

PLANNING BOARD MEETING

AUGUST 13, 2014

PRESENT: Roxanne Pecora, Chairperson
Fred Zimmer
Michael Minor
Daniel Michaud
Darin Dekoskie
Margaret Yost

EXCUSED: Michael Manicone

ALSO PRESENT: Myles Putman, M.L. Putman Consulting

Chairperson Pecora called the meeting of the Town of Esopus Planning Board to order at 7:35 P.M. beginning with the Pledge of Allegiance to the Flag. Roxanne advised the public of the building's fire exits and roll call was taken.

MINUTES: Chairperson Pecora asked if the Board read the July Meeting Minutes and if there were any changes.

MICHAEL MINOR MADE A MOTION TO APPROVE THE JULY 9, 2014 MINUTES SECONDED BY MARGARET. MOTION PASSED WITH A VOTE OF 6-0.

VOUCHERS:

Myles Putman (July, 2014).....	\$2,300.00
Daily Freeman (Giesberg).....	\$ 11.25

April Oneto (secretarial services).....57 1/2 hours

MICHAEL MINOR MADE A MOTION TO APPROVE THE VOUCHERS AS READ, SECONDED BY DARIN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0.

PUBLIC HEARING:

GIESBERG: (lands of Hermance) - Case #2014-13 – Special Use Permit/Site Plan (Micro-Brewery) – 763 Broadway (US Rt. 9W), Ulster Park; SBL: 64.003-5-22.12

MICHAEL MINOR MADE A MOTION TO OPEN THE PUBLIC HEARING FOR GIESBERG, CASE #2014-13, SPECIAL USE PERMIT/SITE PLAN, SECONDED BY MARGARET. ALL MEMBERS WERE IN FAVOR.

Chairperson Pecora read the notice placed in the Daily Freeman, copy placed in file.

Chairperson Pecora asked if there was anyone present to speak regarding this application. There was no one present to speak on this application.

MICHAEL MINOR MADE A MOTION TO CLOSE THE PUBLIC HEARING FOR GEISBERG, CASE #2014-13, SPECIAL USE PERMIT/SITE PLAN, SECONDED BY DAN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0.

OLD BUSINESS:

GEISBERG: (lands of Hermance) – Case #2014-13 – Special Use Permit/
Site Plan (Micro-Brewery) – 763 Broadway (US Rt. 9W), Ulster
Park; SBL: 64.003-5-22.12

Jeffrey Giesberg was present to represent this application. Myles reviewed M.L.Putman Consulting Report reviewed dated 8/8/14. Copy given to applicant and copy placed in file.

Chairperson Pecora stated that we received a response from the Waterfront Advisory Board dated 7/23/14. They were concerned about the waste products of this operation being disposed of off-site. Applicant assured the Board waste products will be disposed of off-site. Copy of this letter placed in file.

Chairperson Pecora stated that we received a response from the Ulster County Planning Board dated 8/6/14. She stated that the Ulster County Planning Board did not have a quorum this month so the understanding is that you have to wait 30 days from the date that they received it which is 7/22/14 before we can act upon it. Fred disagrees with this. Chairperson read the comments into the record and a copy of the report will be placed in the file.

Discussion took place regarding waiting until 8/22/14 to act upon this application. Following discussion among Board members the majority of the Board felt that it could be approved at this meeting to take effect 8/22/14.

MICHAEL MINOR MADE A MOTION TO GRANT CONDITIONAL FINAL APPROVAL FOR GIESBERG, SPECIAL USE PERMIT/SITE PLAN, CASE #2014-13, CONDITIONED UPON:

1. **CONDITIONAL APPROVAL IS EFFECTIVE 8/23/14.**

2. THIS SPECIAL USE PERMIT APPROVED BY THE PLANNING BOARD FOR THIS BUSINESS WILL EXPIRE IF THE APPROVED BUSINESS CEASES TO OPERATE AT THIS LOCATION.
3. THE APPLICANT SECURE ALL REQUIRED LICENSES AND APPROVALS FROM THE STATE AND FEDERAL GOVERNMENT.
4. GIVEN THE LIMITATION ON THE SITE POSED BY THE BUILDING SIZE, LIMITED PARKING AND LACK OF A WASTEWATER TREATMENT SYSTEM, A RESTRICTION IS PLACED ON RETAIL SALES AND ANY PUBLIC ASSEMBLY (FOR TASTINGS OR SIMILAR EVENTS). SUCH ACTIVITIES COULD CONCEIVABLY BE ACCOMMODATED BY APPROPRIATE SITE IMPROVEMENTS WHICH WOULD BE SUBJECT TO A SPECIAL USE PERMIT AMENDMENT.

