

Town of Hamilton
Planning Board Meeting
Tuesday, March 12, 2019, 7:00 PM
Hamilton Public Library
13 Broad Street, Hamilton

Present: Darrell Griff, Elaine Hughes, Mike Welshko, Bettyann Miller, Mary Galvez, Deputy Town Clerk Elisa Robertson, CEO Mark Miller, Town Attorney Nadine Bell, Esq.

Others: Kinnon Nolan-Finkel, Brian Chapin, John Butzgy, R.G. Johnson, Regina Silvestri, Mark Petersen, Bill Parry, Wayne Foster, Wendy Chapura, Ian Helfant, Astrid Helfant, Jody Palmer, Eric Starkweather, Bruce Moseley, John Bailey, and one other

Meeting called to order 7:02 PM

New Business:

Fiver Foundation, Special Use Permit Amendment, Preliminary Review, 7464 Mill Street, Poolville, Tax Map # 199.-1-31

The applicant runs a children's camp in Poolville that is operational only for kids camping June-August. They are permitted to run other camping events in May for adults; however, they wish to use their cabins for Colgate University's reunion weekend this year which falls May 31-June 1. There is a lengthy discussion of the dates and the wording of the original conditions. The complication is that this weekend straddles May and June. Fiver kids usually start the third week in June.

Resolution 2019-9: Motion to amend the Special Use Permit for Fiver Children's Foundation condition as set forth in paragraph 10G, which shall be deleted in its entirety and shall be replaced with, "Events outside of the camp program and related camp events shall be allowed subject to prior approval by the Code Enforcement Officer". This board also further ratifies and reaffirms the prior SEQRA resolution.

Motion: Bettyann Miller

Second: Mike Welshko

Vote: YES – 5 NO - 0

ADOPTED

Wendy Chapura, Minor Subdivision Application, Preliminary Review, 7325 Mason Road, Tax Map # 154.-1-21

The applicant wishes to subdivide a +/- 22.84 acre parcel into 4 separate lots. Mary Galvez states that she needs to recuse herself because she is a neighbor. The board studies the map and asks questions about driveways and right of ways. The applicant has consulted with an

attorney about the shared driveway. If the purchaser wishes to put in a new driveway that will be up to them. This is the first time the board is seeing this map; the Deputy Clerk tried on numerous occasions to contact the surveyor for a digital copy of the plot plan, with no luck. The applicant will keep lot number 2. Lots 1,3, &4 are for sale.

An audience member asks if they can make comment at this time. Chairman Griff explains that they cannot until the application goes to public hearing. Another audience member asks if they will make up their mind before then; he is concerned that the lots are listed on a real estate site. Chairman Griff states that there will not be a decision before a public hearing and that many times the subdivision is a condition of sale. The audience member asks for reassurance that the board will not decide before they are heard. The Deputy Clerk reminds the audience that they can write letters if they want their statements to be entered into the record.

The map has been reviewed by the CEO. The board reviews part one of the SEQRA form. Chairman Griff asks the applicant if she has any questions. He also asks the Board if they have any questions. There are no questions.

Town Attorney Nadine Bell has some recommendations for the applicant to discuss with her lawyer about the easement paperwork. There is no legal description for that shared driveway, it just says the driveway. She recommends that there be a legal description of the driveway and that it be included as schedule A to the easement. It should include width; single or double lane driveway, how long, etc. It can prevent disputes later. It will be recorded; it will run with the land. There is nothing saying that use is permanent, however there is a clause that states when a new driveway is put in that the easement will cease to exist. There is some discussion about fire code. There is some mention of both parties having to pay for any improvements, Board member Welshko asks if this could come back on the planning board in the future. Attorney Bell states that this easement will show up on any abstract, so the buyer will be aware. There is no liability for the town. There may be an issue with using maintenance and repair interchangeably in the document. The applicant may want to revisit this document with her attorney. None of this is a town concern, it will be between the two parties.

Resolution 2019-10: Motion to schedule a public hearing regarding the Minor Subdivision application filed by Wendy Chapura for April 9, 2019.

Motion: Bettyann Miller

Second: Elaine Hughes

Vote: YES - 5 NO - 0

ADOPTED

Mason Road is a Town road, confirmed by CEO Miller.

HLP Holdings, Inc., Minor Subdivision Application, Preliminary Review, Smith Road, Tax Map # 184.-1-24

The applicant wishes to subdivide a +/- 18.27acre parcel of land into two lots with Smith Road dividing them. Chairman Griff reads part 1 of the SEQRA short form as provided by the applicant. Only change to note is on question 13b which is now marked NO. Chairman Griff asks if the applicant has any questions. He then asks the Board if they have any questions. There are no questions

Resolution 2019-11: Motion to schedule a public hearing regarding the Minor Subdivision application filed by HLP Holdings for April 9, 2019.

Motion: Elaine Hughes

Second: Bettyann Miller

Vote: Yes - 5 NO – 0

ADOPTED

Old Business

John and Michelle Butzgy, Minor Subdivision Application, Public Hearing, 8381 Larkin Road, Tax Map # 186.-1-12

The applicant wishes to subdivide a +/- 273acre parcel of land into two lots.

