

Town of Hamilton
Planning Board Meeting
Tuesday, July 11, 2023, 7:00 PM
Hamilton Town Community Room
38 Milford Street, Hamilton

Present: Mike Welshko, Kathleen Palmer, Elaine Hughes, Bettyann Miller, Deputy Town Clerk Elisa Robertson, and Chuck Ladd, Code Enforcement Officer

Absent:

Others Present: Supervisor Eve Ann Schwartz, , Deb Hotaling, Karen Hotaling, Jody Palmer, Mike Dunham, Marianne Dunham, Drew Dunham, and Allie Dunham

7:02 pm Chairperson Mike Welshko calls the meeting to order.

Town of Hamilton; SPECIAL USE PERMIT APPLICATION, Secondary Review; Wickwire Road; Tax Map # 171.-1-8

The Board is doing a secondary review of the application for a **Special Use Permit** made by the Town of Hamilton. This application is for a public park located on Wickwire Road, Tax Map # 171.-1-8. The application consists of a driveway, parking, a boat launch, and a pavilion to be constructed.

The lot is 7.34 acres and was previously called the 9- mile swamp. The Town of Hamilton applied for and was granted a permit from the DEC, and now wishes to get a Special Use Permit from the Town Planning Board.

Town Supervisor Eve Ann Schwartz is in attendance to represent the Town. Chairman Welshko asks her to give a brief overview of what the application entails. Though the Town Board is not required to come before and get approval from the Planning Board they felt it was important to do so and get all the necessary elements that are required under our laws. The fundamental goal of the park is to continue public access to the 9 Mile swamp. To make it safe and enjoyable for everyone. When the previous owner passed away it was unsure that there would still be public access and the Town wanted to ensure that there would. There had been previous attempts to acquire this property, but they were unsuccessful.

Part of the plan is to make the park more inclusive, including a universally accessible kayak launch, as well as to make the park much safer by creating off-road parking. This has been an on-going process for a few years, there is a committee and there have been public information sessions about it. The town worked with a landscape designer (Jocelyn Gavitt) that helped them come up with a plan including an internal road to connect parking to the launch. The Town has received permits from the DEC for wetlands and stream disturbance. There have been some Native American artifacts found on the site in previous years, unfortunately the area was raided long ago; and it has been determined that there is really nothing of significance left. The Town does not have a park, only the village does.

The primary concerns from the Planning Board from the previous meeting were:

- Pavilion-The dimensions, construction, and materials of the pavilion it will be 30'X50' wood construction with a concrete pad that would extend out from the roof line, location is on the site plan. There will be electricity some posts will have outlets.
- Lighting-There will be four lights inside the Pavilion and one facing the parking, they will be on motion detectors as well as downward facing, shielded, soft yellow, LED light. Access to the lights being motion sensor or not will be restricted to the Town.
- Garbage- Carry in, carry out. The Town Highway crew will check and monitor as they do maintenance. Garbage barrels can be a double-edged sword, there is convenience but there are people and animals that will take advantage of it.
- Port-a-Potties- Will be rented and kept there during the warm season, April through November.
- Play areas- These were discussed, and the Town Board decided that they were not ready to do that yet. There is no real clear idea about what the community wants. Holding off for now.
- Signage-Location of the signage is on the site plan, wording on signs may change due to the insurance company or at the attorney's suggestion. There is a welcome sign, directional signs, no parking signs on Wickwire Road, sign of park rules, no swimming sign. There is a question of adding "no alcohol" in addition to "no tobacco". Tobacco Free is used because all town facilities are tobacco free. no trespassing and private property signs may
- Cameras- At this time that feels like overkill but if it becomes necessary it may become an option.

The Town Board and the Planning Board both feel as if they want to see what happens with usage and respond as any problems come up. This project is being funded almost entirely by a grant. There have been grants from Senator May and a Central New York Community Foundation Grant that will fund the Kayak launch and the Towns contribution will be the in-kind-labor, which will be substantial. The Highway guys are all ready to go. We are very lucky to have such an enthusiastic crew that work as hard as they do. Chairman Welshko asks the Board if they have any additional questions for the applicant.

Board member Bettyann Miller asks about the fencing between the Towns property and the neighbor's property. She is concerned with people infringing on farmland considering that the town has a "Right to Farm Law". Supervisor Schwartz asks the property owner if there has been a problem with people wandering on to their land. She responds that it has happened a few times, with kites and gliders. That is really the same as any other trespass issue. The owner can post signs on their property, but the town cannot. There have been issues with this site in the past, the concern is that it will increase because the parking is close to the boundary. An Audience member has a question about a zoning issue. She asks about an agricultural buffer in the Zoning Law:

6.2-2 Agricultural Buffers

This section shall apply to all parcels having a portion of the parcel within the Agricultural District. Wherever agricultural uses and other new uses unrelated to the agricultural operations abut, buffers shall be provided to reduce the exposure of these abutting uses to odors, noise, and other potential nuisances related to the agricultural operation. The minimum size of the buffer shall be 50 feet from all common boundary lines with agricultural use and 200 feet from all well locations on the non-agricultural land. Provision of buffers shall be the responsibility of the proponent of the non-agricultural use, unless such use predates the agricultural use. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features and should be considered and utilized by the Planning Board when lots are created or subdivided nearby agricultural properties or uses and by the lot owner for the location of a new dwelling on a lot.

