

TOWN OF ESOPUS
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Zoning Board of Appeals

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TOWN OF ESOPUS ZONING BOARD OF APPEALS
Minutes of the May 21, 2013 Meeting

CALL TO ORDER: Chairman, Don Cole, called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Vic Barranca, Joe Guido, Kathy Kiernan, Karl Wick, and Chairman, Don Cole.

Excused: Sean Fitzgerald

Also present: Gloria VanVliet, Alan & Laraine Goerlick, George Wagner, Iris Kimberg, Les & Barbara Kalmus, Joe Moser, and Ray Bradley

MINUTES

Kathy noted that she was excused from April's meeting. Vic made a motion to approve the April minutes as corrected. Seconded by Karl. All in favor.

VOUCHERS

Joe made a motion to approve the voucher for secretarial work. Seconded by Kathy. All in favor.

PUBLIC HEARING

04-16-13-01

Trevor Schultz
219 Hardenburgh Road

71.01-3-25
3 area variances

Trevor Schultz was present and explained his project. He is planning to reconstruct the farm that was present a long time ago and also to build a few cabins in the back for retreats. Applicant hopes to be able to rebuild the barn that was on an old stone foundation. There would be workshops about sustainable farming and sustainable building practices.

Joe stated that applicant is before the board for a variance to have livestock closer than the required 150 feet from a property line. Mr. Schultz explained that without this variance there

is no possibility of having animals because there isn't enough room. He stated that the neighbors would have no visual contact with the farm animals because of the land drop off between properties. He is hoping for a 50 foot setback from property lines and, additionally, has created a 100 foot off set that the DEC requires from all bodies of water, including three wells on the property.

Joe asked what animals applicant would have on the property. Mr. Schultz replied, "A few chickens and pigs" and showed on the map where they would be kept.

Vic asked how many chickens and pigs. Applicant replied up to ten pigs and 30 chickens. He added that ideally he would have goats and sheep also feeding on the meadows and fields, "but if that doesn't work, that is fine".

Joe stated that another variance request is to allow parking closer than 100 feet from a property line. Mr. Schultz stated that the 100 foot setback is for an institutional use, as the Planning Board is categorizing this project because of the workshops that will take place. He is requesting a 50 foot setback in an area where no one will see the cars, and said that there is no other good area for parking. If the variance is not granted, the project cannot go forward because there is no other space for parking. If the project was a "lodging" use, the parking setback would be only 50 feet from the property line. He said that they will be teaching workshops but it is not a school so he disagrees with the "institutional" use.

Vic asked how many cabins will be on the property and applicant replied that there will be four cabins with two rooms each and a total of 400 square feet per cabin. He stated that the parking required is one car per room so there will be spaces for eight cars. The plans show 20 spaces because the farm activities will draw more people helping out on the farm.

Joe asked applicant where the access road to the parking lot was and Mr. Schultz pointed it out on the map he displayed. A new road would have to be built because of requirements of the fire department. The existing road is a working road but is not acceptable because of the visibility issue. As Mr. Schultz pointed out the new road, Joe asked if the driveway was along the ridge and applicant replied that was correct. It was the former entrance into the property.

Joe asked applicant if the driveway could be built along the walking path. Mr. Schultz stated that technically it could be, but the issue would be where to cross the property – the only place to cross would be in the "farming zone." He said it was possible.

Joe stated that the third variance request is the re-building of the barn. Applicant showed the location of an old stone foundation on the map. It was an existing barn until about 30 years ago. The previous owner told Mr. Schultz that the foundation was 18x33 feet, but the barn extended to about 18x40 feet and there were two levels of wooden barn above the foundation. His proposal is only one floor. Applicant showed photos of similar barns. He was not able to find original photos of the old barn.

Joe asked how many people are housed in each cabin and applicant replied that each cabin has two rooms, sharing a wall. Each room can house two people.

Vic asked where the septic system was located in relation to the pond. Applicant replied that there will not be a conventional septic system. There will be a plant filtration system and he pointed out the location of the gray water system on the map. There will be compost toilets so there will be no black water. The gray water will be conducted into the pond and filtered through plants and silt.

