

**Town of Hamilton Planning Board Meeting**

Monday, October 19, 2015 at 7:00 pm

Held at Poolville Community Center, 7484 Willey Rd, Poolville, NY

**Board Members Present:** Mary Galvez-Chair, Elaine Hughes, Darrell Griff, Bill Nolan, Bettyann Miller

**Also in Attendance:** Town Attorney Steve Jones, Town Clerk Sue Reymers, Deputy Clerk Michelle Myrto, Code Enforcement Officer Don Forth

**Others in Attendance:** Edward Vantine, Gwen Benedict, Kevin Benedict, Braden Houston, Russell Lura, Sally Lura, Eleanor Weyter, Kirsten Weyter, Cindy Martin, Daniel Martin, Carolyn Todd, Bill Todd, Suzanne Collins, Peter Darby, Emily Oren, Or Oren, Fred Dunlap, Marilyn Dunlap, Don Martin, Barbara Bowen, John Bowen, Bob Salmon, Pam Salmon, Joyce Nevison, Tony Aveni, Lorraine Aveni, Chris Rossi, Dave Holcomb, Eve Ann Shwartz

Meeting called to order by Mary Galvez, Chair at 7:08 pm.

**Approval of Minutes****Resolution 2015-12: Approval of September 30, 2015 Minutes**

On a motion of Board Member Darrell Griff, seconded by Board Member Bill Nolan, following resolution was: ADOPTED: Ayes 5 Nays 0

Resolved that the Minutes from September 30, 2015 be approved.

**Robert Salmon, 1746 Noble Rd, Hubbardsville, NY; Tax Map #170.-1-30.112, Pre-Application-Review for Seasonal Rental of Historic Barn for Special Occasions**

Robert Salmon: I have a big barn and needed some repairs. I want to save the barn. We have done extensive amount of work and to finish off, we would need to put another \$150k. We are looking to recoup some of the money back and not lose another one of these types of barns. It is 5,000 sq ft, 42 ft high and is an old hops barn. We are looking for seasonal use of the barn such as weddings, graduations and communions. Our primary goal is to recapture some of the money. We are doing basic repairs roof, floor, and no additions. We are not building anything or taking anything down.

Board Member Darrell Griff asked if this was a special use permit. Mary Galvez, Chair spoke that it is a zoning permit, but a pre-application. Codes Officer Don Forth says it is a pre-application. Wanted to bring it to the Board to see what their thoughts were on this. I have been out to the site. It sits on 15 acres and is on a dead end road because the

bridge is no longer there. He has talked to the neighbor and they are ok with him holding events on the property. Mr. Salmon has to figure out how big of an area in the barn he would like to fix up to hold the events. There are some minor upgrades and some building codes that would be part of this. He is talking about not having any cooking facility there. There would be catering. I would just be renting the barn.

Board Member Darrell Griff asked about the upgrades to the septic. Robert Salmon says he has talked about it and there are several options. There can be trailers for that, containment tank, or put in a septic. We just want to head in the right direction. Board Member Darrell Griff questioned the parking and how that would work. Would this be a blank permit for this or would this be a permit for each event? This would be a nonconforming use because this agricultural-residential zone. This would be commercial.

Codes Officer Don Forth says he has plenty of space on his property. Right in the back of the barn and side of the barn. He has talked to his neighbor, so that is not an issue. Parking would not be an issue. He will put in a parking lot if that is what is needed. This would require a special use permit. We could go to Madison County Planning Board, but first they need to cap how big they want to be 50, 75, 100 people this will hold. This can be put in the special use permit Chair Mary Galvez would like to know what the County has to say about septic and water.

Board Member Darrell Griff says all the rentals would have to be in the special use permit. Code Officer Don Forth says when Robert Salmon and I were talking it seems like it is on good months a couple weekends. It is seasonal. Board Member Darrell Griff asked if there would be heating anything thing of that nature. Robert Salmon say no there will not be. The road is a dead end. It ends at the railroad tracks and we have one neighbor. Mary Galvez: I understand that it is once in awhile thing, but it can't be made a condition. The possibility is there to be more.

Don Forth wanted Robert Salmon to come in and talk to you about this. Attorney Steve Jones asked Don Forth under which class on the table did he put it under. What we are talking about is a special use permit. Code Officer Don Forth asked if there was anything else besides the application and site plan. The Sangerfield River would not be an issue. He is elevated above the river. Robert Salmon says the barn is about 200 ft from the Noble property. The work maybe will start this winter. We are a third of a mile from the Poolville Road. Our house to Green Road is about three quarters of a mile.

There is nothing between. From our house to Larkin Road is about a mile and there is one house between that. The other side is Route 12. The property is 15 acres but with road in middle is 14.16 acres.

It was determined by the board that Robert Salmon should fill out the Special Use Permit application. He should also go to Madison County to ask about the sanitation and check with them about any requirements. He should also figure out how many people the space should accommodate. This is to rent a space and everything is coming in. Code Officer Don Forth said that he did tell Mr. Salmon that there might be a condition to have an engineer come in. To make sure the structure is sound.