MOTION SECONDED BY FRED. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
 Margret.....yes
 Darin.....yes
 Dan.....yes
 Michael Minor.....yes
 Roxanne.....yes

Applicant was asked to submit 6 copies of the map that was included in the packet signed by both applicants and submitted to Planning Board for signature.

MISSIONARY SISTERS OF THE SACRED HEART (St. Cabrini) : Case #2014-12, Lot Line Adjustment – 2055/2056 Broadway (US Rt. 9W), West Park; SBL: 79.002-1-21

Applicant represented by Michael Moriello, Esq.

Myles reviewed M.L. Putman Consulting Report dated 8/8/14. Copy given to applicant and copy placed in file.

Chairperson Pecora stated that the easement was reviewed by Peter C. Graham, Esq. and a letter was received dated 8/13/14. This letter was read by the Chairperson and a copy of the letter was placed in the file.

Michael Minor questioned the access under the CSX railroad. Michael Moriello stated that there will be an easement reserved that will be 10 feet wide. Michael Minor asked what the rationale was regarding the two year abandonment. Michael Moriello stated that he spoke with Peter C. Graham, Esq., Paul Michaels, Esq. and Peter Matera, Esq. (they both represent the applicants). It is his understanding that the Sisters plan on building their own sewage disposal system and they want to make some provisions for when this will occur. Michael Moreillo, Esq., stated that he thinks this will all work out. Roxanne stated that she spoke with Peter C. Graham, Esq. today and he told her that as a Planning Board we have to make sure that they have the facilities. We can not cut it off.

DARIN MADE A MOTION TO CLASSIFY MISSIONARY SISTERS, CASE #2014-12, AS A LOT LINE ADJUSTMENT SECONDED BY FRED. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes

Margaret.....yes

Darin.....yes

Dan.....yes
Michael Minor.....yes
Roxanne.....yes

FRED MADE A MOTION TO WAIVE THE SCALE FROM 1” TO 100” TO 1” TO 200” AS PER SECTION 107.27.B(1) AND 107.28.A(1) FOR THE MAP FOR MISSIONARY SISTERS, CASE #2014-12, SECONDED BY MARGARET. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Darin.....yes
Dan.....yes
Michael Minor.....yes
Roxanne.....yes

FRED MADE A MOTION TO WAIVE THE PUBLIC HEARING AS PER SECTION 107.16.A FOR MISSIONARY SISTERS, CASE #2014-12, LOT LINE ADJUSTMENT, SECONDED BY DARIN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Darin.....yes
Dan.....yes
Michael Minor.....yes
Roxanne.....yes

FRED MADE A MOTION TO REFER MISSIONARY SISTERS, CASE #2014-12, LOT LINE ADJUSTMENT, TO THE WATERFRONT ADVISORY BOARD AND A COURTESY REFERRAL TO THE TOWN OF HYDE PARK PLANNING BOARD, SECONDED BY MARGARET. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

- Fred.....yes
- Margaret.....yes
- Darin.....yes
- Dan.....yes
- Michael Minor.....yes
- Roxanne.....yes

DARIN MADE A MOTION FOR M.L. PUTMAN TO COMPLETE PARTS 2 AND 3 OF THE FULL EAF FOR MISSIONARY SISTERS, CASE #2014-12, LOT LINE ADJUSTMENT, SECONDED BY FRED. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

- Fred.....yes
- Margaret.....yes
- Darin.....yes
- Dan.....yes
- Michael Minor.....yes

ALEO (Hasbrouck Hill) : Case #2014-06 – Special Use Permits for proposed duplexes – Hasbrouck Ave., Port Ewen;
SBL: Section 56.059 Block 4

Edward Aleo, applicant, and Khattar Elmassalemah, Praetorius & Conrad, P.C.,

were present to represent this application.

Myles reviewed M.L. Putman Consulting Report dated 8/13/14. A copy was given to applicant and a copy was placed in the file.

Roxanne stated that we do have a response from Don Kiernan, Water/Sewer Superintendent, dated 7/30/14. He listed 6 items that he comments on. Copy of this e-mail was given to applicant and copy placed in file.