Resolution 2019-12: Open the Public Hearing on the Subdivision application filed by John and Michelle Butzgy.

Motion: Bettyann Miller

Second: Mary Galvez

Vote: YES -5 NO - 0

ADOPTED

The Board has reviewed Part one of the SEQRA short form. Maps are distributed. They wish to divide out 5 acres. Mr. John Butzgy is here representing himself as well as Brian Chapin the land surveyor for the subdivision. Chairman Griff asks if anyone else is in attendance to speak regarding this application. He asks if anyone on the Board has any questions. No response from either.

Resolution 2019-13: Close the Public Hearing on the Subdivision application filed by John and Michelle Butzgy.

Motion: Mike Welshko

Second: Elaine Hughes

Vote: YES - 5 NO - 0

ADOPTED

Chairman Griff reviews the GML 239, the only recommendation was to perhaps make the proposed lot a bit smaller to ensure that it is located on land that is of low agricultural quality. The chairman reviews and answers the questions for parts 2 and 3 of the short SEQRA form. All questions on part 2 are answered with, "no, or small impact may occur". Chairman Griff read part three and consults with the board.

Resolution 2019-14: Motion to instruct the Chairman review part 2 and check the second box on page 3 (Negative Declaration) of the short SEQRA form.

Motion: Bettyann Miller

Second: Mary Galvez

Vote: YES - 5 NO - 0

ADOPTED

Resolution 2019-15: Motion to Approve the application for a subdivision made by John and Michelle Butzgy.

Motion: Bettyann Miller

Second: Elaine Hughes

Vote: YES - 5 NO - 0

ADOPTED

SteffCo Enterprises LLC, Special Use Permit Application, Preliminary Review, 1866 Quarterline Road, Tax Map # 170.11-1-26

The applicant wishes to change the use of a residential property to a commercial property of mixed use. The proposed uses are; a general store, a café, a restaurant, the sale and service of alcohol, a live entertainment venue, entertaining space for parties, e-commerce, and overnight AIRBNB accommodations.

The board reviews the site plan that has been provided by the applicant. Chairman Griff asks CEO Mark Miller if he has any concerns regarding the site plan. CEO Miller states that he has been working closely with the applicant to make the property ADA compliant. It is commented by Mr. Nolan-Finkel (the applicant's representative) that the bathroom has been completed. They are working on getting the kitchen up to code. CEO Miller comments that there may need to be more parking for staff, their narrative has changed to include 7-8 employees so additional parking will be needed. He comments that perhaps once the properties are merged that 1872 could accommodate the parking.

Mr. Nolan-Finkel states that the plan is to have 3 employees at one time.

Board Member Welshko asks about storm run-off. CEO Miller explains; not for a property this size...usually a site that is over an acre, there may be a SWPPP permit needed.

There is nothing required for a project this small. There is discussion of the specific steps that the applicant has taken to control water run-off.

There is more discussion of the parking accommodations. Mr. Nolan-Finkel has met with CEO about adequate parking regarding the occupancy of the building. The standard for visitors to the venue is 4 people per vehicle; however, the standard for employees is 1 person per vehicle, additional parking will be needed. The occupancy number is determined by square footage and the number of vehicles is determined by occupancy.

The applicant also provided the Board with an operations manual that totalled approximately 900 pages. It covered interviewing and training of employees, the different job descriptions and other procedures for the venue. The Deputy Clerk read this document in its entirety and discussed it with the CEO. The Board was not given a copy of the operations manual, if they wish to see it there is a copy at the Town Office.

Board member Welshko is still confused as to what this application is. Is it a BNB? Is it a tavern? Is it a café? What is the expected intensity of use? He is looking for more specificity.

Mr. Nolan-Finkel gives a summary of how this application has evolved. The original intent was for an AIR BNB, where people who rented the AIRBNB could host their own events in the shared open space. He gives the example of Colgate graduation. It then developed into being an all-inclusive stop, in that having all your necessary goods (example: toiletries) for purchase. Then it developed into having food available, too. That is how the café aspect was added to it. He explains that the only reason that the word "tavern" is thrown around in there is by definition; of how they are applying for their liquor license. By the state's definition "tavern" is the closest to what they want to do. Predominantly, it will be a café that has beer and liquor available. Deputy Clerk Robertson indicates to the board that the applicant's liquor license application, the Town's response, the letter from Geoffrey Snyder at the county, and a couple of letters from residents that have been sent to the board, are in their folders.

Board member Galvez indicates that here is still some confusion for her surrounding the intended use of the space, she compares private party space to having music on the patio. It is suggested by one of the applicant's representatives that they want to cover all bases, if they decide to hold another charity event with a DJ outdoors, they want to be covered. Mr. Nolan-Finkel states that they will not be having DJ's outside, that the live entertainment will be indoors and acoustic.

