

PLANNING BOARD MEETING
MONDAY, JULY 11, 2016
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12
BINGHAMTON – NY – 13901

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

ALSO, PRESENT: Alex Urda P.E. - Town Engineer
Scott Russell – Assessor’s Aide
Michael Boland – Planning Board Alternate
James DiMascio - Town Board Member

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 June 13, 2016.

A motion was made by Mr. Blythe, seconded by Mr. Carl, to approve the minutes from the June 13, 2016 regular Planning Board meeting.

Roll Call: Ayes – 5 Nays – 0

NEW BUSINESS

- **THERAPEUTIC MASSAGE** – Margo Ann Spak-Hemedinger – 299 Smith Hill Rd – TM#128.07-2-14- Application for site plan commercial re-occupancy for therapeutic massage.

Mr. Urda, Town Engineer reviewed the applicant’s request for commercial re-occupancy for therapeutic massage (private practice) in a residential zone. This is a preexisting commercial building with driveway access and parking. The parcel is located within the Aquifer District Zone II “Aquifer Recharge Area” and currently complies and will continue to do so. The applicant shall provide and maintain ADA accessible parking spaces and with the appropriate aisles, access routes, markings, slopes and signage in accordance with ICC/ANSI,A117.1,2009 or latest revision and Building Code of the State of New York Chapter 11 (or latest revision). Any modification to the building may require a building permit and code review. A sign permit will be necessary prior to any sign being erected. This project is subject to Broome County 239 review and is a Type II action under SEQ. Approval is recommended.

Mr. Russell from the Ordinance Office recommended approval with a sign, building permit and fire inspection being required.

Applicant was present to answer questions of the Board.

The Board did not have any questions for the applicant since the application was very self-explanatory. A motion was made by Mr. Donnelly, seconded by Mr. Worden to approve this commercial re-occupancy with a fire inspection and sign being required.

Roll Call: Ayes - 5 Nays - 0

- **BLUE RHINO PROPANE** – Sherri Kavanagh - 101 Castle Creek Rd- TM#111.16-1-39 - Application for site plan update to add an outside storage display with vehicle protection bollard.

Mr. Urda- The applicant is requesting to add an outside storage display (20 sf) of propane gas cylinders (eighteen 20 # tanks) with vehicle protection bollards at the Speedway gas station at the referenced location within a Planned Development District – Commercial (PDD-C) zone. The layout does not adversely impact the existing traffic pattern or parking patterns. They will need to apply and comply with the building and fire codes. This is subject to Broome County 239 review and is a Type II action under SEQR. Approval is recommended.

Mr. Russell - Recommended approval with a sign and building permit being required.

Two representatives from the gas station were present to answer questions.

There being no further discussion a motion was made by Mr. Blythe, seconded by Mr. Carl to approve this site plan update with a building permit being required.

Roll Call: Ayes – 5 Nays -0

- **KND PROPERTIES, LLC.** - Terry Deamer – 2518 State Rte 12 - TM#067.08-1-13 - Application for site plan update to add a storage tent, enclose the existing pavilion & BBQ pit for excess storage.

Mr. Urda – The applicant is requesting updating his site plan to include a storage tent addition, enclose the existing pavilion and BBQ pit for surplus storage for the business. The parcel is located within the Neighborhood Commercial and was previously approved (PB-33 2013) for a warehouse. We have received a Short Environmental Review Form from the applicant. Both structures will require building permits through the Building Code Department. It should be noted that temporary structures are allowed for a maximum of 90 days in any 12 month period, unless the Planning Board deems otherwise. This project is subject to Broome County 239 review and is a Type II action under SEQR. Approval is recommended once the Board determined the nature of the tent structure, temporary or permanent.

Mr. Russell - Recommended approval for this site plan update with a building permit being required.

Mr. Deamer was present to answer questions from the Board.

Mr. Carl - Is this permanent like the State Hwy structure?

Mr. Worden - How is this anchored to the ground?

Mr. Deamer - There will be concrete attachments to the posts.

Mr. Russell – The Board does not have to be concerned about the anchoring the Building Code Officer will be handling that during the building permit process.

Mr. Boland – Will there electric in the tent structure?

Mr. Deamer – It would not be permanent. I just plan on running an extension cord.

Mr. Russell – Extension cords are against code, it would have to be permanent or nothing at all.

Mr. Deamer – Fine then I will put in permanent electric within PVC pipes to the tent.