Khattar stated that there is an existing water valve at the end of that line. There is currently a water valve that can isolate the entire section. He was instructed to discuss this with Don Kiernan. He further stated that all of the sizes that he has requested are on the plans at this time. They are in discussion with him to prove that a 1" line will work. They did not receive anything from the fire department yet. The Highway Superintendent gave them a verbal but they are waiting for something in writing. He stated that there will be no additional disturbance for utilities. Any underground utilities will be in the shoulders. He does not know the need for the FEAF. He was told that we need Part 1. He stated that as far as the SWPPP this project is under 1 acre and it is not required to have a SWPPP. He stated that the whole reason for them to do all of the work they have is to minimize the disturbance so they do not have to do a SWPPP. Fred stated that the Board will be sending this up to the Planning Board Engineer and he may just want a drainage study. Darin suggests that the Board send it to Pete Lilholt and see what he feels is necessary. Khattar stated that he was going to recommend that the Board not send it to the engineer. He stated that there is nothing in Myles comments that changes the design. He would like to just push it forward. He questioned if we could schedule a Public Hearing at this stage and he was told that we are not ready for that.

The lighting was discussed. Khattar asked if the Town had a master plan for the lighting on that street. He was reminded that it was a paper street and there is no lighting plan. Darin suggested that they propose something that makes sense. He asked about whether this can be referred to the County at this time. Roxanne stated that we are not at a point to do that. We need a full submittal.

Fred stated that they need to have a road profile and it would not hurt to have a drainage profile. Khattar stated that he has a profile on page 4. Fred stated that there are some grading issues. They need to look at it again. Khattar agrees that there are a few lines that should not hit the foundation.

MICHAEL MINOR MADE A MOTION THAT THE BOARD IS IN AGREEMENT WITH THE REVISED SKETCH PLAN DATED 7/29/14 FOR ALEO, CASE #2014-06, SITE PLAN FOR PROPOSED DUPLEXES, SECONDED BY DARIN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Darin.....yes
Dan.....yes
Michael Minor.....yes
Roxanne.....yes

MICHAEL MINOR MADE A MOTION TO CLASSIFY ALEO, CASE #2014-06, SITE PLAN FOR PROPOSED DUPLEXES, AS A SINGLE UNLISTED ACTION PURSUANT TO SEQR AND SUBJECT TO A SINGLE DETERMINATION OF SIGNIFICANCE, SECONDED BY DAN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Darin.....yes
Dan.....yes
Michael Minor.....yes
Roxanne.....yes

MICHAEL MINOR MADE A MOTION TO REFER ALEO, CASE #2014-06, SITE PLAN FOR PROPOSED DUPLEXES, TO PLANNING BOARD CONSULTING ENGINEER, PETE LILHOLT TO REVIEW:

1. GRADING
2. UTLITY PLANS
3. EROSION AND SEDIMENT CONTROL AND
4. ENGINEERING DETAILS

MOTION WAS SECONDED BY DARIN. ALL MEMBERS WERE IN FAVOR.
MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Darin.....yes
Dan.....yes
Michael Minor....yes
Roxanne.....yes

Khattar stated that he will send the plans directly to Pete Lilholt himself. Planning Board Clerk will contact Pete to let him know that they are doing that.

Myles and the Board told applicant that they need to complete the Short EAF.

**CHURCH COMMUNITIES (The Mount Expansion): Case #2013-19 – Special
Use Permit/Site Plan – 825-1001 Broadway (US Rt.
9W), Ulster Park; SBL: 72.001-2-13.1**

Michael Moriello, Esq., Hans Boller, Dennis Larios, Richard Riesely, Esq. and Dan Shuster present to represent this application.

Myles reviewed M.L. Putman Report dated 8/8/14. Copy was given to applicant and copy was placed in the file.

Myles brought up the 3,000 sq. ft. building addition to the former convent and the grading issues. Dennis stated that he thought we had resolved this. There will be no grading in this area. It is simply filling a hole between the two buildings and it is flat in this area.

Michael Moreillo questioned the scheduling of the public hearing. He referenced the Court decision regarding the Kittredge v. Town of Liberty Case which states that if you have a public hearing prior to a SEQR determination you must have a second public hearing on this action. Discussion took place regarding this issue. Chairperson Pecora read a letter to the Planning Board from Peter C. Graham, Esq. dated May 18, 2011 regarding his legal opinion to the Planning Board. His opinion disagrees with this. Following further discussion it was requested by Richard Riesley, Esq., Riesley & Moriello, legal firm for the applicant, that this Board hold two public hearings to avoid any procedural errors for this project. The Board agreed that if the applicant is requesting two public hearings it is their right.