Vic asked members of the Board if the Planning Board had approved this part of the project and Joe replied that he didn't know where the Planning Board was on it. Vic expressed concern about the ponds. Mr. Schultz stated that he is in contact with Tony Puccio of the Ulster County Health Dept. and he is aware of the unconventional methods being proposed. Applicant will be submitting drawings for Health Dept. approval.

Joe asked applicant if he will be living on this property and Mr. Schultz replied, "yes."

Vic stated that he is concerned with the filtration system and is interested in the County's stand on it. Regarding the animals, if he were to grant this variance, he would need to put a cap on this type of use.

Joe asked how many acres the lot was and how much of it was useable. Applicant replied 26 acres with 12 acres being useable.

Joe opened the meeting up to the public, asking each to give their name and address.

George Wagner, 221 & 223 Hardenburgh Road, showed where his two lots were on the map. He stated that his two wells are directly below the cliff which is on the property line between the applicant's lot and his. The slope from this cliff is very steep and solid rock. He is opposed to any encroachment on his property line with farm animals because he fears contamination of his wells. Mr. Wagner is also concerned with the traffic on the ridge along the property line. He mentioned farm equipment and delivery trucks on the ridge would not be safe. During thaw and heavy spring rains water usually filters through the rock of the ridge and the water ends up down on his property, so he is worried about composting, animals and manure which will also filter through the rock onto his property, contaminating his wells. He mentioned noise and increased traffic considerations. Hardenburgh is a very narrow road on which people walk their dogs and children and jog. The parking for 20 cars is directly behind his property and will be visible from his parking lot. He is concerned about the smell, smoke and ash from the making of charcoal on the farm. Mr. Wagner said he has a lot of money and time invested in his property and doesn't want to see it get polluted.

Gloria VanVliet, liaison between the Town Board and the ZBA addressed the meeting. She stated that Mr. Schultz is before the Planning Board and will be having a public hearing in

June as part of their review process and the public will have a chance to speak about their concerns. The only issues to be addressed at this ZBA meeting are the three variance requests in front of this board. Joe stated that the issues that were brought up here tie in to the variance requests – the parking, property line setback and the livestock. Joe agreed that the final approval for the project will come from the Planning Board. He asked the people present to stick to the three issues in front of the Zoning Board.

Iris Kimberg, 191 & 193 Hardenburgh Road, adjoining properties to applicant. Ms. Kimberg has well water at both premises and is concerned with the proposed farm animals. Pig excrement can contaminate well water if the animals are not put in the right location. She is confused as to why there are farm animals in a residential zone. She owns a farm in New Paltz on which there are chickens, but it is in an agricultural district. Ms. Kimberg noted that chickens make noise, they move around, cross the road. She said Hardenburgh is a narrow, windy road and the influx of parking, animals, traffic of people associated with this project make it a dangerous situation in a totally residential area. She does not want animals closer than she is entitled to – the 150 foot setback was not just pulled out of the air, there is a reason for it. She continued that she doesn't want the fumes or the noise from the traffic of a parking lot close to her property. She does not want to diminish the private enjoyment of her properties.

Joe stated that the area is zoned R-40, but zoning allows the things that Mr. Schultz is applying for - with a Special Use Permit from the Planning Board. Many of the issues of the people present can be addressed to the Planning Board at their public hearing.

Laraine Goerlick, 230 Hardenburgh Road, lives below the cliff separating her property from applicant's. She is worried about run-off from the cliff which comes down and right across the road going into her well. She has traffic concerns on such a narrow road, animal and people concerns – “a lot of people added into a small residential quiet neighborhood that would totally change the nature of where we all live.” She feels the project may be environmental sound, but it is not great for her environment.

Alan Goerlick, 230 Hardenburgh Road asked why applicant needs a variance to build a barn but doesn't need one to build four cabins. Joe replied that the barn is before the Board because of the front and side yard setbacks from the structure. The cabins are well within the area in which they are allowed. The Planning Board must issue a Special Use Permit for the cabins.