There being no further questions, a motion was made by Mr. Worden seconded by Mr. Carl, to approve the site plan update with a building permit being required. Amended by Mr. Donnelly to stipulate the storage tent structure be considered a permanent structure with electric being added.

Roll Call: Ayes – 5 Nays -0

- **GRIZZLY'S BBQ**- Randy Haig – 1128 Upper Front St. - TM#128.08-1-26 - Application for site plan review to operate a food trailer and smoker.

Mr. Urda, Town Engineer reviewed the applicant's request to operate a food trailer with a smoker on site. The parking is adequate for the combined use. Check with the Building Department to ensure code compliance and for a sign permit. You may want to consider for safety reasons some form of fencing around the smoker. You should provide the Town with a copy of Broome County Health Department approval prior to opening. The applicant should assure that the landlord provide and maintain ADA accessible parking spaces, aisles, access routes, marking, slopes and signage in accordance with ICC/ANSI<A117.1 2009 or latest revision and the 2010 Building Code of the State of New York Chapter 11 or latest revision. The parcel is located within the Aquifer District Zone II "Aquifer Recharge Area" and must continue to comply to the Town Code §73-56< Attachment XIII, Schedule of Regulations Aquifer District-Aquifer Recharge Zone. This project is subject to Broome County 239 review and is a Type II action under SEQR. Approval is recommended.

Mr. Russell - The Ordinance Office requests a copy of Broome Health Department approval letter and a time frame in which the food trailer will be stationed on site. Will the trailer be staged there during the winter months or be removed seasonally to an alternate location. With these items addressed to the Boards satisfaction approval is recommended.

Mr. Haig was present to answer questions from the Board.

Mrs. Paddick – Would you be willing to place some type of fencing around the smoker, instead of using the orange construction fencing?

Mr. Boland – There is a heavy fencing with feet that rest on the ground that can be removed easily.

Mr. Haig – The smoker only gets up to 200 degrees, it's not very hot. I will see what I can find other than the orange construction fencing.

Mr. Russell -Recommended they forward a favorably advisory to the Zoning Board of Appeals as long as the adjacent neighbor has no objection to the granting of this variance and with a building permit being required.

Mr. Borelli was present.

Mrs. Paddick – Is there any problems with the neighbors granting this variance.

Mr. Borelli – No. They have been mowing and plowing their property for over 20 years. I don't think they will have a problem.

There being no further questions a motion was made by Mr. Blythe, seconded by Mr. Worden to forward a favorable advisory to the Zoning Board of Appeals for this double area variance with a building permit being required.

Roll Call: Ayes -5 Nays -0

- **BC DEVELOPMENT LLC.**- Maryanne Burke- 101 Castle Creek Rd .- TM#111.12-4-8 Application for a Triple Area Variance to construct an accessory building in front of the principal use with less than required side yard setback from 10' to 7' & rear yard setback from 25' to 8' in Pdd-c zone.

Mr. Urda – The applicant has already received site plan approval last month. However, the accessory building could not be relocated without the triple area variance for the setbacks. Granting these variances is necessary for reasonable use of the land and is in harmony with the general purpose and intent of these chapters. The rear setback is greater than the existing building. So conformation from the rear neighbor that they do not oppose this variance would be beneficial for this application file. This is subject to Broome County 239 Review and is a Type II action under SEQR. A favorable advisory is recommended.

Mr. Russell – The Ordinance Office recommends they forward a favorably advisory to the Zoning Board of Appeals for this triple area variance with a building permit being required.

Mrs. Paddick – Mrs. Burke will not be present tonight due to a family emergency.

Mr. Carl – There is no change from this application from last month. So this is very straight forward.

There being no further discussion a motion was made by Mr. Donnelly, seconded by Mr. Carl to forward a favorable advisory to the Zoning Board of Appeals for these triple area variances with a building permit being required.

Roll Call: Ayes- 5 Nays – 0

Mr. Blythe – Asked what is happening with Binghamton Pre-Cast running trucks after hours. I know for a fact there were 5 to 6 trucks prior to 8:00 a.m. using Highland Road and several during the night at various hours. I thought they had hours of operation to abide by.

Mr. Boland – I don't recall noting anything for the main site but for 9 Thomas Street in 2013, I know they were to use Woodland Road. We did address hours of operation, noise and dust control. The fugitive for dust is just plain water, how hard is that?

Mr. Carl – The trees were removed so they could use Woodland Road.

