

**Town of Hamilton Zoning Board of Appeals Meeting  
Public Hearing**

Tuesday, July 19, 2016 at 7:00 pm  
Poolville Community Center, 7484 Willey Road, Earlville, NY

**Present:** Harmon Hoff, Harvey Kliman, Jeff Schindler, Erwin Lamb, Lydia Slater, Town Clerk Sue Reymers, Deputy Clerk Elisa Robertson, CEO Don Forth, Town Attorney Steve Jones

**Audience:** Jerrine Smith, Mary Todd, Darrell Griff, Elaine Hughes, Robert J. Smith, Darryl Simcoe, Patty Aldaco, Christie Ko, Travis and Beth DuBois, Joyce and Dana Wratten, Mike and Bev Cappeto, Barry Campbell, Roger Foster, Charles Wilburn

Meeting called to order 7:03

Chairman Mr. Harmon Hoff announces that this is a Zoning Board of Appeals meeting and lists the items on the agenda.

**Resolution 2016-1: Approval of Minutes from Zoning Board of Appeals Meeting dated September 23, 2015.**

Motion: Harvey Kliman

Second: Jeff Schindler

Vote: Aye – 5 Nay – 0

ADOPTED

Chairman Hoff explains Public Hearing procedures to the audience.

**Penny Strong-Collins, 1233 Earlville Road, Poolville, NY; Tax Map #199.12-1-4 Variance for a Subdivision**

This issue has been before the Planning Board for months.

Chairman Hoff explains the circumstances surrounding the application for a variance. The parcel has already been subdivided because they were allowed to subdivide it according to the rule for a two lot subdivision waiver law of the time. That law has since been changed but that does not apply here for these proceedings. The parcel was subdivided in 2014.

Board member Mr. Jeff Schindler: Why wasn't a variance asked for then? They did not need a special use permit then, but the lots still needed to be conforming.

Chairman Hoff: There was nothing that brought them before the Codes Officer or the Planning Board so there were no red flags.

Board member Mr. Harvey Kliman: Just to clarify, at that time the Town Law did not require a two lot subdivision to go before the Planning Board, so that subdivision could be accomplished

and recorded without anyone in town government being aware of it or have any say unless it was brought before it.

Speaker: One point, for clarification, it was subdivided once, was that a legal subdivision then you are saying, or was it that it was done and recorded but wasn't legal because it was in opposition to some existing law.

Chairman Hoff: This Board can only say it needed a variance. I can't say whether it is legal or not just whether it needed a variance.

There is discussion among board members about the size of the lot. The original lot was already "grandfathered" in, because it was small (.76 acres). It was then divided into two smaller lots making them both extremely substandard lots. The lot with house on it is about .36 acres. The well is located in the front of the house. No one is sure where the septic is. It is believed to be in the back, it is unknown precisely where. Ms. Strong-Collins is not present at the public hearing.

Mr. Roger Foster: The septic is not on the land that they purchased from her. When asked how he knows, he states that it is too far away.

Board member Schindler: It is likely that it wouldn't be that far away but he has seen some very odd things. The conclusion is that here is no real way to determine exactly where the septic is located.

Board member Kliman: This is a particularly difficult situation, under the Zoning Law a person cannot create a hardship; in other words a violation of the requirements, then come to the Zoning Board and ask for that to hardship to be allowed as a variance. The owner of the land did do the subdivision and now is coming before the board, asking the Zoning Board to say that that was ok.

Official recording of the deed by Madison County is dated, 12-22-2014.

Board member Schindler: She knew about the two lot subdivision waiver, but not about the minimum lot size?

Chairman Hoff: That is what is stated in the minutes, that this was before the Town changed the law to make it so that all subdivisions go before the Planning Board. This has been discussed at the Planning Board Meetings since December 2015.

Board member Mr. Erwin Lamb: What is to be accomplished by the Zoning Board of Appeals voting on a variance on a deed that has already been recorded?

The answer is unknown, it may be up to the Town Board and the recommendation of the Town Attorney.

Chairman Hoff: It is still this board's job to comment on this variance based on the standards for granting an area variance because the Planning Board has asked us to, there has been no building permit that has been denied, the Planning Board has asked to determine if an area variance should be granted and so we should make a decision based on the standards for granting them, and what the Planning Board does with that information and the Town Board does with that information is the next step.

Town Attorney Steve Jones: The applicant did understand that there was a two lot subdivision waiver, but didn't realize that a variance may be necessary. She sold the property and did not have an attorney. The owners of the Poolville Country Store bought the property from her. Their lawyer read it that there was a two lot subdivision waiver, but then it left the problem of two substandard lots. The one substandard lot, which the gentlemen purchased, can be merged with their own lots and therefore become compliant. That leaves Penny Strong-Collins with a substandard lot, that is not marketable, she may not be able to sell it. He reads a passage from the Madison County Planning Department Report, (please see GML recommendation dated January 22, 2016, page 2).