John Moser, 6 Willow Court, asked where the animals would be permitted. Applicant pointed out on the map the area for animals if that particular variance is granted. It is 100 feet off every well. Mr. Moser asked if the parking lot would be gravel and Mr. Schultz replied, “Little bits of compacted soil.”

Addressing the neighbors' concerns, applicant stated that the chickens will not be roaming everywhere or in the street. They will be in a chicken tractor, a huge open cage that can be

moved to an area where there is food.

Regarding traffic, Mr. Schultz stated that the project's plan is to be fossil-fuel free and sustainable, so they will be trying to reduce traffic wherever possible and they are not going to be moving a lot of heavy vehicles and machinery. He noted that there are going to be 8 rooms in the cabins, sixteen people. They plan to offer shuttles and encourage car-pooling, trying to keep the traffic to a minimum. There will be windows of time for "coming and going, e.g. Friday from 5-7 pm and Sunday from 5-7". The people interested in this type of project would support these ideas.

Regarding contamination of neighbors' wells, Mr. Schultz plans to stay 200 feet off all of his water bodies (wells) with animals and 100 feet off when using the chicken tractor. He is following DEC guidelines.

Ms. Kimberg stated that she visited the website for this farm, Stonewall Farm LLC, and it contains information on collecting wood and dropping off wood at the site for one of the farm's projects. She noted that there is already a huge wood pile in the front of the property and it seems as if this project is "already happening". The website is active and states that the farm will be making charcoal out of the donated wood. This wood had to have been brought in by trucks. This is a concern of hers and she will address it at the Planning Board public hearing.

Barbara Kalmus, 68 Suominen Road, asked if there would be a petting zoo. Mr. Schultz replied that there would not be. Joe stated that this is not one of the ZBA's issues and should be addressed to the Planning Board. He noted that the ZBA could put stipulations on a variance stating what kind of animals are allowed and how many.

Laraine Goerlick asked if there would be an environmental impact study done. Joe replied that is an issue for the Planning Board. There are two types of impact statements – one is SEQR and the other is a lesser statement. Ms. Goerlick stated that the cliff, above which the parking lot, etc. would be, is very steep and her fear is that the impact of building cabins could cause a rock slide. She asked Board members to look at the site.

George Wagner stated that, according to his calculations, there possibly could be a total of 80 people on the site in any given day. This accounts for visitors, campers, staff, and volunteers. "It is a lot of people for 12 acres. Its not the right piece of land for this." He also stated that his two wells are only 85 feet from the property line and applicant is requesting a setback of 40 feet instead of 100. That endangers his drinking water supply.

Joe made a motion to keep the public hearing open until next month's meeting. Seconded by Karl. All in favor.

Karl addressed Mr. Schultz and noted that there are 26 acres, 12 usable – what is the rest?

Mr. Schultz replied, “wetlands.” Karl asked, “What kind of wetlands, which government agency designated them?” Applicant replied that he knows it is not DEC because he had a representative from DEC on site. This person told Mr. Schultz that the wetlands eventually will be under the DEC so applicant has been working with them. The consensus is that the wetlands are federally designated. Karl asked applicant to bring proof of that designation and the fact that it is limiting what can be done on that acreage.

Karl asked if there had been a study of traffic on Hardenburgh Road. “Has anyone actually counted cars in a given week on that road?” Mr. Schultz stated that there are very few cars on the road. Ms. Kalmus stated that traffic is not slow between 2:30- 4:30 when school busses are on the road. Karl noted that it would be helpful to the neighbors to know the car count. Ms. Kimberg stated that the nature of the road is a concern also – it is a windy, narrow road with at least two hairpin turns. “Not the kind of road that is conducive to commercial traffic. There are no street lights.” “It is not a user friendly... road.” Mr. Wagner stated that he will have numbers on car traffic by next month’s meeting.

Joe thanked everyone for coming and noted that the public hearing will be carried over to next month’s meeting.

PUBLIC HEARING

04-16-13-02

EAC of NY, Inc.
423 Broadway

56.20-3-28.200
use variance

Michael Lockwood was present representing EAC & Sam Adel. Applicant explained that a new motel is planned and he is asking for a variance from the total amount of parking spaces required. 152 spaces are required and 140 are available. A variance of 12 spaces would be required.

