

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

Minutes of: May 28, 2024

ROLL CALL: Chairman: Richard Gorres, Richard Dmytry, George Hickey,
Nathaniel Baum, Ernie VanDeMark, Darlene Eisenhardt

EXCUSED ABSENCE: Cindy Hilbert

Planning Consultant: Patrick Hines, MHE Engineering

CONCEPTUAL:

TEG Federal Credit Union
1981 NY Rt. 32

SBL# 101.31-1-8.2
Proposed: Site Plan Modification
Sign & Entrance

Mr. Gorres: Two things, the sign is nothing we do here and will have to go the Zoning Board of Appeals. The Building Inspector will have to write you a letter of a referral to go there because you want a sign bigger than what the Town allows.

Now the entrance on the other road. I will poll the board but it is a no go.

Mr. Giametta (Representing TEG Bank): Think that's a non-start.

Mr. Gorres: It's a nonstarter.

It was the one thing everybody said they didn't want to deal with. I have been over there a lot. You guys are doing a good job. I think that one needs to stay out of the picture because I think you have a significant entrance where it is,

Mr. Giametta: That's fine by us. We just thought since we were coming back to the Board with the digital sign, we would revisit it again. There is no possibility.

Mr. Gorres: Nope.

Mr. Hines: So, I think there is two reasons you are going to the ZBA for the sign. One is the size it appears to be larger than allowed by the Code 110-17 (D). The electronic portion of it 110 (F-4) it says no illuminated signs utilizing flashing lights or lights directed to the highway. Have them weigh in as well.

Mr. Gorres: If you are going to do the digital signs they can't be bright at night.

Our recommendation to the ZBA is that the sign will be on a dimmer at night.

Ms. Nancy Forrest (GNS Group Ltd): Yes, it will dim at night.

Mr. Gorres: Let the ZBA know it will automatically dim at night. We are ok with that.

Mr. Hines: Be careful on location it looks like it is in your retention pond.

Mr. Giametta: We tried to snug it right up to the 32 right of way. Route 32 has a wide right of way there. Would that be a zero-lot line if that was approved? Could it be a zero-lot line?

Mr. Hines: You are going to the ZBA already you can ask for a relief from that.

Mr. Giametta: Ok when we are at the ZBA we will talk to them regarding that.

Fazio, John

1836-1938 Route 44-55

SBL# 101.2-1-2

Proposed: Campground

Ms. Brooks, Control Point, Associates Inc.: We received Mr. Hines comments today but what we still have not received from Mr. Cordisco (Planning Board lawyer) is a response from our March 13th letter. The only thing he has responded to date that I read is that we must comply with the zoning change. That was question #1. Question #2 was with regard to the definition of usable area that states the area of the lot suitable for development and it doesn't state in the definition or any other location in the zoning code that the area must be subtracted from density. There are two different issues we haven't heard from Mr. Cordisco regarding. Issue number two. Additionally, we had another question about multifamily development if they are considered commercial and if this is a mixed-use commercial site. Again, this is in the letter we submitted to the planning board back on March 13th. Is density not an issue because it's part of a mixed use of commercial users? We need as the Board pointed out at the last meeting; we need a separate letter of determination from the current Building Inspector. The only letter of determination we have right now was from the previous Building Inspector. We were hoping to have the attorney address these three items before we went back to the Building Department. I don't want to get in a conflict.

Mr. Gorres: Here is the thing Mr. Diller (Code Enforcement Officer) will correct me if I'm wrong. I talked to Mr. Diller regarding another letter of determination and said the one that was issued by Mr. Mandoske is still valid because it is with this application. Unless you file a new application and send it to him that will be the only way he will be able to issue you another letter if determination.

Ms. Brooks: It was the Planning Board in February who requested I got a new letter of determination from the Building Inspector.

Mr. Gorres: When I talked to him he said he can't.