*"The fact that this two lot subdivision is creating two substandard lots means that even if the town has no oversight through the subdivision law, they still have oversight through the Zoning Board of Appeals. If any lot fails to meet the dimensional requirements in the Zoning Regulation the applicant must seek an area variance from the ZBA. In this case, these lots do not meet the minimum lot size required for the Hamlet, (Poolville) district as described in the Towns land use law 4.1-3 and thus at a minimum require an area variance for lot size from the ZBA moreover, 4.1-3 requires a minimum of 100 feet road frontage, at present the larger parcel (the back Parcel) at 0.142 acres is actually land locked..."*

They go on to say that that can be taken care of by merger with the other parcels. What Ms. Strong-Collins is asking this board to do is to grant her the variance so that her property, though it does not meet the dimensional requirements of the Zoning Law, is granted a variance and then becomes....

Board member Schindler points out the last line of the paragraph which states, "Ultimately, this subdivision isn't official until it is approved by the ZBA."

Attorney Jones: That is the opinion of the County Planning Department, and that is a good point, because while the deed was recorded, the County Tax Mapping Department has not

redrawn the tax map to show the subdivision, they are waiting on word from the Town about that.

Board member Lamb expresses dismay with how this has progressed this far with two substandard lots and that it has been recorded.

Board member Kliman: Who initiated the land purchase?

Mr. Roger Foster: They initiated it because it was not being taken care of or used.

Board member Kliman: They should bear some responsibility for the legality of this. Now there is a very strong burden placed on Ms. Strong-Collins and the Board.

Mr. Foster explains that they had an attorney.

Chairman Hoff: Regardless how it happened, this is where we are and the board will have to make a decision about this at some point. He then reiterates what Attorney Jones stated earlier that this subdivision isn't final until it is approved by the ZBA.

Board member Lamb: If the ZBA says no, can the sale be reversed or turned down?

Attorney Jones: As a legal matter the deed has been recorded, the money has changed hands, though he has not researched what happens if the Board says no. He believes that they will be left in legal limbo with two substandard lots. One of which can become a standard lot by being merged, but it is not an approved subdivision. It leaves both parties in limbo.

This puts a shadow over Ms. Strong-Collins property if and when she wants to sell.

Chairman Hoff reviews the standards for granting a variance for the public's benefit. He references the Town of Hamilton Zoning Law book (please refer to page 69 section 10.1-3, Area Variances, subsection B 1-5). He reads each individual section and the Board discusses each as follows:

(1) It creates a very substantially not conforming lot. A previous case before the board is referenced where the board granted a subdivision with a lot that was .9 acres instead a full acre; but this lot is less than half an acre (.33 acres). This board has never allowed a lot this small. This changes the character of the neighborhood, because it sets a precedent for small, non conforming lots.

(2) Was there another way to solve this problem?

Chairman Hoff: Why did they want to purchase that property?

Mr. Foster: They want to build a wedding venue.

Mr. Schindler: The use of the land does not have any bearing on the size of the lot and that this is an area variance not a use variance.

Resident Darryl Simcoe: The project being proposed on that lot will change the character of the neighborhood and that it may create dangerous conditions for people in the community.

The board discusses that the only issue in front of them at this time is the size of the lots. Asking for a variance is the only thing she can do, because the lot has already been sold. Other solutions are proposed. Examples are that, she buy the land back, or sell the rest of her property. They may not be desirable solutions, but they are solutions.

(3) The requested area variance is substantial. This Board has never had a variance of this quantity or quality. This is significant to this board; if they grant a lot of this size today, they are setting a precedent for small lots. There are reasons for lots sizes, like proximity of wells to septic, and setbacks, etc.

(4) If you are creating a substandard lot with no house or building on it there is no impact.

(5) Mr. Schindler asks Town Attorney Jones: "If by doing something not knowing you did it, not knowing that you were creating your own hardship, is that still a hardship?"

Attorney Jones: "Yes, ignorance of the law is no excuse."

The intended use of the lot has no bearing on whether the circumstance is self created or not. Someone wanted to buy, someone else said yes, neither party needed to participate in the transaction. Self created hardship is relevant to the board but would not necessarily preclude the granting of a variance. The board waits for public questions or commentary

A resident inquires about the minimum lot size and if it is related to wells and septic? Yes, the state has requirements for the distances between wells and septic system and also perc tests for water. Minimum requirements must be met. These change depending on whether or not a property is on public water or sewer as well.

One of the reasons for a minimum lots size is for a replacement septic system because other septic options are excessively expensive.

Chairman Hoff: Are there any more comments or questions from either the Board or the public.