DARIN MADE A MOTION TO SCHEDULE A PUBLIC HEARING FOR CHURCH COMMUNITIES, CASE #2013-19, SPECIAL USE PERMIT/SITE PLAN REVIEW, FOR SEPTEMBER 10, 2014 AT 7:40 PM, SECONDED BY MARGARET. MOTION PASSED WITH A VOTE OF 5-0-1. VOTE WAS AS FOLLOWS:

- Fred.....yes
- Margaret.....yes
- Darin.....yes
- Dan.....yes
- Michael Minor.....abstained
- Roxanne.....yes

MICHAEL MINOR MADE A MOTION TO REFER CHURCH COMMUNITIES, CASE #2013-19, SPECIAL USE PERMIT/SITE PLAN REVIEW, TO THE WATERFRONT ADVISORY BOARD, ULSTER COUNTY PLANNING BOARD AND COURTESY REFERRAL TO TOWN OF HYDE PARK PLANNING BOARD, SECONDED BY DARIN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

- Fred.....yes
- Margaret.....yes
- Darin.....yes
- Dan.....yes
- Michael Minor.....yes
- Roxanne.....yes

Chairperson Pecora stated that the Board received a response from Pete Lilholt, Clough Harbour Associates, dated 8/7/14. Copy given to applicant and copy placed in file. Dennis stated that they are working with Pete regarding his

comments and they are in agreement.

NEW BUSINESS:

AUYANG: Case #2014-15 – Lot Line Adjustment – 2001 Broadway & 9
Barry Drive, West Park; SBL: 80.001-5-11 & 12

David Dipple present to represent the applicant.

Myles reviewed M.L. Putman Consulting Report dated 7/30/14. Copy of report given to applicant and copy placed in file.

Myles stated that this is a simple lot line adjustment. There are no zoning violations and he feels that application is complete.

MICHAEL MINOR MADE A MOTION TO DECLARE A NEGATIVE DECLARATION PURSUANT TO SEQR FOR AUYANG, CASE #2014-15, LOT LINE ADJUSTMENT, SECONDED BY MARGARET. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes

Margaret.....yes

Darin.....yes

Dan.....yes

Michael Minor....yes

Roxanne.....yes

MICHAEL MINOR MADE A MOTION TO WAIVE THE PUBLIC HEARING FOR AUYANG, CASE #2014-15, LOT LINE ADJUSTMENT PURSUANT TO SECTION

107.16.A, SECONDED BY ROXANNE. ALL MEMBERS WERE IN FAVOR.
MOTION PASSED WITH A VOE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Darin.....yes
Dan.....yes
Michael Minor....yes
Roxanne.....yes

MICHAEL MINOR MADE A MOTION TO GRANT CONDITIONAL FINAL APPROVAL FOR AUYANG, CASE #2014-15, LOT LINE ADJUSTMENT, CONDITIONED UPON MAPS BEING STAMPED BY THE SURVEYOR AND RECEIPT OF 6 PAPER MAPS AND 1 MYLAR SIGNED BY PROPERTY OWNER, SECONDED BY MARGARET. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Darin.....yes
Darn.....yes
Michael Minor...yes
Roxanne.....yes

TIENKEN: Case #2014-16 – Lot Line Adjustment – 244/245 Union Ctr Rd.,
Ulster Park; SBL: 63.003-4-20 & 23

Todd Tienken was present to represent this application.

Myles reviewed M.L. Putman Report dated 7/31/14. Copy was given to the applicant and copy was placed in the file.

Fred questioned whether two of the parcels were connected. Myles stated that the parcels were only connected on the Deed descriptions. Discussion took place regarding the linking of the parcels. Applicant would just have to link the parcels across the road and file a new Deed description which he will have to do anyway. Todd stated that basically what he wants to do is a lot line adjustment so that he can put a garage up. It is the applicant's decision what he chooses to do. There are some minor corrections that need to be made to the map (a) correctly spelled names of the owners of tax lot 23 and (b) SBL references to tax lots 20 and 23.