There is concern that the cars parked along that boundary could be accidentally sprayed with manure, chemicals, or fertilizer. They feel it is a liability.

The constituent also refers to Zoning Law Section:

6.2-3 Agricultural Data Statement

Any application for a Special Permit, use variance, or subdivision approval requiring review and approval by the Planning Board or Zoning Board of Appeals that would occur on property within an agricultural district (designated by the County pursuant to the Agriculture and Markets Law) containing a farm operation, or on property with boundaries within five hundred feet of a farm operation located in such agricultural district, shall include an agricultural data statement as defined in Article 12. The Planning Board or Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district.

The Town did prepare an Ag Data Statement it was in the package of information given to the Board at the first meeting. Chairman Welshko was on the committee that discussed the creation of the Ag Buffer. That was created primarily for people with houses and other buildings would not be in a position to complain about agricultural operations. It was intended to protect farms. The worry is viced that if people are standing by their cars when a sprayer comes by that they may be affected. Mr. Welshko reminds them that the spraying professional is responsible for drift, and that anything that is sprayed should not drift off premises. That is why they must be certified to spray certain things and that when they do spray that they are responsible for where the drift goes. The Law is not saying that they must have a buffer, what it is saying is that the owner of the parcel that is coming into an ag district with a new use; that new use cannot infringe upon the agricultural use of the adjacent parcel. If they do, the NEW person must have the buffer. Chairman Welshko asks why the park would need to have the buffer. The answer is because it is in the code. It is explained that the buffer is used to diminish the farming processes impact on the other property.

If people have problems with manure getting on their vehicles the Town may have to address, it.

It is an issue for the Town and the Planning Board to address if it becomes an issue. Supervisor Shwartz wants to see what will happen. Chairman Welshko agrees. If cars are getting covered with manure there needs to be a conversation between the Town and the farmer, however, it is not believed that the people farming this parcel now would ever do that. This parcel has been used for water access for a long time the Chairman states that this is really being used for the same purpose but has just changed ownership. He leans towards seeing what happens. The same issues could take place if the cars continue to be parked on Wickwire Road. He asks the rest of the Board their opinion. Board member Kathleen Palmer states that she would like to see something placed as a stronger boundary, like shrubs or trees. Her concern is that children will climb on and not necessarily respect the boundary if it is just the fence. Different options are discussed, as well as the length of the fence if the upper portion of the field is used. That may be used in the future for something else but for now Supervisor shwartz believes that there is adequate parking as it. Another audience member, the adjacent property owner, states that they have huge liability issues with this. They must cover themselves legally.

Chairman Welsko asks why the liability change with the Town ownership versus what it was before? The property has been advised that the increased population on this property would change that. Some of the property that the Town now owns was leased out as farmland so the only access to “outsiders” was the river access point. What liability are they speaking of? Someone getting injured on their property, or on their farm equipment. The response is that everyone has the same risks whether they are next to a park or not. The landowner doesn’t need any other coverage than what they feel is necessary; and to post their land with No Trespassing signs. If Someone trespasses it is illegal trespass, there is nothing on the Towns site that is encouraging people to go onto the neighbor’s land. The Board still retains the rights to put conditions on this application.

The Board reviews the checklist for the sight plan. There is a question about drainage. The grading of the site and the use of permeable surfaces should take care of any drainage. There is no water provided to the site. No landscaping is proposed.

Resolution 2023- 7: Motion to accept new site plan for 9- mile Park as the Site plan checklist is completed.

Motion: Mary Galvez

Second: Pam Salmon

Vote: YES – 6 NO - 0

ADOPTED

The Board now reviews part 1 of the SEQRA short form. The part of the SEQRA that states “natural play area is removed. Please see minutes for SEQRA form. The form states that the “Brook Floater” is in the area, it is a type of freshwater mussel.

Resolution 2023- 8: Motion to accept part one of the SEQRA short form and declare the Town of Hamilton Planning Board lead agency.

Motion: Pam Salmon

Second: Mary Galvez

Vote: YES – 6 NO - 0

ADOPTED

Resolution 2023- 9: Motion to send all application materials to the Madison County Planning Department for GML 239 Review.

Motion: Bettyann Miller

Second: Elaine Hughes

Vote: YES – 6 NO - 0

ADOPTED

Resolution 2023- 10: Motion to set the Public Hearing regarding the 9 Mile Park for the next Planning Board meeting scheduled for August 8, 2023.

Motion: Mary Galvez

Second: Pam Salmon

Vote: YES – 6 NO - 0

ADOPTED

A Board member asks where the legal notices go now that there is no Mid York Weekly. All legal notices go to the Utica observer dispatch. We were using the Oneida newspaper but it no longer delivers to our area. All legal notices are posted on the Town's website as well as both indoor and outdoor bulletin boards. All property owners within 500 feet of a parcel that has an application going for public hearing will be notified by mail of said hearing.