Ms. Brooks: Fine, but I believe that the Planning Board needs that in writing. One thing I was told was to get a letter from the Building Inspector on his behalf that I was correct. So, in September 2023 I sent Mr. Mandoske a letter stating thank you for meeting with me to review the site plan as I referenced our conversation in the memo. I want to make sure you agree with

what I have stated prior to my submission to the Planning Board. Mr. Mandoske response was everything looks good. So, the Board did not feel that was a proper letter.

Mr. Hines: I will be meeting with Mr. Cordisco in this building tomorrow and I will make sure I will refer him to that. While speaking with him today he does concur that the usable area definition does apply to this application and there were no grandfathering conditions to that.

Ms. Brooks: There are two separate issues. We are not asking for anything grandfathered of the zoning change. I understand that is the case. I feel the way the law was written it is at the very least not clear and at no point in that definition does it say development. It talks about useable area. We are not trying to use any unusable area.

Mr. Hines: You are using it in your bulk requirements.

Ms. Brooks: We are not using it in development.

We need something in writing from the Planning Board attorney with what his opinion is before, if need be, John's attorney can opt in on that.

Mr. Gorres: Here is part of the other problem that law has changed. This Planning Board for the last twenty years that I know of, has gone with no wet land, no buffers, no 15% steep slopes and no bodies of water can be counted. This has been the policy for the last twenty years.

We always took this out of the equation before we started. This is how the Planning Board always did it. So, we do need an answer from Mr. Cordisco.

Ms. Brooks: We need a determination from someone. We have been treading water for the last two years. He is not going to go forward with the campground and put a lot of money into this development if the Planning Board wanted to say no from the beginning.

Mr. Hines: The Board did not want to say no from the beginning.

Mr. Fazio: The Board wanted to address it but it was not a law so we could not address it. For over a year we cannot address a law that you do not have on the books. If it is not filed with the Secretary of the State, it is not an enforceable law. After I came in after eight months it took me to get here and I still made it before. So why that postponement was happening we have no idea but we will find out. The other thing is there is already case law right in New Paltz, that this was already beat that if it is not filed with the Secretary of the State, it is not an enforceable law. I go to the Town of Gardiner the Building Inspector tells them if it is not filled with the Secretary of the State do not ask me to enforce it. It is not enforceable why is it enforceable to me.

My thing is we have all these Board Members not that I am going to sue if you hold me to it and no one could read that? It is in black and white that its enforceable.

Mr. Hines: This Board does not interpret the code.

Ms. Brooks: I disagree with that part of it. It depends how its read. It is all about how the law is written. It will say it applies here on forward. The attorney's opinion is you are subject to the law. Now we go to the next step and find out now it is applicable to this project and in what way. At the end of the day, you cannot get your attorney to write an opinion because he has said to me, he has nothing to write an opinion on. We have nothing in writing.

Mr. Hines: I will clarify with Mr. Cordisco tomorrow.

United Pump and Tank
120 Kingsview Highway

SBL# 107.1-4-32.1
Proposed: Light Industrial

Mr. Sandor: Biggest thing we have submitted tonight was the response from the County Planning Department. Basically, what they were looking for was a lighting plan. We always showed lighting around the building but we added the details that were requested by the planning commission. It shows what the lumination would be and what type of fixtures. Those are now shown on a different drawing. Another concern was access. They talked about having access out to the County Road. There is a problem with the wet lands between the property and the highway. There was discussion with the Planning Board and the DEC a couple of months following the public hearing. The DEC indicated to the Board it would be almost impossible to get that approval. That was a lot of the questions raised at the public hearing mostly access was the big thing. It was stated no outdoor storage which we changed. There was a question regarding the Building Department. We worked with the Building Department last year for getting a C/O for the interior work.

Mr. Hines: The major issue here is the access and the wetlands. The section of the code 110-60 (F) states when an application proposes any commercial or industrial use and this is being reviewed as light industrial use in a residential district. The applicant shall demonstrate all uses are compatible with residential development any impacts associated with the use will be mitigated. So, there will be no adverse impact on the residential character of such district. That comes down to this Board to determine if this project does not have impacts to the residential district. We have been going back and forth that this property has frontage on the County Road way but would require a DEC wet lands permit to access it.