Mr. Russell – That is what I wanted to discuss with the Board, if they want to revisit this application. I have been in contact with Mr. Walls and Mr. Abbey via emails regarding the several complaints. We have multiple pictures and video of the trucks coming in and out at various hours throughout the day. Mr. Abbey agreed 10:30 p.m. is too late for trucks to be coming in. He will work on stopping this practice. He will try to restrict the trucks from coming in between the hours of 9:00 p.m. to 5:00 a.m. that was the last correspondence I had with Mr. Abbey. So how would the Board like to handle this? We can take care of it with violations but wanted to give the board the option to reexamine it.

Mr. Blythe – Yes, they should return to the Planning Board. This past weekend it looked like a dust storm over Thomas Street, Kattelville and Highland Road. This past dry spell, it looked like a dust storm over the neighboring streets. The neighborhood is very upset over this. You can't enjoy your back yard without hearing the trucks or being inundated with dust. There are several issues that need to be resolved, they should return to the Planning Board.

Mr. Deamer – I'm not trying to interfere with anyone's livelihood, but why can't you try to coordinate something with the County to use their road? Possibly post Highland Road not for commercial use or traffic.

Mr. Urda – We discussed this with Broome County a while ago. We had a meeting with Broome County, Mr. Abby, Tom Geisenhof and myself at their site. We walked the entire property to see what can be done. The County is not really interested in sharing their property. They offered going below their fence line closer to the aquifer for access. It is possible to put in a slope extension, but that drops off drastically, which would require at least 50' of fill and maintenance which is not cost effective. So it was dropped.

Mrs. Paddick – How long ago did you talk with Broome County?

Mr. Russell – It was a few years ago, nothing was resolved.

Mr. Blythe – A Lopke Truck comes every morning before to the site before 7:00 a.m. using Highland Road.

Mr. Boland – Are they operating 24-7? I cannot believe they let them hook up and leave without supervision. Somebody has to be there overseeing the truck hook-ups. If they are staging trucks, why can't they load them and stage them elsewhere.

Mr. Carl – Someone is staging trucks at the Park and Ride. I see flatbeds there all the time.

Mr. Blythe – If they are operating 24 hours a day there are going to be a lot of angry residents. They have all the trucks set and ready to go. The trucks come in various hours throughout the day and night. They drop off one load and pick up another and go back out. This is continuous all through the day and night. I don't think you need someone there to oversee that. They should not be using Highland Road. It is a residential road and not meant for commercial use. If they have specific hours of operation they should be made to adhere to them.

Mr. Carl – I don't think we can tell them to adjust their hours. If they are working beyond the time indicated on their original site plan maybe they have to return to the Planning Board. It is possible their business has taken off and they are trying to turn out as much product as possible before the season ends. I don't believe we can shut them down for working beyond the scheduled hours. Can we as a Board, tell them to return to the Board to update their hours of operation and address some of these issues?

Mrs. Paddick- I don't recall ever making someone come back to amend their application.

Mr. Russell – Yes we did. They were not following their site plan. So we asked Cars R-U's to come back but they never did. We shut off their power and still nothing. We will have to take them to court.

Mr. Worden – Were there hours of operation set for Binghamton Pre-Cast? I was not on the Board then, so I don't know.

Mr. Blythe – The noise and dust is an issue. The neighbors are in an uproar. I'm sure everyone on Thomas, Highland and Kattelville would be willing to sign a petition to make them return to the Planning Board to put an end to these problems. If not, the Code Office should be able to handle this with violations. A while back when they first went in they did some major excavating down 30'. They were using this pit to dump their defective concrete and had other trucks dumping clean fill at the site. They have huge piles at the site. This was never approved. They have blocked off 9 Thomas Road and are using 15 Thomas to pull in tankers. We had 5 to 6 trucks go up Highland Road before 8:00 a.m. I heard they have been operating since 1932 and they are grandfathered in. Regardless, something must be done to help the residential neighborhood.

Mr. Boland – They actually closed and started up again making odds and ends and pipes for a time.

Minutes of the Meeting

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Mr. Blythe – Now the County has closed the gate to everyone cutting off access to their road. Now they use Highland Road all the time. So someone should try to negotiate something with the County.

Mrs. Paddick – I will talk with Daniel Schofield at Broome County since Fallon Road is County owned they may consider sharing it since town residents are being negatively impacted by the trucks, noise and dust.

Mr. DiMascio – I would like to attend that meeting.

Mrs. Paddick - I will talk with Mr. Schofield tomorrow to see when he is available to discuss this. I will contact the Ordinance Office with the date and time and you can invite anyone interested in attending.

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

Respectfully submitted,

**Diane Aurelio
Ordinance Secretary**