

TOWN OF RED HOOK PLANNING BOARD
APPROVED MEETING MINUTES
April 19, 2021

Chairman Sam Phelan called the meeting to order at 7:30 pm. Mr. Phelan assured compliance with the NYS Open Meetings Law regarding the use of videoconferencing the meeting utilizing the Zoom internet platform.

A quorum was determined present for the conduct of business. Members present: Sam Phelan, Kristina Dousharm, Karen Smythe, Lew Rose and Brian Kelly. Also present were planning consultants Michele Greig and Ted Fink, and Planning Board Clerk Kathleen Flood.

PUBLIC HEARINGS

O Zone Site Plan – 221 Pitcher Lane

Public Hearing on application to operate a zero-waste sustainability services center in the Agricultural Business District.

Applicant Amelia LeGare was present. Mr. Phelan read the public hearing announcement that was published in the Poughkeepsie Journal. Lew Rose moved to open the public hearing. Brian Kelly seconded, and all members voted in favor.

Ms. LeGare gave an overview of her project site and her business. She noted that the correct address is 148 Pitcher Lane.

Ms. LeGare indicated the parking on areal views of the site.

Letters in support of her business were received from Angela Pollard, Elizabeth Lunceford, Samuel Rose, Jesse Steel, Cinda Sparling, Ken McCarthy, Kate Menconeri, Aurore Stanek, Faith Barr, Alexandra Brodsky, Emily Davison, and Lyndsay Dussling. Resident Jim Rogers spoke in support of the business, which he said integrates well with agriculture. Resident Kristin Pratt said she and her family participate in the business, which she described as an anchor for the community.

Resident Linda Keeling asked if the owner of the building was fined because the business has been operating for over a year without site plan approval. She asked questions about the ADA parking and access to the building. Ms. LeGare said the ADA parking is alongside the building, and the parking area is compact rather than paved. She said she would check the width of the doorways and is in the process of removing any obstructions for handicapped access to the building. Ms. Keeling offered to assist with handicapped access issues. Mr. Phelan said he was not aware of any citations or fines by the town to the owner of the property, Greig Farms. He said that owner and applicant were very quick to cooperate with obtaining site plan approval when notified.

Adjacent neighbor Kate Karakassis submitted an email concerning the parking lot, which is about 60 feet from her home. She cited the zoning ordinance requiring screening for non-residential uses abutting residences. She asked what kind of screening is planned. Ms. LeGare said she planted forsythia along

the property line and has spoken to the property owner about adding to that. Ms. Karakassis said the number of vehicles entering and exiting the parking lot has grown notably, and although she applauds the success of the business, she would prefer a fence over vegetation. The Board generally agreed that a landscaping plan be submitted to address the issue prior to approval.

Mr. Phelan asked if there were any further comments from the public. There were none. Kristina Dousharm moved to close the hearing. Karen Smythe seconded, and all members voted in favor.

Ms. LeGare agreed to submit screening plans and show that her business sign be moved to within 15 feet from the road for the next meeting. Planning consultant Ted Fink commented that evergreens added to the landscape would be helpful.

OLD BUSINESS

ABCider, LLC Cidery Site Plan – 229 Pitcher Lane

Continued discussion of application to establish a hard cider mill and tasting room in the Agricultural Business District.

Applicant Martin Bernstein was present. Norman Greig gave an overview of a parking plan that he submitted at the Board's request, and answered questions about the general parking for the entire Farm Market site. Parking and walkways are unpaved grassy areas.

Low Rose asked the applicant about seating for the cidery. Mr. Bernstein said there will be 24 seats inside and 3 or 4 benches outside. Mr. Rose asked Mr. Bernstein would be agreeable to establishing a limit to the amount of people at the cidery if necessary. Mr. Bernstein said he would agree to serve no more than 75 people at the same time, although he has never had so many customers at once at his other sites. Karen Smythe commented that the establishment would be limited by the number of seats in the cidery. Kristina Dousharm added that limitations are also governed by the square footage of the room. Methods to assure that the Zoning Ordinance requirements that Greig Farm apples be used and processed by ABCidery was discussed.

