

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

Minutes of July 23, 2019

REGULAR MEETING

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

ROLL CALL: Chairperson: Cindy Hilbert, Vice Chairperson: Richard Gorres,  
Kathie Beinkafner Thomas Wilkin, Phillip Sabarese,  
Nathaniel Baum

ABSENT: Lorraine Morano

CONSULTANTS: Patrick Hines, McGoey, Hauser and Edsall, Consulting  
Engineers, D.P.C.

TOWN EMPLOYEES: Scott Mandoske, Code Enforcement Office

**MINUTES**

July 9, 2019 (Moved to the end of the meeting)

**MOTION:**

Mr. Gorres made a motion to approve the minutes from the July 9, 2019 meeting  
with corrections, Mr. Sabarese seconded the motion. Motioned passed  
unanimously with members present.

**PUBLIC HEARING**

Duch Farms  
371 Forest Road

SBL# 107.1-3-9  
Light Industrial/Retail Sales

Ms. Hilbert read the public notice. Mr. Gorres inspected the returned mailings and  
stated that the majority of the mailing were signed and returned. Mrs. Brooks, from  
Brooks & Brooks Land Surveyors, PC, gave a brief description of the light industrial use.

Mrs. Brooks stated that Mr. Dmytry is seeking site approval of a light industrial use for the storage and processing of goods and products in an existing 6,000 square foot building for resale distribution via direct market online sales. Mr. Dmytry is also proposing an accessory use classified as a Class II Home Occupation and will be limited to 10-12 times per year on Saturday and Sundays only, from 9am – 3pm.

Ms. Hilbert opened the Public Hearing to the public.

Mr. Lerosé: Made a statement that he is one of the officers for The Knights of Columbus for Saint Charles Church. The church has a food pantry and Mr. Dmytry has been very good to them. He just recently donated over 500 plastic bags since Ulster County is no longer using them. Mr. Dmytry has also donated a lot of supplies, but not limited to, baby supplies, school supplies, white boards, house hold items free of charge. Bigger items (refrigerators, freezers) are also free of charge or a minimal charge.

Mr. Dave Schumacher: Questioned if there was any letters that were sent in regarding this public hearing would they be read? He would like to reserve his comments to be heard until the end of the public hearing.

Ms. Hilbert: Yes, they will be read before the public hearing is closed.

Deanna Loertscher (who will be representing Loertscher Holdings) stated that there property butts up against this property. She wanted to thank everyone for allowing her the opportunity to express their concerns. She stated that their concerns can be summed up in two to three categories:

1. How will the traffic be handled and who will be held accountable?
2. Assuming he will be building up his business how will it affect the rural nature?

Ms. Loertscher stated that her mother sent in a letter regarding her concerns and gave a brief over view of what was written (Copy of written letter in file). The letter stated some of their concerns were the increased traffic, movement of the tractor trailers, will they have signs, and will there be more lighting put up.

Ms. Loertscher questioned whether or not the dates of the sales were monitored and what type of signage would they be using. She felt that location of Duch Road and Forrest Road was a dangerous intersection and that the current traffic on that road traveled much fast that the posted speed. She questioned if there were going to be any toxic materials on the property and how they would be handled if there were. There was an existing buffer between the two properties, separated by a stone wall, but it didn't provide enough of a visual buffer from their property. If the applicant added more lighting to the property then there should be more of a buffer between the buildings and

the Loertscher Property. Ms. Loertscher questioned if there was going to be any additional parking added to the business and if the exposed materials were going to be moved inside or if they were going to be covered.

Sis Morse: In the early 90's Mr. Dmytry was originally denied a grant from the Town Board for help in the establishment of a startup tee-shirt business. He then started to sell various items Ms. Morris stated that Mr. Dmytry has been in violation for over 20 years she feels he should pay fines for running an illegal business all of these years.

Father John: Stated that Mr. Dmytry has been a very gracious on what he has been donating to the Catholic Church. Father John stated that a few years back he donated a walk-in cooler. He feels that if Mr. Dmytry had broken any laws he would have been arrested. He has a very good heart.

Mr. Robert Poppa: Stated that there has been no illegal complaints and there has not been any accidents in the eighteen years he has lived near Mr. Dmytry. Mr. Poppa said that he has been a great help to the community.

Mr. Angelo Rocchio: Stated that he has lived on Forest Road across the street from Mr. Dmytry for fifteen years and also sees the site every day and does not have a problem with what he is doing.

Mr. Schumacher: Stated that he has lived at 336 Forest Road for 25 years. He said that only a few are affected by the site and he has never seen more than one tractor trailer at a time on the road. Noise is also not an issue and you only hear him when he is plowing. There hasn't been any issues with dust or noise and he hasn't noticed any issues with garbage.

Mr. Dmytry: Showed the Planning Board photos of his property and stated that nothing can be seen. This is the 100<sup>th</sup> anniversary of the farm. He does not ever bring in items that are toxic. The sale of items at his business are new and over-stock items, or returned items. The definition of "Light Industrial" is the best description which fits the type of business Mr. Dmytry is conducting. Some of his items are sold through an on-line retailer such as Ebay, but some items are too large to see online and are sold at his business (example: ladders) which is why his is also applying for a Class II Home Occupation special use.

Ms. Loertscher: Made the comment that she would like to see this illegal business regulated.

Mr. Dmytry: Stated what he is doing is not a junk yard.

Ms. Hilbert: Commented that she feels the Loertscher Family just would like to make sure that the Planning Board is doing their job and making sure that everything is done correctly.

Mr. Matthew Davis: Stated that he supports what Mr. Dmytry is doing and he has a beautiful farm and would like to see that it stays that way.