**Resolution 2016-2: Close Public Hearing regarding Variance Application for Penny Strong Collins, 1233 Earlville Road, Poolville, NY; Tax Map #199.12-1-4.**

Motion: Jeff Schindler

Second: Harvey Kliman

Vote: Aye - 5           Nay – 0

ADOPTED

**Resolution 2016-3: Deny Variance for Penny Strong-Collins, 1233 Earlville Road, Poolville, NY;  
Tax Map #199.12-1-4**

Motion: Jeff Schindler

Second: Erwin Lamb

Vote: Aye – 5                      Nay – 0

ADOPTED

Findings of fact:

(1) This lot is far from being a minimal variance in lot area. It is less than one half of the minimum lot size and will set a precedent for small lots. This would be an undesirable change in the community by creating small lots.

(3) This is a substantial variance.

(4) This would have an adverse effect in the area, by creating lots that are insufficient for water and sewage.

(5) This difficulty was self created. This took place less than two years ago and all the subdivision laws were in effect at that time. There was nothing forcing the sale of this rear property. Ms. Strong-Collins is going to continue to live in this house, she sold the back, and the need for a variance is self created.

Town Attorney Steve Jones would like to review the SEQRA form for Ms. Strong-Collins property. He refers to the Town of Hamilton Zoning Laws, Page 71, Section 10.2 Procedure for Appeals:

*J. Compliance with State Environmental Quality Review Act: The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act. The following actions of the Zoning Board of Appeals do not require review under the State Environmental Quality Review Act: Granting of individual setback and lot line variances; granting of an area variance(s) for a single-family and a two-family dwelling; and appeals involving only interpretations of the Zoning Law and not variances other than those area variances previously mentioned.*

It appears that they do not have to strictly comply with SEQRA because this is a question about a variance on a single family dwelling. The Board reviews the SEQRA form from their packet of materials. There are some inconsistencies on the SEQRA, specifically the questions asked in number 5 which should be answered no but are answered yes. There is also some interest with question number 6 which references whether, “the proposed action is consistent with the predominant character of the existing landscape”, she answered no. The Board feels that no other action needs to be taken on part one of the SEQRA form.

**Resolution 2016-4: The Town of Hamilton Zoning Board of Appeals is the lead agency for the purposes for any SEQRA review on the variance request by Penny Strong-Collins, and the following changes to numbers 1,2, and 3 from no to moderate to large on part 2 of the SEQRA form.**

The chairman will sign these changes.

- 1. There would be a moderate to large impact
- 2. There will be a change in the intensity of the use of the land.
- 3. Moderate, because of the precedent that it will set

Motion: Jeff Schindler

Second: Harvey Kliman

Vote: Aye - 5                      Nay – 0

ADOPTED

**Resolution 2016-5: Deny Variance for Penny Strong-Collins, 1233 Earlville Road, Poolville, NY; Tax Map #199.12-1-4**

Motion: Jeff Schindler

Second: Erwin Lamb

Roll call vote:

Harmon Hoff: Aye

Jeff Schindler: Aye

Lydia Slater: Aye

Erwin Lamb: Aye

Harvey Kliman: Aye

ADOPTED

Findings of fact:

(1) This lot is far from being a minimal variance in lot area. It is less than one half of the minimum lot size and will set a precedent for small lots. This would be an undesirable change by creating small lots.

(3) This is a substantial variance.

(4) This would have an adverse effect in the area, by creating lots that are insufficient for water and sewage.

(5) This difficulty was self created. This took place less than two years ago and all the subdivision laws were in effect at that time. There was nothing forcing the sale of this rear property. Ms. Strong-Collins is going to continue to live in this house, she sold the back, and the need for a variance is self created.

**2-6 East Main Partnership, Roger Foster and Charles Wilburn: 1245 Earlville Road, Poolville, NY; Tax Map # 199.12-1-12, Variance for Parking**

**Resolution 2016-6: Open Public Hearing regarding Variance Application for the 2-6 East Main Partnership, 1245 Earlville Road, Poolville, NY; Tax Map #199.12-1-12.**

Lydia Slater is recusing herself from both the discussion and the voting due to a number of factors.

Motion: Harvey Kliman

Second: Jeff Schindler

Vote: Aye – 4                      Nay – 0

ADOPTED

Chairman Hoff gives a brief summary of the application. Their Special Use Permit Application is not complete at this time, but if the application is approved they will need to have off site parking.

Applicant Mr. Wilburn: There is room on the lot for onsite parking but it would require a 275 foot long by 14 foot high by 3 foot thick retaining wall with an approximate cost of \$100,000 worth of concrete. It can be done but it would not be very attractive. They are here asking for a variance for the parking to be off site more than 300 feet.

Chairman Hoff: Explain how the parking would work if the Special Use Permit for the Wedding Venue is approved.