Ted Fink asked if specifications had been provided for the lighting on the barn. Mr. Greig described the existing lighting on the barn, which illuminates the parking areas and provides security lighting for the farm equipment.

The Board reviewed a draft approval resolution. Mr. Phelan emphasized the fact that the project is a cider mill. The tasting room, he said, is considered secondary. Kristina Dousharm moved to adopt the resolution as amended to permit serving cider, pre-packaged snacks, and non-alcoholic beverages only. Brian Kelly seconded, and all members voted in favor.

Greig Farm Airstrip Amended Special Permit- 221 Pitcher Lane

Continued discussion of application to install a second grass airstrip on a 92-acre parcel in the Agricultural Business District.

Applicant Norman Greig was present. Planning consultant Ted Fink said the Board needed to conclude the SEQR process. He commented that the situation is unique in that the Zoning Enforcement Officer (ZEO) Bob Fennell issued a determination March 19 that the application does not meet the zoning requirements, and so the Board has no option at this point but to deny the application. However, SEQR regulations require that for an Unlisted Action under SEQR, the board must issue a Negative or Positive Declaration. A Positive Declaration would mean that the project would present one or more adverse environmental impacts. A Negative Declaration indicates that there is no significant environmental impact. He continued that the way SEQR regulations are structured, the overall requirement is that for any action, the Board must identify the relevant areas of environmental concern, and it does so by evaluating potential impacts in SEQR parts 1 and 2 which indicated no significant environmental impacts. However, section 617.7C, the section entitled 'Criteria for Determining Significance' in the SEQR regulations, compliance with zoning is one of the areas that is covered by SEQR.

Lew Rose asked Mr. Fink where in the Town Zoning Ordinance does it say that the Planning board is bound by the ZEO's interpretation of the Code. Mr. Fink responded by citing sections of the Zoning Code that indicate the authority of the ZEO. He said that the difficulty in this particular case is due to the fact that the ZEO referred the application to the Planning Board, and then later issued a determination that the proposed action is not allowed.

Mr. Rose disagreed with Mr. Fink's interpretation of the code regarding the authority of the ZEO. He did not agree that the Planning Board is bound by the ZEO's determination. He said there is nothing in the Code that says the ZEO determination is binding. Mr. Phelan said that he has operated under that assumption during his entire career with the Planning Board, and that they could sort it out, but not at this meeting. Mr. Rose clarified that he agrees with the ZEO's interpretation in this case, but he still questions whether the Board is bound by it.

Brian Kelly moved to adopt the Negative Declaration. Kristina Dousharm seconded. Karen Smythe questioned whether the Board should adopt the Declaration when there is disagreement over whether the Board is bound by a ZEO determination, which is the substance of paragraph 4 under Reasons supporting This Determination. Brian Kelly asked what the purpose of including paragraph 4, and if it was necessary. The Board generally agreed to remove paragraph 4. Lew Rose moved to approve the Negative Declaration absent paragraph 4. Kristina Dousharm seconded, and the motion passed unanimously.

The Board reviewed a draft Resolution Denying the Amended Site Plan and Special Use Permit. In addition to the unusual circumstance of the ZEO determination issued during the public hearing phase of the application, the Resolution stated that the applicant had failed to submit updated documentation from the New York State Department of Transportation (NYS DOT) and the Federal Aviation Administration (FAA) to demonstrate compliance with Section 249 of the New York State General Business Law and with the FAA's Determination of Landing Area Proposal; that the Red Hook Zoning Law does not contain a definition of an "airstrip", and the Board deliberated on the meaning of 'private' as it pertained to the proposed airstrip when it was revealed that the existing private airstrip was occasionally used by other pilots to take off and land without Mr. Grieg's permission. The board also wrestled with the use of the airstrip as it relates to the agricultural uses of the land, and whether a

second airstrip was even permitted or whether it should be considered a second special use, which is not allowed.

Brian Kelly moved to adopt the Resolution. Lew Rose seconded and all members, by roll call vote, agreed.