**COR Company (WG Critical Care), 2192 Spring St, Hamilton; Tax Map# 154.-1-8.1**  
**Decision on Special Use Permit Application**

Mary Galvez, Chair opened the second part of the meeting at 7:24 pm.

The public hearing was at the last meeting on September 30<sup>th</sup> and this meeting is for the Board to further discuss and possibly vote on the application for WG Critical Care, 2192 Spring Street for an expansion of the business.

**Resolution 2015-13: To Open the Meeting**

On a motion of Board Member Bill Nolan, seconded by Board Member Elaine Hughes, following that the meeting be opened.

Chair Mary Galvez stated that this is not a public hearing, which was last meeting where we took everyone's comments. We invited people to send letters and emails which have been done. This meeting is just for the Board to discuss the application.

Town Clerk Sue Reymers wanted to let everyone know that the Town Office gave the Board a packet of letters and list of all the letters. We also received a petition with 40 signatures.

Board Member Bill Nolan feels that there are too many issues that are nonconforming. Some of the letters we received had nothing to do with it, but some were informative. This is not the way to go.

Board Member Darrell Griff says he has been out to the property a few times. I contacted people who drive tractor trailer had them come out and look at, so I could have their input. There seems to be a long list of nonconforming points to the entire

project. The list is too long to overcome for them to move forward to allow the expansion.

Board Member Elaine Hughes asked if there were any changes they could make. The driveway is the biggest problem. Maybe some of it should be considered. Maybe relocate and get some benefit from the Town with helping them relocate. Some of that needs to be addressed.

Board Member Darrell Griff we understand that they are tied to that building because of the process that they are using by FDA rule. Mr. Durante said they are at about 4 million units and when Mr. Curtis ran it was 8 million units. They are about half the production the plant was. That was done without a warehouse and without the truck issue. They have time to go back and address some issues the residents have and what we have told them and come back with a different plan or look at a different alternative. We are not inhibiting their growth. We are not inhibiting their ability to do business by denying the permit.

Board Member Bettyann Miller says that COR needs to look at this a little more in depth. The idea of getting the trucks off Spring Street was a good idea, but putting them on Payne Street is not ideal. I am not comfortable with the parking area. Is there really the space for it or the clearance? I wish they had more plans to pick from.

Chair Mary Galvez said she read through all the emails, letters and listened to the public comment. I agree that it is a safety issue, ascetic issue. The biggest issue is that it is an expansion of a nonconforming use. I worry about the precedent that it will set and if we allow it in this situation, what about the next situation. Going back to the business side when they bought the property they knew they were buying a business in a residential zoned area and still did. They put all the money into the building knowing full well that it was in a residential area. We have a responsibility to listen to the public. All of it has been against the expansion.

Attorney Steve Jones said the Board should not vote either way until they make findings. We will use the Criteria to look at the findings. The first two were pointed out by Madison County Planning Department. The first is Section 3.4 Changes and additions (D). There should be no increase in the amount of storm water runoff for the site over what existed as of the date of the enactment of this Zoning Law. What we see

is there maybe some minimal increase. The Board all agree that any increase in storm water runoff is a problem.

**The Board agrees that this is a concern: Ayes: 5 Nays: 0.**

**The Board feels that there is going to be an issue because there is no place for it to sink into the ground, the trees will be gone, they will take the grass away.**

Attorney Steve Jones-this would be our first finding that it does not comply with Section 3.4 D because there is a possibility of increase of storm water runoff. Number two is Section 3.4 Changes and additions (E). In no case will a change, addition or extension of a nonconforming use be allowed which would result in a traffic increase which would decrease the level of service for the highway, the diversion of traffic closer to a nearby residence or a substantial modification of any of the parking and unloading requirements of this Zoning Law. Don Forth pointed something out on page 15 Section 5.1-2 Parking Location, Layout and Landscaping (C). Non-residential parking shall not be located within applicable side, rear and front yard setbacks and in no case less than 10 feet from lot lines. The plan we saw shows it going right up to the lot line. Chair Mary Galvez asked if that was additional parking or is that current parking. Code Officer Don Forth says the current parking is up to the lot line and they want to increase the parking. Board Member Darrell Griff says the existing parking would be exempt, but the additional was still going on the lot line. The site plan was shown to the Board to look at the parking lot.

**The Board does not see an issue with parking: Ayes: 5 Nays: 0.**

Attorney Steve Jones-Code Officer Don Forth brought up Section 5.1-3 Requirements B Loading Area. The minimum size loading space shall be 60 feet in depth and 12 feet width with an overhead clearance of 14 feet. Code Officer Don Forth says the site plan only shows it being 57 feet. The Board was shown the site plan to check the measurements of the loading dock. The depth is 57 ft and the width is 15, which includes the stairs. There is no overhead issue. The current plan does not meet code.