Mr. Sandor: Which would be almost impossible.

Mr. Gorres: I understand that but the neighborhood and the neighbors are kind of adamant about this. That is one part of this project that is well hidden off the road.

Mr. Sandor: That is an important issue here that the project is mostly hidden.

Mr. Hines: It comes down to the impact of the residential roadway.

Mr. Gorres: That is the big issue no one ever said what it looks like down there. The traffic on Kingsview Highway seems to be the sticking point. As Chairman I am only one person, but the Board would like to see you try and get a letter from the DEC.

Mr. Lowitt (Home Owner): We did it's in the files. You asked the DEC to come on my property which they did. I drove the guy down to where the wet lands were. He looked at it and sent out an e-mail stating and they actually came up later on after the County did it. Stating that there is already an access to the property, they will not grant a second access. They made that very clear.

Mr. Sandor: That is in your minutes.

Mr. Lowitt: It has only been bought up because you asked the County for their input and all of the questions you guys went over the last three years got rebrought up. We went through this already.

Mr. Hines: I think that term is more than no way.

Mr. Lowitt: It's not happening.

Mr. Hines: It says more likely than not.

Did you have it flagged?

Mr. Sandor: No, we did not.

Mr. Hines: Having it flagged they will give you a permit in an adjacent area. They will give you a hard time crossing the wet land.

Mr. Lowitt: They are never going to tell you a thousand times no. We have been doing this round and round for four years now.

Mr. Sandor: I think its more important the DEC came out and looked at it.

Mr. Lowitt: Its corner to corner.

Mr. Sandor: If they were not out here that would be one issue but they were out here.

Mr. Lowitt: Has anyone been complaining about the road lately?

Mr. Hines: I have not heard anything through my office but at the public hearing we did.

Mr. Lowitt: I have done more on my end to please the neighbors who never talk to me. I have done more on my end and agree with the Town. I have spent a ton of money on this thing. It doesn't make sense why this is taking so long.

Mr. Hines: This has a twenty-two-year job number.

Mr. Lowitt: Yes, because it was postponed due to Covid.

I retained him (Mr. Sandor, lawyer) before Covid.

Mr. Hines: I was going to suggest the Board have me send a letter to the DEC asking for a letter of definitive determination on whether or not a permit can be issue.

The Board is going to have to make a determination of the Code that I just read.

Mr. Lowitt: I have been using the access of the joint property for the past six – eight months for my big trucks.

Mr. Hines: Can you get an easement from them?

Mr. Lowitt: I own it. I bought the property. I have spent millions of dollars on this thing. I shouldn't think since I am farming both of these properties and the people who are driving up and down the road are employees for farming. I never pushed that subject or anything. I thought the Town at some point would see that.

Mr. Hickey: Do you have the deed for that?

Mr. Lowitt: I didn't even want to bring this up.

Mr. Hines: You just need to put a note on this map with an easement that the trucks will go out this way.

Mr. Lowitt: I have done everything asked by this Town in writing to make up what I will do. I did it plus some.

I have done my end of what I was asked to do. I have limited the trucks and the hours.

I went way over and beyond.

I sold my oil company that was mine and I was the only one that worked it.

I'm just asking to be left alone to run my business. That's it.

Mr. Hines: If they are not going to allow it then that answers the question.

Mr. Gorres: Why can't you just put that on the map?

Mr. Lowitt: Because that is not what this town asked me to do. I feel what I went through and the money I have spent I don't feel that I should have to be. I have gone way beyond what was asked.

Mr. Hines: How so?

Mr. Lowitt: I have my trucks going to use the other access.

Mr. Hines: There's your answer. Mr. Sandor can put a note on the map saying that the commercial vehicles....

Mr. Lowitt: I am NOT putting that in writing.

Mr. Hines: I do not know if the Board can make a determination. You have the alternative access that you just mentioned yourself or the DEC permit.

Mr. Sandor: This property has to sit on its own. Although he owns another piece of property that he could use for access they are two separate properties.

