

Town of Hamilton
Planning Board Meeting
Tuesday, February 9, 2021 7:00 PM
VIA: ZOOM

Present: Travis Dubois, Michael Welshko, Bettyann Miller, Elaine Hughes, Mary Galvez, Town Clerk Sue Reymers, Deputy Town Clerk Elisa Robertson, CEO Mark Miller, Alternate Kathleen Palmer

Absent:

Others: Allie Dunham, Michael Dunham, Drew Dunham, Beverlee Capetto, Nadine Bell, esq. Scott and Patricia Peters, Holly Wolanski, William Heitz, esq.,

Chairman Welshko calls the meeting to order at 7:02 pm.

OLD BUSINESS

Scott and Patricia Peters; Special Use Permit, Public Hearing, Poolville Road; Tax Map #199.-1-29

The applicants wish to build a small cottage, with running water and electric on a 9+ acre piece of land that has a slope of 15% or more. According to the Town of Hamilton Zoning Law a Special Use Permit is required. The application was sent to the county Planning Department for review and a Public Hearing was scheduled for tonight. The GML review has come back from the county. The chairman reads the review of the county referral response and asks the board if they have any questions. The land does level off a bit where the cottage is proposed. The County's main concern is the run-off from the house and the driveway onto the county road. They make recommendations about run-off during construction and plantings that may be considered after the construction is complete.

Resolution 2021-8: Motion to open the Public Hearing regarding the Peters' application for a Special Use Permit.

Motion: Mary Galvez

Second: Travis Dubois

Vote: YES – 5 NO - 0

ADOPTED

Next door neighbor Beverly Capetto has a question of the cottage is going to be a regular permanent structure. She is curious if it will be a motor home or a mobile home. "Do we even know?" she asks. Chairman Welshko explains that the board does know what kind of structure it will be and asks the Applicant to explain the application to Ms. Capetto.

Mr. Peters explains that it will be a permanent house it will be their weekend getaway where it is peaceful. They live on a very busy road now, so they are looking for quiet. Mrs. Peters explains that it is a 720 sq. ft. cottage. It will be stick built, on a slab, one bathroom, two small bedrooms, kitchen, and a small living room. It will have a front porch that will go across the front.

Ms. Capetto says thank you.

Resolution 2021-9: Motion to close Public Hearing regarding the Peters' application for a Special Use Permit.

Motion: Mary Galvez

Second: Elaine Hughes

Vote: YES – 5 NO - 0

ADOPTED

Chairman Welshko asks if there are any other questions.

Deputy Clerk Robertson puts a picture up on the screen as to what the cottage will look like for the members of the audience. As the Deputy looks for the SEQRA to put up on the screen, the chairman starts the discussion with the board, mainly about erosion and storm water run-off.

Chairman Welshko would like to add a condition to the Peters' approval that the applicant consult with the Madison County Soil and Water Conservation district and get an erosion control and run off plan. That plan can be put together now in the winter so they can start construction in the spring. The Board will not ask for the permit ahead of approval just that it be a condition of approval meaning that no building permit will be issued until the Codes Officer sees this plan. The plan may recommend certain type of plantings and seedings. The Soil and Water Department used to do these plans free of cost, the board is not sure if this is still the case. The applicants agree, Mr. Peters has experience in this area. They hope to keep as many trees as possible. It is one of the reasons that they love this particular property. The Deputy Clerk explains to them that they can get approved today, that the information from soil and water can come after the fact; before a building permit is issued.

Chairman Welshko reads through and discusses with the board SEQRA (EAF) short form parts 2 and 3. They go through and answer each of the questions.

Resolution 2021-10: Motion to review parts 2 and 3 of the SEQRA (EAF) Form; make a negative declaration, name this an unlisted action and give the secretary to the board permission to sign on behalf of the Chairman due to COVID-19.

Motion: Bettyann Miller

Second: Mary Galvez

Vote: YES – 5 NO - 0

ADOPTED

Chairman Welshko asks if there are any other questions from the board.

Resolution 2021-11: Motion to approve the Peters' application for a Special Use Permit with one condition of meeting with Madison County Water and Soil to formulate a sediment runoff plan.

Motion: Bettyann Miller

Second: Mary Galvez

Vote: YES – 5 NO - 0

ADOPTED

AMD Holdings; Special Use Permit, Preliminary Review(?), Poolville Road Tax Map # 184.-1-36,37.

