

PLANNING BOARD MEETING
MONDAY, JUNE 13, 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 May 9, 2016.

A motion was made by Mr. Worden, seconded by Mr. Carl, to approve the minutes from the May 9, 2016 regular Planning Board meeting.

Roll Call: Ayes – 5 Nays – 0

INTERPRETATION

- **LOTHAR'S AUTOHAUS SALES & SERVICE** – Lydia Schlesiger – 946 Upper Front St.-TM#128.11-4-21 – INTERPRETATION – whether there was a cession of the business.

Mr. Urda, Town Engineer read his letter to the Board regarding the interpretation whether or not there was a cession of the business. It is up to the owner to provide proof so the new applicant One Tuff Mudder can continue with site plan review for the re-occupancy with any variances being required. The owner has indicated the business name still remains and functions legally. However, the site usage for that location had ceased in 2013, so it is unclear if the office was still being utilized by the business. Recently the property boundary was modified joining the two parcels into one from the Town of Chenango amassed the Town of Dickinson portion through annexation. Now the property is completely in the Town of Chenango. We need to verify if the Auto Cad survey version from the annexation was provided to the Town. Currently the lot does not conform to the Planned Development District-Commercial. Variances would be necessary for the lot size from .99 acres to 6 acres, lot width 350' to 218 +/- and lot depth 450' to 220'. Based on the cessation the land use exceeded 6 months, therefore we feel the proposed use should submit the necessary documentation for variances to bring this parcel into conformity.

Mr. Russell from the Ordinance Office stated the paper work submitted by Ms. Schlesiger supporting that she has sold vehicles using the property on the documentation as the place of sale. It does not prove the property was actually used. Online sales and paperwork from her home or with other businesses does not constitute business being conducted on the property of 946 Upper Front Street. Therefore, we believe there was a cession of the business and the new applicant One Tuff Mudder will require variances along with site plan review.

Mr. and Mrs. Schlesiger were present to answer questions from the Board.

Mrs. Paddick – Did your business cease to operate at any time?

Mrs. Schlesinger – The business did not cease. Although vehicles were not present at 946 Front Street. Vehicles were still sold by internet. You see Visions originally was interested in the property, so we decided to cut down on our sales and semi-retire. Our license was never turned in. If you are still operating it is required that the business sign stays in place. This free standing sign was never removed.

Mr. Blythe- Have you done business out of that building on Front Street?

Mrs. Schlesinger- Yes. We did business from that location but we definitely cut back due to the pending sale. When Visions backed out of the deal, we were left with a great deal of expense from the annexation with the survey and such. So we were forced back into vehicle sales. Mr. Ruling wanted to re-occupy the business so we thought it would be a good fit for both of us.

Mr. Ruling – I have sold vehicles through DMV just a few months ago. You have to go to the site to sell and do the paper work. I can't be done at a different location.

Mr. Blythe – So the electric was never shut off and you continued conducting business there.

Mrs. Schlesinger- Yes. I don't understand why they feel the business stopped. I have submitted documentation to the Town and the Board proving my vehicles sales.

Mr. Carl- The assumption if you are doing business, now a new occupant should be grandfathered in that is not the question. This parcel needs to be brought into compliance to the current zoning regulations.

Mrs. Paddick – I see this as a re-occupancy, it is the same use, just a different name. I don't know how the Board feels.

Mr. Donnelly – I agree it is just a re-occupancy.

Mrs. Paddick - To me it is a re-occupancy after reading everything.

Mr. Blythe – I agree.

Mr. Carl – The only difference that I can see is the lot size.

Mrs. Schlesiger – I want the Board to know the business name One Tuff Mudder is not referring to her.

There were no further questions or discussion. A motion was made by Mr. Donnelly, seconded by Mr. Blythe that Lothar's Autohaus Sales & Service Interpretation there was no cession of their business.

Therefore, the new applicant (One Tuff Mudder) would be considered a re-occupancy and should proceed with the site plan commercial re-occupancy review.

Roll Call: Ayes – 5 Nays- 0

NEW BUISNESS

- **ONE TUFF MUDDER** - Gerald Ruling – 946 Upper Front St.- TM#128.11-4-21- Application for site plan review for commercial re-occupancy for used car sales.