Board member Welshko asks the question about the specific use. He states that it sounds like a tavern that has acoustic music. He points out, that again, is a different use than what was proposed before. He does not care what the applicant is proposing but that they need to realize for the purposes of a Special Use Permit, they need to be very specific as to what is being proposed because that is the permit that you are going to get. They need to be specific and consistent.

Board member Welshko asks CEO Miller if there are any provisions in our code that would allow a one-time use Special Permit, for something like the fundraiser that the applicant

held. That is not currently part of our law. That type of permitting is possible because it would be similar to the permit that was issued earlier in the meeting for the Fiver Foundation. It could be a condition on the permit, that each event be subject to the approval of the CEO.

Attorney Bell suggests that each event be judged on an individual basis rather than permitting X a year. Board member Galvez states that she finds the application confusing, she feels that it needs to be one thing or another. CEO Miller states that in our zoning we do have a provision for mixed use facilities.

Evaluating the application is complicated because they must evaluate it under the most intense use. That is an important factor for the impact that it may have on the community. An attorney for SteffCo asks from the audience if the CEO is uncomfortable with something can he refer it back to the Planning Board, in a specific situation.

Attorney Bell states that the power for granting a one-time special use for an event should be in either the CEO's hands OR the Planning Boards. Because the players change (new Board members or CEO) it will lessen the confusion. CEO Miller recommends that the Planning Board make the decisions because they are more involved in the community and a future CEO may not have the same standards as people who live in the community.

Attorney Bell makes some suggestions for conditions that would help eliminate some of the questions. IE: events shall not be held out doors, indoor space only. Mr. Nolan-Finkel mentions the Rules page, where it is stated that there is to be nothing on the patio after 9 pm. There is more discussion about how to word conditions to help with this process using the applicant's proposal to help set the conditions.

The discussion of Special Events continues with questions about whether they should be done on an individual basis or within the confines of the established conditions of the Special Use permit. Narrowing the conditions will make the CEO's job easier. Open ended conditions make evaluation more difficult. It can be helpful to have the applicant suggest conditions.

Chairman Griff brings the discussion back to what is on the agenda for the meeting. The Board needs to determine whether the Site Plan is complete. He asks the Board to look at the site plan Checklist. CEO Miller states that he does not feel that they are there yet and that there are some issues to be addressed such as parking.

Board member Galvez asks who will be monitoring the use of the facility in the case of someone having a party. She gives the example of a Colgate grad party. Mr. Nolan-Finkel states that their staff would be present, bartending, providing food, etc. The question is posed about parking, many residents are concerned about that. Mr. Nolan-Finkel states that No parking signs would be on the road and they are merging the two properties to solve that problem.

The Deputy Clerk gives Mr. Nolan-Finkel a copy of the letter from Geoffrey Snyder from the Madison County Planning Department that lists some of their concerns. Due to training and illness the applicant is getting a copy of this letter now. CEO Miller will go through the specifics with Mr. Nolan-Finkel. Considering the parking and the possible waste water issues from

Madison County. This Site plan will need to have changes made; therefore, it is incomplete. The board does not have enough information to do a Site plan review.

Attorney Bell says that, in fairness to the applicant, if the board knows of any changes that need to be made other than what has been stated about the parking and loading areas as well as the County's concerns; they should be addressed now. This will give the applicant time to make those changes that are needed.

Chairman Griff asks about the county's letter, if there is anything other than the waste water. CEO Miller states that they will have to do a well water test and possibly a treatment system. They had water samples taken late last year by the state, however the County Department of Health needs to do their own testing. There is a discussion about infiltrators, CEO Miller is going to research that. County Health will need to review this, as well as any changes to the Septic variance on the 1872 property.

Chairman Griff also states that they should look at the outdoor lighting as well, there have been a few letters from neighbors about that. There is still some ambiguity about the description of proposed uses. Some other issues that need to be looked at expected volume and impact on traffic, both are county roads.

Mr. Nolan-Finkel asks about the lights. He asks about the complaint. He asks to see the pictures and states that they thought that they addressed this issue. The pictures were taken on March 11 at 3:00am according to the accompanying letter.

This issue has come up before. The applicant was asked to use downward facing shielded lights. Attorney Bell suggests that he applicant provide details about the light fixtures that they have. The Deputy Clerk will send Mr. Nolan-Finkel a copy of the letter with the photos. Volume and impact on traffic may be able addressed at the county, they may have some data already.

The site plan needs to have changes made to the parking and possible the septic. The county will have to look at it and the septic will probably need to be engineered. The Café and retail need to be looked at regarding the percentage of sales to see if Ag and Markets and if that triggers notifying other agencies through the SEQRA review process.

Resolution 2019-16: Motion to approve the minutes from January 8, 2019.

Motion: Bettyann Miller

Second: Elaine Hughes

Vote: YES - 5 NO - 0

APPROVED

Resolution 2019-17: Motion to adjourn.

Motion: Mary Galvez

Second: Mike Welshko

Vote: YES – 5 NO – 0

APPROVED

Respectfully Submitted by:
Elisa E Robertson
Deputy Clerk