Mr. Phelan told the applicant he could appeal to the Zoning Board of Appeals. Mr. Greig commented that he disagreed with the statement in the Resolution regarding providing NYS DOT and FAA compliance statements, because the NYS DOT accepts applications only from municipalities, so he was unable to comply with that requirement.

Mr. Fink concluded with citing section 143-30 of the Town Code, 'The Powers And Duties of the Town Zoning Enforcement Officer' subsection A, that clarifies the authority of the ZEO.

Mighty Donuts Site Plan – 7269 South Broadway

Continued discussion of application to establish a donut and coffee shop in the Traditional Neighborhood Commercial Center Zoning District.

Applicants Dennis Kanuk and Rhianon Jones and Applicant's representatives Ayaka Hale and Zak Hall were present. Kristina Dousharm recused herself.

Mr. Phelan said the applicants have applied to the ZBA for variances to the building height and façade coverage requirements. He said that procedurally, the project is in a holding pattern because the Planning Board needs to make a SEQR Determination prior to any ZBA decisions but cannot do so until comments from the County have been received, and the Planning Board cannot make any decisions until the ZBA does.

Ms. Hale said that the most recent submission responded to comments from the Planning Board's engineer. She reviewed the proposed changes.

Mr. Phelan asked about renovations to the existing masonry building, known as the Bottini building, on the site. Ms. Hale said that new garage doors will be installed and improvements will be made to the exterior. Mr. Phelan encouraged the applicants to include the building in the site plan to avoid having to apply for amended site plan later for the Bottini building. Zak Hall said the main priority is the diner building. He said that the applicants want the Board to move forward with a public hearing at the next meeting. Mr. Phelan said that what is presented at the public hearing should be what is going to exist on the site. He said a total site plan should show how the whole lot will be incorporated into the TND District. Mr. Hall said the building is vacant now, and the applicants are unsure of what type of tenant will occupy it. Michele Grieg said that amended site plan will have to be approved once a tenant has been identified, because plans are too tentative at this point. Mr. Phelan said all the changes the applicants plan to make to the Bottini building regardless of the anticipated tenant should be shown on the site plan. Ms. Greig added that the references to a restaurant and retail space should be deleted.

Mr. Phelan suggested that the proposed fence façade be removed if a variance is granted, and that the location of the diner be moved south to screen the parking lot and open the northern part of the lot for potential development.

Ms. Greig reviewed her comments dated 4-19-21 regarding landscaping and lighting specifications. She requested written responses to Planning Board comments going forward.

Ms. Greig said that she had discussed the project with engineering consultant Brandee Nelson and Planning Board attorney Jennifer Gray, both of whom recommended that a public hearing not be held until a septic layout is submitted for engineering review, and because of the time frames with the ZBA and the fact that SEQR has not yet been concluded and the County has not yet provided their review.

Mr. Phelan decided to schedule a public hearing for May 3.

NEW BUSINESS

Arlyck/ Costello-Baker Lot Line Adjustment – 7 Old Road

Presentation of application to transfer .904 acres of land from the 15.28-acre Arlyck parcel to the 33.78-acre Costello-Baker parcel in the Agricultural Business Zoning District.

Applicant's representative Dan Russel was present. He gave an overview of the project. The project crosses town and county lines with Clermont and Columbia County. Mr. Phelan said each town's Planning Board must approve the project.

Brian Kelly moved to adopt a Resolution classifying the action as Type II under SEQR. Lew Rose seconded, and the motion passed unanimously. A public hearing was scheduled for May 3.

Bradford Certificate of Appropriateness – 45 Old Post Road North

Presentation of application to replace an existing privacy fence.

Applicant David Bradford was present. He gave an overview of the project. The Board reviewed comments from the Design Review Committee, who recommended approval of a CoA.

The Board agreed to waive a public hearing and reviewed a draft Certificate of Appropriateness. Karen Smythe moved to adopt it. Kristina Dousharm seconded, and the motion passed unanimously.

ADJOURNMENT

There being no further business before the Board, Karen Smythe made a motion to adjourn. Kristina Dousharm seconded, and all members voted in favor.

Respectfully submitted,

Kathleen Flood
Planning Board Clerk