Mr. Hines: There is similar ownership and control though.

Mr. Sandor: For now, yes. In the future it may not be like that. Might be another incumbrance if he wants to sell it. If you want to talk to the DEC why don't you do that before we talk about addressing another piece of property. I don't want another piece of property with an easement tied to the piece.

Mr. Lowitt: If I am limited to the trucks on this road that is for everyone right?

Mr. Hines: Right now, you are before this Board and the building was constructed as a "farm building" and got constructed into a light industrial use.

Mr. Lowitt: It is still used as some farming.

Mr. Hines: You are here because under our Code you were using it as a Light Industrial use.

Mr. Lowitt: It is being used for farming.

Mr. Hines: I know the oil business that you got rid of was never approved there in the first place. It was a business that opened in this zone again without a permit.

Mr. Lowitt: It was because of Covid.

Mr. Gorres: We understand that.

Mr. Lowitt: What I am asking for is to be fair and everyone else on the road to do the same.

Mr. Sandor: Do we have to do anything to help you with the DEC?

Mr. Hines: Nope. We are going to talk to the DEC but there is no guarantee this Board is going to determine that there is not adverse impact on the residential character of such district. I just want to warn you.

Ohioville Solar A & B LLC
Crowhill Road, Highland

SBL# 95.1-2-1 & 87.3-5-16
Proposed: Solar Farm

Mr. Nicholas Cunha (Carson Power) & Mr. Taylor Garrity (Creighton Manning Engineering) were present to represent Ohioville Solar on Crowhill Road.

We reviewed Mr. Hines comments and most of them seemed to be acknowledgements and we will send a response letter back. I did have a few more questions.

Mr. Hines: So, the Board knows there is a meeting tomorrow on some technical issues as well with Plattekill and Lloyd.

Mr. Gorres: It is a limited meeting and we cannot have a bunch of Planning Board members.

Mr. Hines: It's not a Planning Board meeting.

Ms. Brooks (Control Point Associates, Inc.) I know Mr. Phil Sabarese (Chief, Clintondale Fire Department) wanted to attend is that possible?

Mr. Gorres: I spoke with Mr. Sabarese today and I told him they will have a public hearing and he can come along with Mr. Keith Miller (Chief, Lloyd Fire Department) as a representative to that public hearing. Any questions they have of Ohioville Solar could be asked at the public hearing. Or we can have a special meeting with Ohioville Solar and the fire departments but it has to be an advertised meeting.

Mr. Hines: I am ok with them coming to the technical meeting.

Mr. Gorres: Mr. Sabarese said he cannot make it.

Ms. Brooks: Mr. Richard Brooks (Former Chief of the Clintondale Fire Department) can make it.

Mr. Hines: So, if a representative of the fire department wants to come, I am ok with that.

Mr. Gorres: If there is a representative from Highland that can come great. We were just trying to limit the size of the meeting.

Mr. Cunha: Reviewed and acknowledged Mr. Hines comments and stated that they will follow up with a memo addressing all comments.

Mr. Hines: After this is sent to the county, which we are close to doing, we will then have a public hearing set.

VOUCHERS:

DRAKE LOEB PLLC	Amount: \$200.00	Applicant: Minard Farms
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MOTION: Mr. Gorres made a motion to approve the voucher for Minard Farms with Mr. Hickey seconding the motion. All ayes on the motion.

DRAKE LOEB PLLC	Amount: \$250.00	Applicant: John Fazio
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MOTION: Mr. Gorres made a motion to approve the voucher for John Fazio with Mr. Hickey seconding the motion. All ayes on the motion.

DRAKE LOEB PLLC	Amount: \$150.00	Applicant: Anson
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MOTION: Mr. Hickey made a motion to approve the voucher for Anson with Ms. Eisenhardt seconding the motion. All ayes on the motion.

MINUTES: None (May 14, 2024 minutes have been postponed till June 11, 2024 meeting)

ADJOURMENT:

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

The meeting adjourned at 8:27p.m.

Respectfully submitted by
Janice Stryker, Planning Board Clerk