Mr. Wilburn: Guests would arrive at the parking lot and then be shuttled to the wedding venue. They will more than likely be driving slower than the cars that already travel through Poolville each day because they will be looking for the venue and the parking. They plan to install light poles with timers so that they will not be on during the week when they are not in use. The lights will be downward facing. There will be a parking lot attendant and a small portable tent with seating for inclement weather and they will purchase 3 limousines to shuttle guests to and from the venue travelling at less than 30 miles per hour. The venue will be open 12 months of the year; it will have in ground heat and a 12 foot fireplace.

Chairman Hoff: How will guests know where to park?

Mr. Wilburn: There will be a sign or someone outside the venue to direct them. There is a semicircular drive way with three handicap spaces right in front of the facility, and 14 off street parking spaces for staff. People will be telling their guests to go right to the parking area or an attendant will. They may need to try different types of signage and attendants to see what works best.

There are no current parking regulations in the Hamlet of Poolville at this time. Currently, guests of the restaurant or of the farmer's market park along the side of the road.

Mr. Wilburn: Guests will be required to park there to keep the parking off the street.

Resident Barry Campbell: He recently attended an event with a similar shuttle service and found it to be successful and agrees that the speed would be more reasonable than the current traffic going through the Hamlet. He does not worry about people parking on his lawn.

Resident Mr. Darryl Simcoe: What number of cars can be expected, because based on the occupancy of a building of that size (220-320 people)...

Mr. Wilburn: They will have a maximum of 200 people.

Mr. Simcoe: He observed the church; during services, there were 11 cars parked on the roads nearby. Some in the street others on the side of the road, and that was only 11 cars. He is worried that if they fill the venue as often as possible to capacity that it would drastically change the number of vehicles. Two hundred people would be a lot more people and a lot more cars. He voices more concerns about the disruption that the shuttle service will create in the quiet hamlet as well as safety concerns for people walking. "People will walk and there are no sidewalks, so people will walk in the road and potentially get hit, they will park in the street, you know they will."

Chairman Hoff interrupts to explain that the board wanted the partners to give some background and have the board ask questions first, and then give the public a chance to speak. He then asks if the Board has any questions to ask.

Board member Schindler: How many events are they planning to have each week? How many each month?



Mr. Wilburn: The numbers that they have come up with to make a \$750,000 mortgage is seven events per year. "Our intention is to do two a month, with the possibility, whenever we can, once in a while there would be a back to back, once in a while there wouldn't be one for a month; January, February. The optimal number is 24 a year." They don't want to create a huge venue like Turning Stone or the War Memorial. They are seeking some supplemental income.

Chairman Hoff asks if the board has any more questions before the public speaks. Each speaker will have 3 minutes.

Resident Mr. Neill Joy (see letter): Introduces a few issues surrounding safety such as uneven surfaces, poor lighting, distance from the venue, to name a few. If there is an injury, is there a likelihood that the town itself could be sued? He doesn't want the town to be involved in litigation.

Town Attorney Steve Jones explains that the town would not be liable for any injuries sustained on the property.

Mr. Simcoe: The Zoning Law is written the way it is for a reason, that the town doesn't want parking lots for major events like that to be that far away from the venue. He feels that even though it would be expensive, they could put the parking on their own property and not need a variance. The assurances given by the applicants at this meeting are not binding in anyway and that unless there are conditions put on the approval, there is no guarantee the number of events per year.

Chairman Hoff: Would the character of the community change differently/significantly depending on the number of events held each year? Also, the 300 foot variance, how does that change the character of the community? What do we expect the applicant to ensure?

Mr. Simcoe: There would now be a major venue with 200 people a night and the traffic associated with that, transporting people to and from the site, the walking and travelling back and forth. Septic and water usage are also a concern, everyone in Poolville uses a well. He is concerned about a potential threat to the water table. There may be a significant change to the usage of water due to all the things associated with a large event center.

Board member Schindler: The County regulates the septic so that would be addressed at that level. The county will be responsible to ensure that the septic system is sufficient for their venue. The county will have to approve the design for the septic system, if it is insufficient they will deny it and it will have to be redesigned.

Chairman Hoff: That question is not for this board. This board is well aware that this is part of a larger project, a Special Use Permit, and that some of these issues will overlap and some won't, but that the public can voice them and the board will determine how they impact character and the other standards.

Board member Schindler: The ZBA is just looking at the variance of having a parking lot, instead of right next to you or within 300 feet, 1800 feet outside of the 300 foot limit.

Resident Ms. Beth DuBois, owner of potential parking lot: They heard that Roger and Charles were having problems with parking on site. They have a lot that they do not use, and in thinking about the character of downtown Poolville, her original thought was to keep parking out of the center of Poolville. She references the Winter Farmers Market at the Community Center and felt it would keep the town looking as it always has, so you may not even know that it is a parking lot, just keeping it the open spot that it already is maybe adding some lights if they are required. She was not aware of the 300 foot issue.

