

PLANNING BOARD
MONDAY, FEBRUARY 8, 2016
7:00 P.M. - TOWN HALL - 1529 NYS RTE 12
BINGHAMTON - NEW YORK - 13901

PRESENT: Cynthia Paddick - Chairwoman
Messer: Donnelly, Blythe, Carl and Worden

ALSO, PRESENT: Alex Urda P.E. - Town Engineer
James DiMascio - Town Board Member

ABSENT: Michael Boland – Planning Board Alternate
Scott Russell - Assessor Aide

The meeting convened at 7:00 p.m., at which time Mrs. Paddick called the meeting to order and welcomed the audience. Mrs. Paddick read a statement which explained the Planning Board Mission, along with the Board's duties, functions and limitations. The first order of business is the approval of the minutes from the Regular Planning Board meeting on January 11, 2016.

A motion was made by Mr. Donnelly, seconded by Mr. Blythe, to approve the minutes from the January 11, 2016 regular Planning Board meeting.

Roll Call: Ayes – 5 Nays – 0 Absent – 1 (Boland)

NEW BUSINESS

- **ROBINSON DESIGN COMPANY**- Tonya Robinson – 368 Kattelville Rd- TM#078.15-2-29-
Application for site plan review.

Mr. Urda read the applicants request to reoccupy an existing building and expand their sign business on 368 Kattelville Road located in the Neighborhood Commercial Zone. The parking is adequate for the use. The pavement and lighting will remain unchanged. We should ask the applicant if landscaping will be provided. Any sign will require a sign permit prior to any sign being erected and a fire inspection prior to opening. Any interior changes may require a building permit. This can be coordinated with Code/ Ordinance Office for compliance review. The applicant shall assure they provide and maintain ADA accessible parking spaces and signage in accordance with IIC/ANSI, A117.1, 2009 (or latest revision) y assure This is a Type II action under SEQR and is subject to 239 Review with Broome County. This parcel is located within an Aquifer Protection Zone III "Watershed Area" the site currently complies and will continue to do so. Approval is recommended contingent upon the applicant response to the few items noted. Broome County stated any work within the state right-of-way will require an approved Highway Work Permit before beginning any work. Also nothing can be placed within the states right-of-way, which includes signs, parking etc.

Mr. DiMascio read the Ordinance Office recommendation in Scott Russell's absence. The Ordinance Office recommended the approval of Robinson Design Company and requests a fire inspection prior to opening for business.

Applicant was present to answer questions from the Board.

Mrs. Paddick asked typically how many customers do you expect daily and will the blocked off entrance on Rte 12 remain closed.

Ms. Robinson stated no more than 3 to 5 people daily. There is an entrance on Kattelville Road and on Rte 12 with a center lane. The dead end road access will remain blocked off.

There being no further discussion or questions for the applicant a motion was made by Mr. Donnelly, seconded by Mr. Carl for Robinson Design Company site plan approval this commercial occupancy with a fire inspection being required prior to opening.

Roll Call: Ayes - 5 Nays- 0 Absent - 1 (Boland)

ADVISORY OPINION/REFERRALS

- **LUKE TOKARZ**- First Baptist Church – 667 Brooks Rd.- TM#066.03-1-9.2- Application for triple use variance to allow an accessory building without a principal use & to allow the accessory structure in front of the principal use & to allow a sandbag business in agricultural zone. Area variance for less than required road frontage from 240' to 208'

Mr. Urda reviewed the applicant's request for multiple use variances to construct a pole barn as principal use prior to the construction of the house. Allowing the pole barn in front of the house once built. Have a sandbag business in an agricultural zone. The area variance is for the less than required road frontage from 240' to 208'. Pursuant to §73-23C variances for consideration of granting of variances the applicant will need to clarify that the hardship is not solely self- created. What circumstances or conditions create the need for the variances §73-23 C (2) (a). With the residence planned to follow weather conditions, the Board might consider a timeframe in which the construction of the primary structure must begin or the variance for the accessory with no primary be revoked. It is difficult for corner lots to place an accessory building behind the principal use. However, the lot is large enough to support the two structures without minimal adverse impact to the neighborhood. Planning Board should consider reviewing the business portion through site plan review to include any conditions for the outdoor storage, parking truck traffic access, stormwater control measures and permits. This will impact SEQR lead agency. According to Code section §62-3B (7) the lot frontage is based on the lesser of the 2 fronts of a corner. In this case it would be Brooks Road at 208'. You should also be aware there

