

## MINUTES OF JULY 25, 2023

A meeting of the Zoning Board of Appeals was held on June 25, 2023. The meeting was called to order by Chairman Fred Howard at 7:00 PM.

### **PRESENT WERE:**

Fred Howard, Chairman  
Member Randy Hall  
Member Colton Hill  
Member Doug Jensen  
Member Dave Schmidt  
Secretary, Colleen Thomas

### **MINUTES**

Member Randy Hall made the motion to adopt the minutes of June 20, 2023 with Member Doug Hansen seconding the motion. A vote was taken. The motion was carried unanimously by the Board.

### **AGENDA**

Member Colton Hill made the motion to adopt the agenda of July 25, 2023 with Member Randy Hall seconding the motion. A vote was taken. The motion was carried unanimously by the Board.

### **OLD BUSINESS**

1. Application by Thomas Hanson for a Special Use Permit to be allowed to establish a Mobile Home Park at 10-58 Lakeside Way, in the Highway Commercial Zone in the vicinity of 2780 NY 67. In keeping with the requirements of LL#4-2017 such usage requires a Special Use Permit issued by the Zoning Board of Appeals. Such usage is also subject to the applicable requirements found in Town of Pittstown ZONING SCHEDULE AND LAND USE REGULATION adopted March 11, 2019. Mr. Hanson had a court stenographer record the proceedings in the Hanson application. The Town hired Henry LaBarba, consulting engineer, H.V. LaBarba & Associates to review the project. Henry LaBarba issued a letter dated July 20, 2023 containing their comments on the project based on submissions by the applicant's engineer (see attached). Chairman Fred Howard requested Henry LaBarba go through the letter that he submitted to address the findings and get answers to the questions that they had. It was stated that there was no SWPP approval. Mr. Hanson stated that the mobile home park is an existing mobile home park but has been vacant for a least 3-4 years, since he owned it. Water system has been upgraded to meet the health department standards. Health department stated that the septic did not need to be updated. Mr. Hanson's attorney stated that his client has preliminary approval from the County and SWPP approval from the state. Mr. Hanson received conditional approval at last month's Zoning Board meeting.

### **Tom Hanson - continued**

They provided everything that was required according to the timeline. They are not sure why they are here when they provided everything that was required. Attorney's expectations tonight were that this was going to be a public hearing. He received a call from Tom Hanson informing him that there was no public hearing tonight. How can the Zoning Board Chairman not have a public hearing when the Board voted as a whole to approve the public hearing would be held tonight? How can the Zoning Board Chairman make that decision on his own? The resolution stated that if the applicant provided what was needed the Chairman could schedule the public hearing. Chairman Howard questioned how they were going to handle the garbage pickup. Tom Hanson responded that at the last meeting Chairman Howard stated that the town provides garbage pickup. Mr. Hanson's attorney stated that Chairman Howard decided alone, without having a meeting with the Zoning Board members not to have the public hearing. He questioned what Members were contacted about not having a public hearing. They were also informed that Chairman Howard told the County Engineer to deny their application. They questioned if it was appropriate for Chairman Howard to be sitting here. Chairman Howard responded that he told the County Engineer that the application was not complete. Attorney responded that he finds it grounds that Chairman Howard not be involved in this project. They would like him to recuse himself from this project. They stated that they could have the County Engineer attend the meeting to confirm that Chairman Howard asked to have this project denied. Chairman Howard responded he does not recall that conversation. He stated that he questioned the test plans. Attorney questioned if he normally gets involved in other projects. Member Colton Hill stated that the applicants were making this sound like a trial. No one is on trial here. The Town attorney needs to be contacted on a technical level. Hank LaBarba stated that Chairman Howard asked him to review the project. He never asked him to deny the project. Chairman Howard is not like that. He was never influenced on where the project should go. Mr. Hanson questioned if they could just move on with the project. Member Colton questioned if they could just do a motion to continue to review the project with Mr. LaBarba's findings. Mr. Hanson and the Board agreed to have the meeting proceed with Henry LaBarba presenting his letter submitted by email to Chairman Howard. Chairman Howard stated that he gave the Board a copy of the rules and regulations that the applicant submitted. He wasn't sure how they felt about it. Attorney stated that he had a concern with Chairman Howard making a copy of a section and distributing it to the Board members. He questioned if he normally does that. Chairman Howard responded no. Discussion on the operation plan. Applicant stated that the reason we gave you a copy of the lease is to show what is required of the tenants. Member Hanson stated that see the heading operational manual on document provided. Chairman Howard responded yes that was exactly what he was saying. Chairman Howard questioned if they could pull out pieces from lease to what the Zoning Board requires for the operational plan. Applicant responded no they both have to match. Member Hill questioned if they would reference the document as an addendum then the Zoning Board would have recourse. Mr. Hanson responded that he thought that was a great idea.

### **Tom Hanson - continued**

Can they make this a condition as an addendum to reference and if they don't follow they are in violation? Mr. Hanson and his attorney both agreed to that. Joe Hanson, the applicant's son, manages Diamond Wood and on the tax bill it does show how much garbage removal would cost per site. Mr. Hanson stated that they would have a document on garbage removal at end of driveway with no dumpsters.