Resident Mr. Travis DuBois: They feel it would lessen some of the congestion and visibility problems at the corners. The applicants are hard working and keep a tidy establishment, rather than trying to kill the project. They have been looking for ways to help them. Part of the character of the Community is helping out neighbors, and this is their way of doing that.

Board member Schindler: Is there a way to move those (construction vehicles) off to the side to create an area that would be designated parking for the venue? Mr. DuBois answers by giving a brief history of the property and that when they acquired it there were some 30 vehicles on the property they spent years getting rid of the vehicles.

Mr. DuBois: There is only one left and the gentleman that owns it is working on coming and getting it. He will be helping, by taking down an old shed and grading the property and planting it back to green. This is good incentive to clean up even more. It is more difficult than walking on pavement, but not much, and that no one wants to see more pavement.

Chairman Hoff asks CEO Forth about a building standard for parking lots.

CEO Forth: In our Zoning Law, if there are five or more spots, they have to have landscaping. This will have to come before the Planning Board and they will have input as to what kind of lighting, surface and...there are some standards that the Planning Board does have the latitude to require. Again the County Planning Department has said that this should all be considered one project for things like storm water run-off. With this amount of parking they will have to have a site plan that comes before the Planning Board. If this is approved it would not be two separate things but one project.

Board member Lamb questions the ownership or contractual right to the land he cites the term "continuous use".

Town Attorney Steve Jones: The lease of 5 years could be sufficient because the Planning Board can issue a Special use Permit for a limited period of time (such as 5 years), the Planning Board could follow up and make sure that they still have permitted use.

Mr. Lamb asks what happens if it is no longer available after 5 years?

Town Attorney Steve Jones states that the Planning Board can change the terms of the Special Permit and require that the parking be somewhere else or other changes in the venue.

A change could bring them back before the ZBA, because if this gets granted, it is only granted for this property. It can be granted as a variance for parking for the Poolville Country Store's wedding venue only, and nothing else. The issue before the board is the distance of the parking for this venue, not a variance for any parking. The ZBA has the right to impose some

requirements but the Planning Board, with its Special Permit, will set the requirements for what is needed for the parking area as well as for the whole rest of the proposal.

Resident Ms. Mary Todd: The buildings that she has seen similar to the proposed project are beautiful. The Town need not worry. It can only add to the loveliness (of Poolville).

Town Attorney Steve Jones interrupts and draws the boards attention to page 70 of the Zoning Law where it says "Imposition of Conditions": Section 10.1-3

*D. Imposition of Conditions: The Zoning Board of Appeals shall, in granting area variances, impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this law, and shall be imposed for the purpose of minimizing any adverse impact the variance may have on the neighborhood or community.*

He summarizes to say that not only the Planning Board can impose conditions on approval but the ZBA can do so as well.

Mr. Barry Campbell: If there are 200 guest that that will be anywhere from 50 – 100 cars likely not 200. He hopes that the venue does more than 7 events a year; he wishes for them to be successful. As for safety, there are sidewalks; though they may not meet code. Sidewalks can be built. It is his understanding that the guests will be shuttled, if they want to walk they can, his neighbors walk all the time and they have survived. The everyday traffic is a little crazy and that any additional traffic will not make any difference. He agrees with Ms. DuBois that a parking lot on their property would change the character of the neighborhood. He has designed parking lots in the past and knows that a new parking lot would require a lot of regulation.

Board member Lamb: During inclement weather people will not go to the parking lot but that they will fill up the public streets (with cars). If they can find closer spots they will, because it will be a shorter walk because it is a public street. Unless the Town puts up signs saying no parking whatsoever they are not going to utilize a parking lot that is over 1/3 of a mile away.

Resident Mr. Michael Capetto: Five years ago their child got married at the Poolville Country Store in a tent, they used a shuttle to bring people from the Colgate Inn and feel that an organized plan for parking is vastly superior than if they just let cars park wherever they want. They support an organized, approved, plan for parking.

Mr. Campbell: People will take advantage of the shelter and shuttle during bad weather.

Mr. Schindler asks Mr. Campbell for a ballpark estimate of how many cars could be parked at the DuBois lot, since he has designed parking lots in the past. His ballpark estimate is dozens. CEO Forth gives the audience the regulations for the parking according to the Zoning Law. Mr. Schindler wants to make sure that the parking would be adequate so they are not having this hearing for nothing.

Board member Kliman: What is the area of the lot, which is roughly 4 acres.

Mr. DuBois: Easily, two acres of it is gravel. After some calculations, roughly 300 cars could park there providing ample space for the estimated number of cars predicted.