are lesser existing frontages within the surrounding similar area and zoning. Signage has been addressed and will require a sign permit along with a building permit for the accessory structure and home from the Ordinance Office. The business portion must provide per code, 1 parking space per 250' of gross floor area for the pole barn. Also comply with ADA accessible parking spaces aisles, access routes slopes and signage in accordance with ICC/ANSI, A117.1, 2009 or latest version. The total ground disturbance for the pole barn and house shall remain under 1 acre or a SPDES General Permit for Stormwater Discharges will be necessary from construction activity. The Board may consider stipulating the variance does not transfer with the land upon the sale of the property so that the business and house are not split out without prior Town approval via variance review/request. This is subject to Broome County 239 Review, and their recommendation for denial thereby requiring a supermajority vote by the Zoning Board of Appeals for approval.

Mr. DiMascio stated he is a resident of Castle Creek area and this is not my opinion, but the recommendation of the Ordinance Office. The Ordinance Office is not in support of the approval of Sandbags Unlimited Northeast due to the opinion that the criteria required to grant a use variance are not being met and Broome County's recommended denial. We feel that the character of the neighborhood will be altered and that the alleged hardship was self-created by purchasing the property prior to applying for the variance.

The applicant Mr. Tokarz was present to answer questions from the Board.

Mrs. Paddick asked if the entire operation would be handled inside the pole barn once constructed with no equipment being stored outside. Approximately how much sand will be delivered and how long will it be stored outside.

Mr. Tokarz stated once a week based on an average of 50 to 60 tons will be delivered, which equates to 5 to 6 dump trucks. The sand will be stored outside until the pole barn is constructed. After delivery the sand it will be staged outside for 5 to 7 days. Then we use a backhoe to distribute the sand in to a bin that moves it on the conveyer belt threw a switcher then bagged. These bags will be stored inside the pole barn for pick up. We calculated based on an average of 25 deliveries of sand with the same amount for the finished product pickup.

Mr. Blythe stated the sand will be dumped outside and left until it goes through its process on the conveyer belt and bagged and then stored outside.

Mr. Carl asked once the pole barn is built, how long before you start on the house.

Mr. Tokarz stated as soon as possible we can apply for a building permit for both. The house should be completed in 22 to 26 months.

Mr. Carl said you already have a problem. I don't think you can get a building permit for 2 years out.

I'm not sure how long a building permit is good for, or know how difficult it would be to extend it. Things happens delays with construction, financial issues and so on. I think you would need 2 separate building permits and would the septic plans be for the house and the pole barn? If you are building the house and barn yourself, how will you have time for the sand bag business? When do you anticipate starting the business? I don't have a problem with the business but, I think we need a time line for when the house will be completed. I also feel we need a site plan review, to get the hours of operation, number of employees if any, and the other particulars on this business. This is a residential area and we have to consider the neighbors.

Ms. Aurelio from the Ordinance Office stated building permits are good for one year. After that it is up to the building inspector's discretion on how long to extend the building permit. If the original plans are modified a new set of drawings will be necessary indicating the changes. Once extended the permit is issued with the expiration date so the applicant is aware.

Mr. Blythe stated I applaud your enthusiasm, but you have a full time job, building the pole barn and the house yourself. Mr. Urda said if there are employees then you will need septic and water for the pole barn.

Mr. Worden asked who you service with your product.

Mr. Tokarz stated national gas companies, State Highway Departments for construction projects, towns and counties for flood mitigation.

Mr. Worden asked how much is a typical order for a gas company and are you capable of handling a large order for a natural disaster.

Mr. Tokarz indicated a normal order for gas line is 2 tractor trailer loads per job stacked with 2 high and 8 long about 16 totes per truck. This can be filled in 2 days. Try and build up a stock pile in the pole barn In the event of a disaster.