Chairman Welshko reminds the Board to sign their vouchers.

The Board reviews the minutes from the previous meeting and Chairman Welshko asks for someone on the Board to make a motion, however there is comment from the audience. Mr. Mike Dunham has an issue with the last month's meeting minutes that he would like the Board to address. Mr Dunham would like to make a statement as it is regarding his family.

He states that he is appreciative of the Board and everything that they do. He begins by giving some family background. He states that his family's business, the Heritage Barn, hosted an event on July first called July Jam, it is to be an annual event. The event was a great success and they have received overwhelming amount of feedback on what a great event it was. This event was a collaboration with other local area business and was a community event. Mr. Welshko asks Mr. Dunham to get to the section regarding the minutes.

The Planning Board discussed this event in two prior meetings; he obtained copies of the recordings that morning. "My family, after listening to the banter and false assumptions, and

the presumptuous allegations and the general back and forth conversation; I found myself upset, appalled and frankly a little bit hurt. My family works very hard at this business, we follow the rules; and we conduct business in accordance with the conditions and the restrictions under the permit which we have the right to conduct". He requests that the Board members go and listen to these minutes for themselves. Comments were made as to how to prevent the event, concerns were raised about people parking on the street and, "once the drinking starts, I guarantee, the calls will start coming in." "Based on what they are advertising they are already in violation."

"I will not get into the specific defamatory comments that were made against myself and members of my family." Many prominent people from the community attended this event. There have been no complaints or violations regarding this event. They followed all requirements and conditions to a T. There were many other events at venues in the area. However, they were all in the Village. They feel as if they were being singled out. "Why are we being arbitrarily being treated so differently? Why didn't we get the answer I heard tonight, let's see what happens? Let's take a wait and see approach."

He is very upset about the way the board mischaracterized him, his family, their business reputation on a public record which the entire community may access. As a taxpayer he wants the board to be fair and consistent across the board. He is proud of what they have accomplished at the Dunham homestead. They are proud of this community and to be a contributing factor in its economic growth. He was upset by many comments.

Chairman Welshko apologizes for statements that misconstrued what they were doing, but the Board had concerns in advance of the advertised festival. It was brought to the Boards attention through different sources. The Board is glad there were no problems. The Town was trying to be proactive by contacting them previous to the event. The Board wanted to be prepared that if there were complaints that the Codes Officer could state that they had followed all the conditions of their permit. There have been no complaints since the second permit was issued. The Dunham's concern is that they were being prejudged.

The second permit, when the outdoor uses were permitted with conditions, festivals were discussed at that time. The board was assured (not in the conditions, because festival is not a legal term) that there would be no festivals. The Board was grappling with how to handle this event and help them comply with the conditions of the permit. There was nothing in the advertising that stated that it would be indoors. The advertising was vague. No one was out to get them; the Board was trying to be proactive if there were complaints. The Board wanted to be prepared to say that they were within the parameters of their permit.

Supervisor Schwartz speaks up and tells the Dunhams that she asked the CEO to go see them, to meet them, and to keep the lines of communication open. Communication is key. The CEO had a good meeting with Allie and Drew Dunham and was reassured that the conditions would be met.

There is some discussion as to what the event was called. Chairman Welshko stated that it would have been better if Allie had contacted the CEO and told him about the event ahead of time, because it is different than what was discussed with the Board, just to make sure all the ducks were in a row. The Board made assumptions but had limited information. Ms. Allie Dunham states that she had no problem with the Board discussing the event and their concerns. Her

concern is that the Board went into too much depth about the possibilities before even speaking with them. She would have been happy to explain everything. The Family listened to a long conversation about something that wasn't going to happen. But she feels that the Board all assumed it would. Her concern is that she felt disrespected and wasn't there to speak for herself. She would like for the board in the future not to make assumptions about their business and how they act to talk to them first. They did not come to the Board because they did not think that there were any issues; they planned to remain in the parameters of their permit. Chairman Welshko reminds Allie Dunham that they were assured that there would be no outdoor festivals or concerts at a previous meeting. From outside appearances this looked as if it were being held outside. Some people who planned to attend were surprised when they found out that it was indoors.

Board member Galvez reminds the Dunham family that there is also a new Codes Officer that was unfamiliar with their event space and its conditions.

Mr. Dunham wishes to have one sentence removed from the minutes and the Board agrees. There is discussion about the success of the barn and the positive impact that it has on our community. Supervisor Shwartz states that she hopes that this can serve as a clearing of the air, and open communication.

Resolution 2023- 11: Motion to Approve the Planning Board Minutes from June 13, 2023 as amended on July 11,2023.

Motion: Bettyann Miller

Second: Elaine Hughes

Vote: YES – 6 NO - 0

ADOPTED

Resolution 2023- 12: Motion to adjourn at 8:34 PM:

Motion: Mary Galvez

Second: Bettyann Miller

Vote: YES – 6 NO - 0

ADOPTED

Next meeting: August 8, 2023

Materials cut off: July 27, 2023

Respectfully submitted by
Elisa Robertson
Deputy Clerk