MICHAEL MINOR MADE A MOTION TO CLASSIFY TIENKEN, CASE #2014-16, LOT LINE ADJUSTMENT, AS AN UNLISTED ACTION PURSUANT TO SEQR, SECONDED BY DARIN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Darin.....yes
Dan.....yes
Michael Minor...yes
Roxanne.....yes

MICHAEL MINOR MADE A MOTION TO WAIVE THE PUBLIC HEARING PER SECTION 107.16.A AND FINDING THE APPLICATION COMPLETE FOR TIENKEN, CASE #2014-16, LOT LINE ADJUSTMENT, SECONDED BY DAN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Darin.....yes
Dan.....yes
Michael Minor...yes
Roxanne.....yes

MICHAEL MINOR MADE A MOTION TO DECLARE A NEGATIVE DECLARATION UNDER SEQR FOR TIENKEN, CASE #2014-16, LOT LINE ADJUSTMENT, SECONDED BY ROXANNE. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes
Margaret.....yes
Darin.....yes
Dan.....yes
Michael Minor...yes
Roxanne.....yes

MICHAEL MINOR MADE A MOTION TO GRANT CONDITIONAL FINAL PLAT APPROVAL FOR TIENKEN, CASE #2014-16, LOT LINE ADJUSTMENT CONDITIONED UPON LINKING OF THE TWO PROPERTIES, CORRECTION TO THE SPELLING OF THE NAMES ON THE MAPS AND RECEIPT OF 6 PAPER MAPS AND 1 MYLAR SIGNED BY ALL LAND OWNERS, SECONDED BY DARIN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. VOTE WAS AS FOLLOWS:

Fred.....yes

Margaret.....yes

Darin.....yes

Dan.....yes

Michael Minor...yes

Roxanne.....yes

ZBA REFERRALS: None

MISCELLANEOUS:

Item #1

Michael Minor asked Gloria if any decisions were made regarding the Town Board Meeting discussion that was held when Fred and Michael were present regarding the enforcement issue. He stated that their concern is that we do not seem to have an enforcement function. He stated that there was a suggestion that the Town Board hire a Planning Board member to act in the capacity of Enforcement Officer. Michael explained that he attended a training session with Fred Zimmer and discovered that this would be illegal since this would be a separate contract and Planning Board Members are not allowed to have contracts. Michael asked Gloria if this issue has been resolved yet. Gloria VanVliet stated that as far as she is concerned it has not been resolved because she did not agree with this idea and she does not believe that the rest of the Town Board was in agreement. At this point, there is no resolution to this issue.

Michael stated that he looked up State Law that governs Home Rule, etc. says that if the Town decides to have a Planning Board then the decisions of the Planning Board have to be enforced by the Building Inspector. The Building Inspector is under Town Code the Enforcement Officer. Michael stated that as a Planning

Board member it is his opinion that the Town Code is not being enforced because the Enforcement Officer under State Law is the Building Inspector not just for the things he wants to enforce but he is the Enforcement Officer for the Planning Board. He stated that the Town Code says if you have a Planning Board then you have to have an Enforcement Officer and that Enforcement Officer has to be the Building Inspector or a Deputy or Assistant who must report to the Building Inspector.

Michael is concerned that the Planning Board goes through the process but in the end we do not have enforcement. Michael stated that it is his opinion that the Town Board is in violation of the Town Code. He thinks that the Planning Board should formally ask the Town Board to engage an Enforcement Officer. He agrees that we need an enforcement function that is rational and reasonable.

Darin stated that we have always had enforcement capabilities but we have never utilized them. It is Gloria's position that there needs to be more communication. She was told that Tim receives a copy of our minutes and he is involved in Planning Board issues all along. Roxanne stated that the issues are that the decisions that we make when we do conditional approvals he has said that there is no sense in doing conditions on approvals because he has no way of tracking it. Roxanne stated that this is the major function of the Planning Board and it is his job to make sure that the conditions are met. The Building Department is supposed to keep a tickler list, keep track of conditions and Special Use Permits if we put time limits on them, etc.

Gloria said that she will take this issue back to the Town Board for discussion. Roxanne stated that the Building Inspector has three major functions - Building Inspector and Code Enforcement Officer when this was made a full time position. Then the position took on the SWPPP Officer. Roxanne said that the Town Board

is not helping this Board by not having the enforcement because some of our decisions need to be enforced and do need to be followed up on. Michael read sections of State Law 138 (copy attached).

Item #2

Michael Minor will not be at the September Planning Board Meeting.

DARIN MADE A MOTION TO ADJOURN SECONDED BY ROXANNE. ALL MEMBERS WERE IN FAVOR. MEETING ADJOURNED AT 9:53 PM.

NEXT MONTHLY MEETING: SEPTEMBER 10, 2014

DEADLINE DATE: AUGUST 27, 2014

NEXT PRE-SUBMISSION: SEPTEMBER 3, 2014

Respectfully submitted:

April Oneto,
Planning Board Secretary