Board member Kliman: The issue before this board is really the parking, anything dealing with the wedding venue is the purvue of the Planning Board and their Special Permit requirements. He feels there have been some good arguments for approval. He gives some examples.

Chairman Hoff: Would it improve the character of the community if there were sidewalks? Could putting in sidewalks be one of the things that this board could include as a condition, we would need to ask our attorney? How would the community feel?

Mr. Simcoe: What happens in 5 years if the parking lot is no longer available and that here is no room for parking on site what will happen then?

Board member Schindler: They would have to revisit the Special Use Permit because they no longer have that parking, which is part of the Special Use Permit, if this board grants the variance.

Chairman Hoff: The criteria for granting a variance are the same, but if the circumstances change in the future, there are different legal questions, but they are looking at the "character of the community" questions and "substantial variance" questions.

Resident Beverly Capetto: Sidewalks are a different issue than the parking lot, if they are discussed at a later time great, but not as part of this project.

Mr. Simcoe: Disagrees because it is a safety issue, all the additional traffic and no sidewalks, someone is going to get hit. He feels that a parking lot on the site may not be as aesthetically pleasing but it will be much safer. The applicants have said that it is possible, though very costly.

Resident and Planning Board Chairman Mr. Darrell Griff asks about making the sidewalk a conditional part of granting the variance.

Mr. Griff: How would that work with liability, private property, plowing. How is the ZBA going to address these issues?

Chairman Hoff was just asking the question about sidewalks. It is unsure as to whether they are in the county right away, or if they are owned by the homeowner, or something else.

Board member Lamb: Normally, the individual is required to put those in.

CEO Forth asks the board to refer to the County's Planning Board recommendation report, dated May 5, 2016 page 2:

*"Moreover, Section 9.4 C 1 states "roads driveways, sidewalks, off-street parking, and load space shall be safe and shall encourage pedestrian movement." While the applicant proposes valet parking to and from this remote parking area to the event venue it is inevitable that some people will end up walking. There are remains of a sidewalk along a portion of the way (on the west side of Wiley Road) but it is in extreme disrepair if virtually non-existent in some spots. At a certain point even this derelict sidewalk ends and would mean walking the rest of the way to the parking area along the side of the road. As the hours of operation are proposed until 10 pm there is especially a concern about people walking in the dark back to their car.*

*Thus even if this proposed parking lot were able to get around the 300 foot requirement, we believe ensuring a safe pedestrian pathway would also need to be incorporated into this proposal. It isn't unreasonable for the Town to require and/or work with the applicant to provide a path (not necessarily a sidewalk) as was done with the Good Nature project in the Village of Hamilton. We aren't sure of the history of the existing sidewalk and why it wasn't maintained, but we believe a safe pathway is needed if the parking situation is left as proposal."*

Chairman Hoff: Reads from the Madison County Planning Departments GML report which was prepared by Mr. Scott Ingmire the Director of the Department.

CEO Forth: The case of Good Nature Brewery may not be a great example because Colgate University has given them an easement to put a walkway in.

Ms. Beverly Capetto: Route 12B and the roads in the Hamlet are very different types of roads.

Mr. Campbell: Even if all the issues of putting the parking onsite could be mitigated, he still feels that would cause more danger and risk at the four corners with no light. He thinks the offsite parking is a safer choice.

The Planning Board has requested from the County that a traffic study be done considering that their application is still incomplete, to gain more information. There will be some results reported at the August 2 Planning Board Meeting. The Chairman reminds the Board that they can suspend the public hearing until they have more information.

Board member Lamb: If safety is what is of most concern, the first concern, you are proposing that people walk in the dark, a third of a mile.

Chairman Hoff: Safety is their first criteria, and they aren't proposing walking, they are proposing driving them.

Board member Lamb: There is talk about sidewalks and lighting on street.

Chairman Hoff: The applicants are proposing shuttling them for safety reasons.

Mr. Simcoe feels that the board is not taking safety issues as seriously as it should. "If this is going to be an alcohol serving venue, a banquet or party hall, people are going to imbibe and then walk to their car along that road, someone is going to get killed."

Clerk Reymers notes that there are street lights along the streets of Poolville.

Mr. Schindler and Mr. Hoff discuss the matter that the Planning Board can require these things in the granting of the Special Permit; or the ZBA can reserve their decision on the variance until there is more information and that these things can be addressed. The members of the ZBA can attend the next planning Board meeting and present their concerns so that the Planning board is aware of any reservations they may have.

Attorney Steve Jones: They can also ask for additional information from the county if they want to, whatever assistance they need to help them make a decision.

**Resolution 2016- 7 : Suspend the Public Hearing regarding Variance Application for the 2-6 East Main Partnership, 1245 Earlville Road, Poolville, NY; Tax Map #199.12-1-12.**

Motion: Jeff Schindler

Second: Harvey Kliman

Vote: Aye – 4            Nay - 0

ADOPTED

Board moves into discussion.