Discussion on the Supplemental Narrative that was submitted (see attached). Chairman Howard stated that the Supplemental Narrative would need to be modified. The number of units needed to be modified to 9 units. Chairman Howard made reference to Mr. Better developing a file for possible future litigation. Tom Hanson responded that their objective was to get their special use permit and that if one was granted that there would be no litigation. Tom Hanson questioned if the Board would like him to change a couple of things in the Supplemental Narrative document and resubmit it. Once the special use permit is granted the supplemental narrative is no longer needed. Tom Hanson questioned why the Board was asking him to put special provisions on the use of the water surrounding the mobile home park when they don't own it. Chairman Howard apologized he misunderstood and thought they had said at the previous meeting that they were not going to allow their tenants to access the water. Chairman Howard agrees with Tom Hanson no provisions. Mr. Hanson's attorney would like to get the public hearing scheduled. Chairman Howard responded that there were still some outstanding things. Member Hill questioned if the public hearing could be scheduled with a brief presentation from Hank Labarba. Comments and responses could be addressed and if everything was sufficient they could proceed. If not keep the public hearing open. Applicant questioned if the Board was sending application to the County Planning Board. Chairman Howard responded yes. Chairman Howard questioned if the Board was going to receive a revised set of plans. Applicant responded yes, their engineer would provide. Chairman Howard stated that the landscaping of what is being disturbed would need to be shown. Matt responded that would be under the grading section. James Rath, from the public, disagreed with Tom Hanson about not putting trees in. He said it helped with the landscaping and trees help the environment and health of people. Tom Hanson responded that if tenants didn't take care of the trees and that were overgrown they would have to have them taken down. That would be a cost to them. Leaving the greenery that is there was the best thing to do. Chairman Howard stated that he does not feel comfortable saying the application is complete. The Board was questioned if they did. Member Hill stated that he was uncertain what a complete application is and that the Board needed clear direction. Board Members did not say they thought the application was complete. No motion was made. Chairman Howard made the motion to declare the Zoning Board as the lead agency on this project with Member Randy Hall seconding the motion. A vote was taken. The motion was carried unanimously by the Board. Henry LaBarba questioned if a coordinated review needed to be done on this project. He knew that it was not a Type 1 wasn't sure about a coordinated review. Applicant's attorney responded no. SEQR determination and the public hearing need to be done on this project. Applicant asked his engineer to have all the updates completed in a week and provide paper copies as needed.

### **Tom Hanson - continued**

The applicant needs to have what was discussed tonight including discussion of Henry LaBarba's findings and what is required to have a complete application submitted before a public hearing could be scheduled. Applicant's attorney reiterated again that he believes Chairman Howard should recuse himself from this project because he changed his mind from last month. Member Jensen stated that he takes offense on what you are accusing Chairman Howard of. The Board needs to consult with the Town Attorney about you requesting Chairman Howard to recuse himself. All of the questions from the document that Henry LaBarba were answered and emailed today at 2:00 PM (see attached). Chairman Howard and Henry LaBarba did not see the email before coming tonight.

### **NEW BUSINESS**

1. Application by Renee Buckley, residing at 228 Requate Road, Tax Parcel ID# 23.-3-3.2 in the Highway Commercial Zone to construct a small addition to her existing home to allow her to operate a single station hair salon. The lot is 2.86 acres in area and subject to an existing SUP that allows the maintenance of two (2) horses. A Special Use Permit to allow this "personal service shop" is required under the provisions of the Town of Pittstown ZONING SCHEDULE AND LAND USE REGULATION adopted March 11, 2019. Project was presented to the Board. A site plan view was not provided. The building inspector will require sealed plans before you can construct the shop.

The applicant was represented by her husband, Doug Senecal an experienced construction professional. He stated that once approved he would have blueprints prepared. The Board has a detailed description of the project but not a plan of the project. Salon will be attached to the garage. Chairman Howard stated that they need something for the public to look at. Member Hill asked if they had a survey of their property. The applicant responded yes. Chairman Howard stated that conditional approval would be very appropriate on this project. Chairman Howard told the applicant to talk to the building inspector. A plan view of the site must be provided to show where the garage extension will be constructed. On the plan view, show how parking spaces will be set up. Provide a floor plan with dimensions of the proposed salon set up including the restroom layout and location. Consult with the building inspector as to what plans he will require before issuing a building permit. Approval of sanitary sewage facilities is required from the Rensselaer County Health Department. An engineer's opinion or design may be required by the RCHD. The Board will consider classifying this as a Type II action for SEQRA purposes.

2. Application by Rose Marie and Carl Kalbfliesh for a Special Use Permit to be allowed to maintain 4 pet goats on their residential premises located at 2988 State Route 7, Pittstown, NY, TPID#54.-5-16.2, in the Highway/Commercial Zone.

**Rose Marie and Carl Kalbfliesh - continued**

Maintaining farm animals on a property less than 10 acres in area requires a Special Use Permit under the provisions of the Town of Pittstown ZONING SCHEDULE AND LAND USE REGULATION adopted March 11, 2019.