Mr. Mandoske (Plattekill Code Enforcement Officer): Explained to Mr. Dmytry that he saw a pile of wood material (Mr. Mandoske supplied a photo of the wood pile) that looked like it was a burning pile. He explained that burning of anything but sticks with leaves on it is not permitted. Everything needs to be put into the dumpster. Mr. Mandoske stated that it is illegal to burn anything other than brush and if the NYSDEC is notified that you are burning illegal material they will impose a fine on you. He also stated that there should be proper separation between the barn and the dumpster. The entrance and exit should be properly signed as well.

Mr. Mandoske: Feels if this approval does go through it will have to have specific guidelines set up for enforcing the site plan and Home Occupation.

**MOTION:**

Mr. Gorres made a motion to close the public hearing at 8:30 pm and Mr. Sabarese seconded the motion. Motion passed unanimously.

After the close of the Public Hearing the Planning Board had a brief discussion with their representative and Mrs. Brooks on the application. The following information was discussed and requested by the Board:

- There should be a detailed narrative provided listing what is being sold on the property, the number of trucks that are coming in and out of the parcel, the hours of operation and what days the business will be open.
- There is no well or septic accessing the public portion of the building so provisions will have to be made for sanitary requirements on the site.
- Details for the parking will need to be shown on the map and needs to be ADA accessible
- The driveway needs to be a dust free surface and have shale or some other surface that doesn't emit dust. The driveway must also be a minimum of 20' wide the emergency vehicle access
- No permanent signs are to go up (other than street signs).
- The outdoor storage will have to be regulated.
- Once a year a fire safety inspection will have to be done.

- Make sure that the building has an emergency exit located in the back of the building.
- The building inspector will make a determination of occupancy for the building.
- There should also be mentioned in the narrative about the agricultural use on the property of where the storage for the agricultural equipment is going to be, if the equipment is going to be stored inside or outside of the barn/buildings. (Round hay bale storage should be kept separate because of the Fire Code. The property owner cannot have any straw or hay on the floor in a building open to the public).
- The Type II Home Occupation allows for a maximum of 1,000 square feet to be used for the retail business.

Comments from both the Highway Superintendent and also the local Fire Department should also be requested. There are currently no permanent signs up now. Mr. Dmytry uses temporary signs which he puts out for each event. The Code allows for a permanent sign for home occupation’.

The applicant stated that there is no site lighting on the property, only a dusk to dawn security light. They also use a “roll-off” dumpster to collect the recyclables. As per the Town Code, there should be a required 19 parking spaces delineated for the business.

Mr. Hines stated that it appeared to be a second story on the barn where the business is located. He questioned what this was being used for and if it was part of the business. Mrs. Brooks stated that it was approximately 2,500 square feet and it was only used for private storage for the property owner. Mr. Dmytry confirmed this. There is a small office space located in the front of the building by the front door. There is an Exit Door on the west side of the building (Emergency Door) and an Enter/Exit door on the south side of the building.

The size and distance of all the doors should be noted on the site plan.

Mrs. Brooks stated that she will reach out to the Board of Health to get an opinion on different alternatives for the sanitary solution and report back to the Board.

Emily Estates:  
Emily Drive/Freetown Highway  
Subdivision

SBL# 101.2-4-30.05  
Proposed 4 Lot

Talcott Engineering (Mr. Joseph Pomerico) was present to represent Emily Estates. This project is a proposed 4-lot subdivision. The four lots will contain (4) single family homes. Three proposed residences will be accessed via Emily Drive and Lot 4 of the subdivision will have access of Freetown Highway. Each parcel will have their own individual well and septic systems.

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Mr. Hines reviewed the list of technical review comments that will need to be addressed for the project. Talcott Engineering will make the necessary changes and will re-submit to the board.

Margaret Anne Grossman Estate  
90 Orchard Drive  
Subdivision

SBL# 101.3-1-7.212  
Proposed 2 Lot

Mr. Conrad with Praetorius & Conrad was present to represent the Grossman Estate. Mr. Conrad presented the Board copies of new maps showing the necessary changes made for a 2-lot subdivision. Mr. Conrad submitted the Agricultural Data Statement and the agricultural notes were added to the revised maps, dated, July 10, 2019. A public hearing has been set for August 27, 2019.

There was a brief discussion about the Highway rights of use and the Highway State Law from 1910.

**DISCUSSION:**

The Zoning Board of Appeals sent a memo to the Planning Board in regards to a motion that was made on July 11, 2019 for the application for Cypress Creek for the use variance application. The ZBA would like see the Planning Board take Lead Agent of SEQUR type 1 action. After discussion it was determent that at this time there was nothing that could be done because an application has not been submitted to the Planning Board.

The Board will have their clerk contact Cypress Creek and have them submit a formal application before the Planning Board and then refer them back to the Zoning Board for a determination on a Use Variance or to the Code Enforcement Officer for a determination on the Use.

There was some discussion as to whether or not this could be considered Spot Zoning if the zoning was changed on the parcel. The Board felt that this was not Spot Zoning since the parcel was contiguous with a zone that allowed this use. Mr. Hines stated he felt that this was not considered Spot Zoning either.

**MOTION:**

Mr. Gorres made a motion to approve the minutes as amended with Mr. Sabarese seconding the motion. Motion passed unanimously.

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**MOTION:**

Mrs. Beinkafner made a motion to adjourn the meeting with Mr. Gorres seconding the motion. Motion passed unanimously. Meeting adjourned at 9:55 pm.

Respectfully submitted by,  
Janice Stryker, Planning Board Clerk