Allie Dunham speaks to the application. The Applicant explains that they already have a special use permit for the Barn on their property to host weddings. She continues on to explain that one of the biggest requests they get is to hold the ceremonies outside. "Everyone wants to enjoy the outdoors a little bit for their wedding, so they are requesting, to have their ceremony outside so that's kind of the main reason why we are hoping to add that feature..."

They have included a space for a ceremony lawn to the south of the barn just past the "hops" house. Chairman Welshko states that before they proceed that he and the board have some questions about their application.

The first issue addressed is the number of Special Use permits a property can hold. Any given property can only hold one Special Use Permit because it would cause confusion as to which one to enforce. There has been some back and forth on this issue. As to whether this is a new application or an amendment.

The Town Attorney as well as the CEO and the Board have looked at all of the materials presented in this application as well as the other materials that Ms. Dunham has presented.

The application that was presented to the board in 2017 was for all three properties. The GML that pertained to that application did not include the two houses because they were being used in accordance with the town's zoning law. The GML was returned for local determination which means that there are no inter-municipal impacts. They only make recommendations for municipalities to consider. It does not signify that the two other parcels were removed from the application.

The Board and Code enforcement officer want to put the Town in a position where there is no question as to what has been approved and what the parameters of use are. It is to the benefit not only to the Town but to the applicant as well. The clearer the parameters the better for everyone. Then there will be no question as to what is approved and what is not.

To have an application, a new application that; also references a property previously applied for that the proposed use; in this case ceremonies in an open area relies on the facility relies upon parking facilities on adjacent parcels; relies upon any kind of bathroom facilities on an adjacent parcel; relies upon access and egress to an adjacent parcel. You cannot have that all segmented.

The board does not feel that they can treat this as a new application because of these factors. They ask the applicant to please reapply as an amendment for the entire operation, which would include the ceremony lawn, which would include any other activities that they have listed on here, which would include use of the parking areas that exist for the wedding barn.

Chairman Welshko states that this site has clearly grown and changed from the original application when it was approved. This use is very different use compared to the approved the wedding barn that was to have all events be held indoors. He recommends that the applicant be as specific as possible, especially concerning hours of operation and activities. The area referred to as the "warfin" (outside porch area) needs to be added to the site plan and what it will be used for.

Mr. Mike Dunham asks if this is a directive or can there be discussion. Discussion is welcomed. He continues to state that they have spent a considerable amount of time, effort, and money to make this venture go. Though it is not specifically for weddings it is their main marketing strategy. Due to COVID, many couples are seeking alternate arrangements, like outdoor ceremonies.

There is more discussion about the three parcels and the new application. These parcels are presented as being used in coordination with one another. They have all been presented as intended for being used as one particular use on one particular date.

Mr. Dunham states that they mainly want to do outdoor ceremonies, quiet, and separate from the road. They are not looking to do anything big like a festival. He has concerns that opening up an amendment will change their current conditions in a negative way. He continues on to say that they feel as if ceremonies could be included in "incidental activities".

The Town Attorney explains that she cannot offer any assurances that the terms of the original Special Use Permit will not change in any way. There is no guarantee. The applicant is proposing one use with new assets to it. The Special Use Permit that was issued specifically stated that activities were to be inside, so they are still looking for the same use but to have it outside as well. It is important to have clear language, so no one is in a position to defend themselves or be challenged.

Mr. Dunham is very concerned about being ambushed and having all the conditions from the previous permit change.

Town Attorney Nadine Bell confirms with the applicant that everyone agrees that this is all one use and that it does require a single site plan and a special permit. It is up to the applicant

whether they wish to put forward an amendment to get where they want to be. It would put them: "on solid legal ground where you don't have to worry about putting the investment into your property and investment into your business and having somebody challenge it and question it." The applicant acknowledges that they understand.

Mr. Mike Dunham remarks that they feel as if they have done everything that they said they would do and that they are trying to do good for the whole community. They do not feel as if they are disrupting anyone. He iterates that they want to get everything down and approved. There is a lot of concern, because they have a number of weddings booked, and many of them want outdoor ceremonies. To reopen and to have to go through sound studies and such again would hinder their ability to do business.

Ms. Allie Dunham is the point person who deals with the couples. She has dealt with a lot of cancellations and restrictions due to COVID regulations. It has been difficult. She is concerned that there will be great changes to the permit and that it will affect couples that are already booked. She states that it has been a tough first year of operations because of COVID and that some couples have rescheduled multiple times. There is concern over changes in contracts that are already signed.