Rose Marie and Carl presented the project to the Board. The fence will be 4ft high and electric. Barnyard will be an enclosed area where they goats will be more contained and closer to the house. They spoke with their neighbors and they are all good. SEQRA determination that this is a Type II action, in accord with Board practice. 617.5(c)(18) “reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is permitted use under the applicable zoning law or ordinance, including permitted by special-use-permit, and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part.” Chairman Howard made the motion to approve a determination that this is a Type II action with Member Randy Hall seconding the motion. A vote was taken. The motion was carried unanimously by the Board.

Member Hill made the motion that the application is complete and to schedule a Public Hearing on this matter for August 22, 2023 at 7:00 PM with Member Randy Hall seconding the motion. A vote was taken. The motion was carried unanimously by the Board. Applicant was informed that the public hearing notice would be published. They would have the cost of the public hearing, which they would need to pay, at the next meeting.

3. Application by Capital Streets for a Special Use Permit to be allowed conduct a “Gravel Pit” bicycle ride event on September 10, 2023, proposed to start and end at Otter Creek Farm LLC, TPID#43.-2-12.1, on the North side of Otter Creek Road in the vicinity of 189 Otter Creek Road. This event requires a Special Use Permit under the provisions of the Town of Pittstown ZONING SCHEDULE AND LAND USE REGULATION adopted March 11, 2019.

Camping is proposed with up to 80 participants on Site 1:00 PM pm 9/9/23 thru 11:00 AM on 9/11/23. This use as a campground comes from other NYSDOH guidance that allows one gathering, less than 60 hours in duration, annually without Health Department oversight. The Town has not issued a Special Use Permit for camping.

Capital Streets has chosen to avoid having to obtain a Mass Gatherings SUP by limiting the number of persons on site for this event to fewer than 250. It is anticipated that there will be 24 support personal, vendors, etc. that are part of this event, and therefore participant registration shall be limited to 226. James Rath presented the project to the Board. People will park at Wiley Farm and then transition to roadway. There will be a couple of food vendors and Browns beer. Member Randy Hall stated that the top priority should be the safety of the riders especially at the intersections. James stated that once he receives his permit he would discuss with Supervisor Matt Curley.

### **Capital Streets - continued**

The event will have signage and there will be 3 different routes. James Rath said they have general liability insurance and the participants sign a waiver. James said he would check with the Supervisor Matt Curley regarding the insurance needs. Determination that this is a Type II action, in accord with Board practice and 617.5(c)(21) "minor temporary uses of land having negligible or no permanent impact on the environment." Chairman Howard made a motion to approve a determination that this is a Type II action with Member Randy Hall seconding the motion. A vote was taken. The motion was carried. Chairman Howard made the motion that the Board finds the application to be complete and to schedule a public hearing on this matter for August 22, 2023 at 7:00 pm with Member Hill seconding the motion. A vote was taken. The motion was carried. The applicant was informed that the public hearing would run and the applicant was responsible for the cost. They would have the cost of the ad at the next meeting for the applicant to pay.

### **LATE FILE**

1. 511 Cushman Road Off Road dirt bike racing event. Application by Paul Goyette, of Mx New England, for a Mass Gathering Special Use Permit under the provisions of LL#3 2020. The event is proposed to take place Sunday, September 17, 2023, at 511 Cushman Road, TPID#52.-2-10.22, in the Agricultural/Residential Zone. Such usage is also subject to the applicable requirements and procedures found in Town of Pittstown ZONING SCHEDULE AND LAND USE REGULATION adopted March 11, 2019.

Paul Goyette presented the project to the Board. Parking is available on 30 acres. Everyone will not be there at the same time. The schedule will be 8-4. The crew will there 8-5 for picking up everything. They will go by whatever timeline the Town wants. Their last event was over by 4. They want to make sure they are doing it right. Last year Paul was told by the former owner he had received a permit, when actually he hadn't. Had over 600 people. There will be a food truck for breakfast and lunch. Everyone leaves at the end. Their plan is to enforce no parking on the road. They will do their best to enforce that. Sometimes people stop to watch. Determination that this is a Type II action, in accord with Board practice and 617.5(c)(21) "minor temporary uses of land having negligible or no permanent impact on the environment." Chairman Howard made the motion to approve a determination that this is a Type II action with Member Randy Hall seconding the motion. A vote was taken. The motion was carried. Member Hill made the motion that the board finds the application to be substantially complete and call for scheduling a Public Hearing on this matter for August 22, 2023 at 7:00 PM with Member Hill seconding the motion. A vote was taken. The motion was carried unanimously by the Board. Applicants were informed that the public hearing legal ad would run and that they were responsible for the cost. They would know the cost at the next meeting.

**NEXT MEETING**

The next regular meeting will be held Tuesday, August 22, 2023 at 7:00 PM.

**ADJOURNMENT**

Member Randy Hall made the motion to adjourn with Chairman Fred Howard seconding the motion. A vote was taken. The motion was carried.

Respectfully Submitted By:

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Colleen Thomas  
Zoning Board Secretary

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Dated

Attachments