**The Board agrees that this is a concern: Ayes: 5 Nays: 0. The Board agrees that the current depth is too short by our law.**

Attorney Steve Jones-Go back to page 9 Section 3.4 E. In no case will a change, addition or extension of a nonconforming use be allowed which would result in a traffic increase

which would decrease the level of service for the highway, the diversion of traffic closer to a nearby residence or a substantial modification of any of the parking and unloading requirements of this Zoning Law. Are there any other traffic issues that are important? Madison County says in terms of the proposal to add another driveway, they question “whether the site plan can be reconfigured to accommodate the applicant’s needs without adding another egress/ingress on the property. Three egress/ingress points already exist on the property and adding a fourth seems excessive. The applicant states that “locating the loading dock area at the northeast of the addition will alleviate tractor trailers from blocking Spring Street.” We would defer to the Town, but it appears that Payne Street would have the higher traffic volume of the two roads as well as a steeper grade. In our opinion, other configurations that utilize the existing southernmost driveway should be fully exhausted before an additional drive is considered. The impact of an additional driveway on neighboring residential homes of which the area is zoned is also important. “ The County says this would divert the plan traffic closer to a residence which violates Section 3.4E. Chair Mary Galvez says she received a call from Bert Glazier the Highway Superintendent. He felt it could put undue stress on the highway department to maintain that road in the winter. Attorney Steve Jones asked how the Board felt in general about adding another driveway on Payne Street.

**The Board agrees that this is a concern: Ayes: 5 Nays: 0.**

**The Board was opposed to adding another driveway on Payne Street.**

Board Member Darrell Griff said what they really didn’t address with the proposed driveway on Payne Street was the 10 ft section COR was paving on the shoulder of the road. Does that become the Towns property and would the Town have to maintain it and what are the liability issues? With all the paving they were going to do they don’t have a lot of places for snow. What accommodations would they do for snow removal if we moved ahead. Attorney Steve Jones asked if everyone shared the same concern.

**The Board agrees that this is a concern: Ayes: 5 Nays: 0.**

**The Board all agreed that they had the same concerns about snow removal.**

Attorney Steve Jones-page 58 Section 8.3-8 Criteria A. Compatibility

Chair Mary Galvez says it is not compatible because it is in a residential zone and does not fit in to the surrounding area.

Board Member Bill Nolan agrees.

Board Member Elaine Hughes agrees. No matter what they do it will not be compatible.

Attorney Steve Jones- This is broader now. What we talked about before was more specifics of how they could change their plan and come back. Do you want to go beyond that and look at the broader picture of compatibility?

Chair Mary Galvez the fact it is nonconforming use that almost anything they do I'm not sure I can approve. Any type of a warehouse, expansion, and any change of what is currently there I don't think I could approve it because of the compatibility.

Board Member Elaine Hughes I don't think you can disallow the business it has to be there, but it's not compatible.

**The Board agrees that this is a concern: Ayes: 5 Nays: 0.**

**The Board agrees that the expansion is not compatible with the neighborhood.**

Attorney Steve Jones-They made this application in good faith even if some don't agree. There is a process and they followed the process. We made them do a number of things to get to this point. Page 58 Section 8.3-8 Criteria B Vehicular Access. Do you want to say that the vehicular access is not met?

**The Board agrees that this is a concern: Ayes: 5 Nays: 0.**

**The Board agrees that the vehicular access has not been met.**

Attorney Steve Jones- Page 58 Section 8.3-8 Criteria C Circulation and Parking.

**The Board agrees that this is a concern: Ayes: 5 Nays: 0.**

**The Board agrees that the Circulation and Parking has not been met.**

Attorney Steve Jones- Page 58 Section 8.3-8 Criteria D Landscaping and Screening

**The Board agrees that this is not a concern: Ayes: 5 Nays: 0.**

**They said they would do whatever the Board asked them to do.**

Attorney Steve Jones- Page 58 Section 8.3-8 Criteria E Natural Features

**The Board agrees that this is not a concern: Ayes: 5 Nays: 0.**

**Resolution 2015-14: Filing of Findings and Decision on the WG Critical Care Application**

On a motion of Board Member Darrell Griff, seconded by Board Member Bettyann Miller, the following was: ADOPTED: Ayes: 5 Nays: 0

Resolved that the findings as listed above be adopted and incorporated into the application, and denial of the special use permit application by WG Critical Care.

Chair Mary Galvez announced the application has been denied.

Attorney Steve Jones says if they want to appeal it would be to the Madison County Supreme Court. An article 78 proceeding, which is a special proceeding that challenges what government, has done. They would challenge on the basis of whether our action was arbitrary. We did our findings and we did a very careful analysis. If a judge looks at this, we hope he sees what the Board took into account what the public said and what the applicant said, based on this law.

Chair Mary Galvez said in our findings we made it clear we would not grant any permit for expansion.

A motion for adjournment was made by Elaine Hughes and seconded by Darrell Griff. Meeting adjourned at 7:51 pm.

Respectfully Submitted by  
Michelle Myrto  
Town Deputy Clerk