Mr. Donnelly asked how much can you store in the pole barn.

Mr. Tokarz replied stacked 2 high approximately 50 to 60 totes.

Mr. Worden asked are you operating this business right now.

Mr. Tokarz replied no.

Mr. Eric Johnson resident of 1003 Castle Creek Road stood up and stated he has been loading sand and operating this business for the past 4 months.

Mr. Worden asked what he meant by that.

Mr. Johnson said he has been filling bags for months I see it every day. Is that typical letting a business operate before an application has been made and approved by the Town.

Mrs. Paddick typically this doesn't happen. We discourage this type of behavior but occasional it occurs. So they are notified to come in for site plan review.

Mr. Johnson stated you mean to tell me someone that works in the highly regulated gas industry company, where the state, county DEC and EPA require all types of approvals. I can't believe he didn't think approval would be necessary to operate a business in the Town. I live across the street and I can hear the noise from his business over Rte 81 traffic and inside my house. I want to know how he can get away with operating without some type of approval from the Town.

Mrs. Paddick said this Board is unaware that he was operating. We are going from the application information in front of us.

Mr. Tokarz stated he was advised by the Ordinance Office to remove everything from the property and see how the variance goes. I have been trying to remove everything off the property, that could be the noise and lights that he is referring to. At the last meeting with the Zoning Board, we discussed the possibility of operating the business prior to the construction of the pole barn. Not sure if this Board would concur.

Mrs. Paddick asked how much noise comes from this machine.

Mr. Tokarz indicated it is no louder than a harvesting machine. The sand is pickup with a backhoe which empties it into the hopper bin where the bags are filled and stored.

Mr. Johnson stated the agricultural farming is protected for farm operations, which this is not. This is the same as if this was on River Road. This is not a farming endeavor.

Mrs. Paddick stated there should be no operation of this business until this is approved. We need a site plan review prior to the construction of the pole barn. I don't agree with Broome County comment recommending denial because the site does not contain public water or public sewer. However you closed in January what is your hardship?

Mr. Blythe asked how long have you been operating?

Mr. Tokarz stated we started bagging the end of November early December of 2015.

Mr. Donnelly asked how many employees.

Mr. Tokarz said there are no employees, only me.

Mr. Johnson stated he witnessed 3 to 4 men working on his property, are they doing it just for fun.

Mr. Tokar indicated the neighbors came over and were helping him remove signs of the business from the property, possibly that is what he seen.

Mr. Urda suggested having the Zoning Board approve contingent upon site plan review and a short Environmental Assessment Form for SEQR.

Mr. Carl mentioned noise during the day time hours is not an issue. But you have a full time job and building a house and the sand bag business that only leaves nights and weekends. We need to set hours of operation during the day.

Mrs. Paddick stated not sure how to approach this. We need site plan review unless the variance is approved. We need to ensure the house is constructed. So we can give a favorable advisory on the road frontage, pole barn in front of the principal use and the pole barn as principal use. The business portion should have some contingencies attached to their advisory.

Mr. Carl asked what you are using for power. You have no plans for expansion.

Mr. Tokarz stated currently we have generators.

Mr. Urda stated the pole barn might need a bathroom or a port-a-john if there are employees.

There being no further comments, a motion was made by Mr. Blythe, seconded by Mr. Worden to forward the Zoning Board of Appeals with a favorable advisory with the following:

- A. Use Variance to allow accessory building without a principal use.
- B. Use Variance to allow an accessory building in front of the principal use.
- C. Area Variance for less than required road frontage from 240' to 208'.

The Use Variance for the Sandbag business, we recommend a favorable advisory contingent upon the Zoning Board approval, with the stipulation they return to the Planning Board for site plan review prior to any work being done.

Roll Call: Ayes – 5 Nays- 0 Absent - 1 (Boland)

Mrs. Paddick mentioned since Broome County recommended denial, you will require a super majority vote by the Zoning Board to be approved, just so you are aware.

There being no further business before the Board they unanimously agreed to adjourn the meeting at 7:45 p.m.

Respectfully submitted,

Diane Aurelio
Ordinance Secretary