Joe stated that the parking spaces for the motel guests would be the same as the restaurant guests so they are being double counted. The people who are going to stay at the motel are the people who are going to be at the weddings.

Mr. Lockwood stated that at last month’s meeting Mr. Adel mentioned that he is not likely to have the public staying at the motel. He is trying to book more weddings and people like to stay (on site) when they (attend) a wedding.

Karl asked if Mr. Adel would be in agreement if the ZBA were to grant the variance with a stipulation stating that the motel can be used for weddings only. Mr. Lockwood stated that he doesn’t know what Mr. Adel would say, but he knows that Mr. Adel’s intention is not to have any long-term guests and a stipulation on maximum stay of guests would probably be fine with applicant.

Chairman Cole asked, "How many parking spaces are we talking about?" Joe replied, "12." Karl said that the Ulster County Planning Board noted that the variance should be for 13 spaces because there are only 139 valid spaces. Mr. Lockwood stated that they consider one an illegal parking space.

Gloria VanVliet stated that the TOE Planning Board has talked about stipulating the number of days guests can stay at the motel or weekends only. The intention is to prevent another long-term occupancy issue similar to the other motel near by. She noted that Mr. Adel has said he is just interested in using the motel for his parties because he needs a place for guests to stay. Mr. Lockwood stated that the Planning Board is waiting for Mr. Adel to submit plans on lighting and topography. Gloria stated that, "I don't think it's a good idea to stipulate that he should not be allowed to use it for the public if the occasion arose because the parking lot is never full." She thinks Mr. Adel should have the option. People are always looking for places to stay and she doesn't think he should be restricted. "Just approve the number of parking spaces."

Karl noted that applicant's reason for the number of parking spaces is there will be no outside guests. Mr. Lockwood stated that that is not the entire reason. "The building department has forbid applicant from using the entire facility at one time, so he can't have the place full to the max of the occupancy load." The occupant load is a lot less than the square footage count.

Joe stated that he realizes what Mr. Adel's intentions are, but he feels that it should be noted that the motel not be used for long-term residencies.

Joe made a motion to close the public hearing. Seconded by Vic. All in favor.

Motion

Joe and Karl made a motion to grant a variance from Article V Section 123-24, Off Street Parking and Loading Standards, to allow 139 parking spaces where 152 are required, with the stipulation that it not be used for long-term parking (not more than two weeks) and that the motel be used predominantly by patrons of the restaurant/catering hall.

Motion seconded by Chairman Cole.

VOTE:

Joe - In favor. I feel that the motel is going to be used primarily by people who are having an occasion at the establishment.

Kathy – In favor. I don't think the number of spaces is a great variance.

Don – In favor.

Vic – In favor for all the reasons mentioned.

Karl – In favor. I don't think this changes the character of the neighborhood. The benefit to the applicant far exceeds any detriment. The stipulations cover any future owners' wishes.

Motion approved.

OTHER BUSINESS

Vic read a letter from Les Kalmus regarding the Hardenburgh Road project which will be read into the minutes at next month's continuation of the public hearing.

Linda Smythe's resignation letter was read by Secretary:

Dear Joan,

Health reasons force me to ask to be excused from the Zoning Board. I would like to say that the Zoning Board members were a pleasure to work with. I also have the utmost respect for Don Cole. His concern for applicants is exceptional. Thank you. Sincerely, Linda Smythe.

Joe noted that he didn't want Linda to resign (as may have been inferred in April's minutes) but wanted the Board to be able to move forward and know that she had resigned.

Tim Keefe, the building inspector has suggested that an expiration date be in the language of all ZBA variances. Joe stated that variances are for the life of the property; that's why there is no expiration dates on them. Karl agreed. Joe said that if there was something specific to time, the Board would put an expiration date on it.

Joe made a motion to adjourn the meeting. Seconded by Kathy. All in favor.

Meeting adjourned at 8:00 pm.

Respectfully submitted,

Joan Boris, Secretary
Zoning Board of Appeals