Kathleen Palmer, the Alternate Board Member, asks if the board can just make the decision or if it must go to public hearing? Because of the change in use they will have to go through the whole process, public hearing included. When previous amendments have come before the board to make changes to their permit the public hearings have been waived. This application will be a change of use so the Board feels that is necessary to have one in this case. The previous amendments did not change the use in any way.

Mr. Heitz asks if a parcel can be removed from the previous application. Considering that all three parcels are on the site plan it is not feasible.

There is some more discussion about the three parcels and the county's review and the Health Departments review. Board member Bettyann Miller notes that the event space utilizes parking on the other parcels, so they work in conjunction with the Event Barn.

Discussion continues about striking off a parcel and applying for a separate permit, however, all of the infrastructure for that new parcel will be on the other two parcels. It does not make sense to do that because it is all essentially all one use.

Ms. Bell clarifies that they would not be having more than one "party" at a time going on. The applicants have mixed answers, Mr. Mike Dunham says that it is highly unlikely and Ms. Allie Dunham questions "Why not?". It brings up the issue as to where people that came for a sole outdoor event would use restrooms, etc.

There is discussion of a hops festival and proms and a safe alternative for formals for frats and sororities. It is agreed that these are all good ideas they just need to be on one single site plan with firm parameters, and no vague language.

Language will be very important when crafting the new or revised conditions. There is a way to help word things that are not too restrictive but are still firm enough for the town. Town Attorney, Ms. Nadine Bell offers her help the applicants attorney Mr. Heitz with some of that language. It is impossible to list all types of events that you can foresee.

Both parties discuss different types of activities that could take place on a property such as this, both reasonable and not. Because what the applicant requests not is reasonable but if not specific can lead to uses that were never intended.

It is determined that the attorneys will discuss things and hammer out some of the details for if and when they submit another application.

Mr. Dunham hopes that they have the support of the board and hopes that they are prepared to look at it objectively, because he does not know what to expect when it goes out to the public.

Town Attorney Nadine Bell proposes a meeting that would include the lawyers, applicants, Codes Enforcement, and the Chairman of the Planning Board to discuss different aspects if they wish to bring an Amendment to the Board. This work session could be beneficial for everyone.

The applicant's attorney, Mr. Heitz, asks if there is a way to clarify the terms and conditions in the special use permit; or get a decision about a proposed interpretation and be able to incorporate that into a resolution without amending the special use permit. Attorney Bell states that she does not think that there is a legal structure for what he is asking.

The attorneys agree to talk about these issues. It is important that, if and when, the permit is granted that the applicant can use their property with confidence and comfort knowing what is and is not allowed, same for the public.

Chairman Welshko sums up a possible timeline:

- The two Attorneys will meet to discuss details, language, what is acceptable and allows some flexibility.

- That information will be formed into an application for an amendment and all other materials in time for the March meeting.

- Preliminary review at the March Meeting

- If all info is acceptable possible public hearing for April and possible decision.

Attorney Heitz would like to reserve the right to speak to his clients before they commit to an application or a timeline. He would like to do some discussion and research into minutes and documents.

Chairman Welshko replies that of course they have that right he was just trying to give a rough outline of the fastest timeline possible. He strongly recommends that all the materials be complete because this will have to be sent to the County Planning Department as well for review. This application will also have to go through the SEQRA process. Considering the

application is not changing any physical structure and that the parking/ traffic will not change the environmental review should not be cumbersome. The applicant wishes to know exactly what to do if they wish to go on with this process. Attorney Bell suggests talking with the Code Officer, Chairman of the board, their attorney, and make sure that they are addressing as many concerns as possible, possibly during a work session.

The cut off date is reviewed and the next meeting date.

The Deputy Clerk took care of the signing of vouchers.

Resolution 2021-12: Motion approve the minutes from January 12, 2021.

Motion: Bettyann Miller

Second: Mary Galvez

Vote: YES – 5 NO - 0

ADOPTED

Resolution 2021-13: Motion to adjourn the meeting at 8:26.

Motion: Bettyann Miller

Second: Mary Galvez

Vote: YES – 5 NO - 0

ADOPTED

Respectfully submitted by

Elisa Robertson

Deputy Clerk