Board member Schindler rides his bicycle through Poolville and does see residents walking in the street, but he has not observed the fast driving. He and Mr. Hoff agree that no matter the rules, whether there are sidewalks are not, people will do what they want. People do not always follow the rules and that is how accidents happen. The example is given is the streets of the Village of Hamilton any night that Colgate is in session.

Board member Kliman: What is the capacity of the 3 limos?

Mr. Wilburn: 8-10 people at a time, for 150 people it is estimated that it would take 30 minutes total time to transport them. Of course not everyone will be there at the same time and some people will inevitably walk.

Board member Kliman: Most of these issues will be handled by the Planning Board before the application is approved.

Board member Schindler: This is a pretty substantial variance for 1812 feet.

Board member Kliman: After 300 feet does it really matter?

Board member Schindler: 310 feet maybe easier than 1800 feet.

Board member Kliman: They are dealing with a specific issue, specific site, in a rural area, it is sufficient for this purpose. He believes that the Planning Board should require some lighting.

The Board establishes that it is not going to change the already established purpose of this space. You can only protect the public so much. People will still do their own thing and make bad decisions sometimes. There is some discussion as to whether or not they should hold off on the vote, would it change anything, to wait until after the next Planning Board Meeting? The general consensus is no, it will not make a difference. This Board is just looking at the distance from the venue, the rest is a business issue, if the Dubois' decide to change the use of that property in the future they will have to make other arrangements.

CEO Forth: Is this is a use variance or an area variance? Because there is nothing in our codes that allows a stand alone parking lot use as referenced in the Madison County GML report (Dated May 5, 2016 page 3). Use stays with the property. It is not on the Hamilton Use Table, there is no site plan showing lighting, flow, size, and landscaping. CEO Forth asks that the use be tied to the project, in other words, that is only a parking lot for use with the proposed wedding venue. It has been used as a parking lot for a long time, it is just that no one named it as such.

Mr. Simcoe: If it is not stated in the Zoning Law that there is no provision for a parking lot. Does the Zoning Board have the authority to declare a new category?

The application states that it is an area variance for parking. A majority of the Board feels that tying the area variance and its use to the project of the wedding venue is a good idea.

Mr. DuBois shows some concern that he allows people to park there for the farmers market, but it is determined that he is not being compensated for it.

Town Attorney Steve Jones consults the definition of the parking lot. A commercial parking lot that charges a fee, is not allowed.

There is some discussion about the use of this plot historically, as well as uses of other pieces of property that may be being use in a way other than their intended purpose.

**Resolution 2016- 8 : Reopen the Public Hearing regarding Variance Application for the 2-6 East Main Partnership, 1245 Earlville Road, Poolville, NY; Tax Map #199.12-1-12.**

Motion: Jeff Schindler

Second: Erwin Lamb

Vote: Aye: 4 Nay: 0

ADOPTED

**Resolution 2016- 9 : To grant the Variance to the 300 foot remote parking limit to allow parking at 7542 Willey Road, as strictly related to any Special Use Permit that may be granted on the Wedding Venue Application Permit of the 2-6 East Main Partnership**

Boardmember Lamb calls for a roll call vote

Motion: Harvey Kliman

Second: Jeff Schindler

With the following findings of fact (refer to Page 69 Section 10.1-3 B):

- (1) No, there will be no adverse effect on the surrounding community. It would be more detrimental if parking were to be downtown. This lot is already being used as a parking lot.
- (2) It is feasible, but it is very expensive and it would create other environmental conditions that would have a negative impact.
- (3) It is substantial, but that is relative to the community. It is substantial from the standard.
- (4) There will be virtually no change other than a few extra cars driving on the road.
- (5) It is self created, by choice. It has pluses and minuses associated with it. Pluses are that it will help control congestion in the Hamlet, and the on street parking. The applicants feel that this is the best solution to help preserve the character of the community.

There is no current SEQRA for this specific property. Since the Planning Board can put contingencies on the rest of the application and this is now part of that project. What is before this Board is the distance, and that is not going to change. Anything dealing with a site plan or lighting will be reviewed by the Planning Board.

Town Attorney Steve Jones: Does the Board wish to do their own SEQRA review on this application or list the Town of Hamilton as the lead agency on this project?

The Zoning Law is reviewed (page 72), this application does not fit into any of the exemptions of Section 10.2-J.

Chairman Hoff: They have never had to do a SEQRA before the one earlier in the meeting. He inquires if it must be done; and is told that there is not an application at this time.

Planning Board Chairman Darrell Griff asks from the audience: "If you require a SEQRA on this parking lot project does that then make it a separate project from the 2-6 East Main Street? If it is not ancillary, does it make it a separate project?"

