the Planning Board has their review from AG & Markets and Dave Clouser has had his initial review on this, how much more review does the Planning Board anticipate the Board will need from their consultants? Ms. Mayle stated she has not looked at this project since the letter from AG & Markets, and hopefully this project will be limited to a more simpler review of the project, but in an event it is still going to require review. Mr. Wilkin stated the problem is that Jason Shaw was working on this and the Planning Board didn't even know he was working on it, and they didn't get the information from AG & Markets until August, so the Planning Board has no background of what AG & Markets is saying. Mr. Wilkin added that the Board doesn't know where this is going at this point. Mr. Wilkin added that if Jason Shaw has

to come back down for another meeting, the escrow will be depleted. Ms. Brooks stated the Board wouldn't even know that until they at least let her come before the Board. Ms. Mayle stated she would be willing to reduce the amount from \$5,000.00 to \$3,000.00. Mrs. Beinkafner stated the Planning Board should set up some way to work with the applicant so that if Dave Clouser is going to do some work on the project, the Board gets an estimate from him on how much it will cost, and the same for the Attorney, but at least the Board has an estimate. Ms. Hilbert stated the applicant puts money in escrow when they establish their site plan. Ms. Brooks stated there is no accountability. Ms. Mayle stated there is accountability and the applicants have the right to come in and look at the invoices and see how he is being billed. Ms. Mayle stated each applicant is different, each project is different, many time the professionals that the applicant hires come back before the Board repeatedly because they don't know the code. Ms. Brooks stated that what is not fair is that the letter from AG & Markets is going to be a template for this Board to move forward with any recreational and site plan that comes before the Board. Mr. Gorres stated every one of the applications are different. Mr. Gorres stated he is in favor of taking the \$2,000.00 escrow and getting the ball rolling again see what they've got and what is left to do, and take it from there. Mr. Frank stated that they are not abandoning this project, this is the way they support their livelihood, so if the Board says at the end of the next meeting that they owe them \$1,000.00, they will have to come up with that \$1,000.00. Mr. Frank stated that they are here in good faith. Mr. Frank added that he would like to know that they will be on the next agenda. After further discussion on this issue, there was a determination to make a motion to accept the \$2,000.00 escrow check.

MOTION: Mr. Gorres made a motion to accept the \$2,000.00 escrow check from Liberty View Farm with Mrs. Bienkafner seconding the motion. On the vote: Ms. Hilbert-aye Mr. Gorres-aye Ms. Mayle-aye Mrs. Beinkafner-aye Mr. Matthews-nay Mr. Wilkin-nay. Motion passes.

The applicant is tentatively scheduled for September 22, 2015.

APPEAL

The Planning Board went into executive session to consult with their counsel regarding the upcoming Appeal before the Zoning Board dated September 24, 2015.

MOTION: Ms. Hilbert made a motion to go into executive session to discuss the Appeal with the Planning Board Attorney. Mr. Gorres seconded the motion. All ayes on the vote.

Time in: 9:30 p.m. Time out: 10:10 p.m.

MOTION: Mr. Gorres made a motion to withdraw the appeal to the Building Inspector's July 7, 2015 Notice of Determination (on Tony's Orchard LLC a/k/a Hurds Family Farm) scheduled for a public hearing before the Zoning Board of Appeals on September 24, 2015. Mr. Matthews seconded the moiton. All ayes on the vote.

ADJOURNMENT

MOTION: Ms. Hilbert made a motion to adjourn with Mr. Matthews seconding the motion. All ayes on the vote.

The meeting adjourned at 10:15 p.m.

Respectfully submitted by
Susan Bolde, Planning Board Clerk