Town Attorney Jones thinks that they can still require a SEQRA application and make the findings just based on the variance request, and it would not make it a separate project.

Mr. Griff : "If you require a separate SEQRA on the parking lot how will that affect the acreage disturbance changes on the application and how it is applied? Or should this project be considered all as one as I believe the county suggested that this parking lot and the wedding venue all be considered as one project."

Attorney Jones: Correct, the county said that if this parking is going to be part of the project, it should be considered part of the project for the purposes of area disturbances and SPEDES Permits.

CEO Forth: It needs its own separate site plan, they could require a separate SEQRA, a SPEDES report because it is a separate piece of property but the Planning Board will look at it as one big project.

Chairman Hoff: Will the Planning Board do a SEQRA if this variance is granted?

Attorney Jones: They will have to do one.

Chairman Hoff: If they are going to do it anyway, if this Board did one it would be redundant.

Board member Kliman: It makes more sense for the Planning Board to do it.

The ZBA needs to make a resolution to that fact that they are giving SEQRA control to the Planning Board. Mr. Schindler agrees.

Mr. Simcoe: "Doesn't that present information to the board that is pertinent to your decision about this variance and shouldn't you have that information before you make a decision?"

Board member Schindler: Collecting that additional information is not necessary because if they do not make the necessary changes to pass the SEQRA or they will not get the Special Use Permit. If they don't get the Special Use Permit then that is no longer a parking lot for the venue. This Board will rely on the Planning Board to do their job. So, if the Planning Board says no to the Special Use Permit then this variance would be void as well.

**Resolution 2016-10 : The Zoning Board of Appeals not perform their own SEQRA review and that the Town of Hamilton Planning Board be the lead agency**

Motion: Jeff Schindler

Second: Erwin Lamb

Vote: Aye – 4            Nay – 0

ADOPTED



**Roll Call vote on Resolution 2016-9:**

Vote: Harmon Hoff – Aye  
Jeff Schindler – Aye  
Erwin Lamb – Opposed  
Harvey Kliman – Aye  
Lydia Slater – recused

ADOPTED

The variance is granted.

**Resolution 2016-11: Adjourn the Zoning Board of Appeals Meeting**

Motion: Jeff Schindler

Second: Harvey Kliman

Vote: Aye – 5          Nay – 0

ADOPTED

Chairman of the Planning Board, Darrell Griff, brings it to the attention of the ZBA and the rest of the panel that they never closed the public hearing the second time. If they do not close the hearing, any votes that have taken place will not be official. There is some discussion with the Town Attorney about how to record the minutes with things being out of order. He suggests that the Board reconvene and readdress each of the resolutions.

Chairman Harmon Hoff calls the meeting of the Zoning Board of Appeals back to order about the area variance for the Poolville Country Store. The purpose of this meeting is to make sure that we have all of the resolutions in the correct order.

**Resolution 2016-12: Motion to reconvene the Zoning Board of Appeals**

Motion: Harmon Hoff

Second: Jeff Schindler

Vote: Aye – 5          Nay – 0

ADOPTED

**Resolution 2016-13: Close the Public Hearing regarding Variance Application for the 2-6 East Main Partnership, 1245 Earlville Road, Poolville, NY; Tax Map #199.12-1-12.**

Motion: Jeff Schindler

Second: Erwin Lamb

Vote: Aye – 4          Nay- 0

Lydia Slater recused

ADOPTED

**Resolution 2016- 14: To grant the Variance to the 300 foot remote parking limit to allow parking at 7542 Willey Road, as strictly related to any Special Use Permit that may be granted on the Wedding Venue Application Permit of the 2-6 East Main Partnership**

Motion: Harvey Kliman

Second: Jeff Schindler

**Resolution 2016-15 : The Zoning Board of Appeals not perform their own SEQRA review and that the Town of Hamilton Planning Board be the lead agency**

Motion: Jeff Schindler

Second: Harvey Kliman

Vote: Aye – 4        Nay – 0

Lydia Slater recused.

ADOPTED

**Motion: To Include all of the findings of fact as set forth in the record relating to Resolution 2016-9**

Motion: Harvey Kliman

Second: Jeff Schindler

Vote: Aye – 4        Nay – 0

Lydia Slater recused.

ADOPTED

**Final Role Call Vote on Resolution 2016-14:**

Harmon Hoff - Yes                      Jeff Schindler – Yes

Harvey Kliman – Yes                      Erwin Lamb – No

Lydia Slater recused

ADOPTED

**Resolution 2016-16 : Adjourn meeting of the Town of Hamilton Zoning Board of Appeals**

Motion:

Second:

Vote: Aye - 5        Nay – 0

ADOPTED

Respectfully submitted by Elisa E. Robertson  
Deputy Clerk , Town of Hamilton