Mr. Urda - This is site plan review for a commercial re-occupancy for used car sales from the former Lothar’s AutoHaus. The variance portion of my letter disregard, since the Board determined there was no cessation of the business. There are a few items the applicant should clarify and coordinate with the Ordinance Office. Code to inspect the temporary building and obtain a building permit is necessary. Are there bathroom facilities available for the patrons and employees? How are vehicles delivered? We need the loading and unloading area for vehicles noted on the site plan. The parcel is located within the Aquifer District Zone II “Aquifer Recharge area” and the use must comply with the associated Town Code §73-56 Attachment XIII Schedule of Regulations Aquifer District- Aquifer Recharge Zone. Is vehicle washing being done on site with detergent or water? This needs to be addressed since they are located within the Aquifer Recharge Area. Do they anticipate any site improvements for pavement, gravel or grading, if so this needs to be documented on the site plan. A new revised site plan should be submitted with a sealed/signed by a design professional, utilize the recent survey by the current owner to reflect the correct property lines and Town boundaries. Show the parking and access isles drawn to scale (stalls 8.5” x 18’ per Town Code) along with handicap parking and meet the ICC/ANSI, A 117.1,2009 or latest version. A sign permit will be required for any signage prior to being erected. The southern portion that was recently acquired during the annexation from the Town of Dickinson the board should consider requiring a setback for the parking and pavement to the neighboring residential parcel to the south. The existing lighting will remain unchanged. This should be checked to confirm there is no conflict with the residential area. The Board should establish a limit not to exceed the number of display vehicles on site. A copy of the spill prevention plan submitted to the code office for review. This project is subject to Broome County 239 review and is a Type II action under SEQR. With the questions answered to the Board’s satisfaction approval is recommended.

Mr. Russell from the Ordinance Office recommended a favorable advisory of One Tuff Mudder with conditions of no parking in the right of way, a restriction on the number of vehicles, no repair of vehicles on site, a passing fire inspection prior to opening, and any changes to the approved business plan will require an update amending the site plan through the Planning Board.

Mr. Ruling was present to answer questions of the Board.

Mrs. Paddick – Will you be relocating the shed out of the flood plain or take it out completely.

Mrs. Schlesiger - We can move it up more, but we never had any water issues with it being there.

A copy of Alex Urda letter was given to Mr. Ruling and Mrs. Schlesiger.

Mr. Carl – Mr. Ruling do you have a license now to sell vehicles?

Mr. Ruling – Yes, I have been operating for 13 years. When Mrs. Schlesiger turns in her license our license will go through and take her place under that site location.

Mrs. Paddick – The number of display vehicles will be no more than 50. If that should change the Ordinance Office will need to be notified.

There being no further discussion a motion was made by Mr. Blythe, seconded by Mr. Carl to approve this site plan re-occupancy for One Tuff Mudder with the following conditions:

1. No repairs of vehicles on site only washing of vehicles with water.
2. No loading & unloading of vehicles at 946 Upper Front Street indicated on the site plan. Due to vehicles being driven on site.
3. Submit new site plan with recently annexed property from the Town of Dickinson with survey.
4. Show parking dimensions on site plan & handicap parking. (8'6" x 18')
5. Relocate the shed in the rear, out of the flood plain or remove completely. Also indicate this on the site plan.
6. Lavatory accommodations indicated on site plan.
7. Revised site plan sealed/signed by a licensed designed professional.
8. Copy of operating license for One Tuff Mudder to the Ordinance Office.
9. Maximum of 50 vehicles on site including patrons and employees.
10. Sign permit prior to any sign being erected.
11. Fire Inspection prior to opening for business.
12. Any changes to the site must return to the Planning Board for review.

Roll Call: Ayes – 5 Nays -0

- **A.L.BURKE INC.** - Burke Development LLC- 101 Castle Creek Rd- TM#111.12-4-8- Application for site plan update to place an accessory structure for storage on the property.

Mr. Urda -The applicant is requesting a 14' x 40' pre-fab shed on the property for parts storage for their business located in the Pdd-c zone. A building permit will be required. The site plan was approved contingent to the variances being approved by the Zoning Board of Appeals. The accessory building must meet the required setbacks. There will be 3 variances needed for this addition. There is adequate parking 15 shown requiring only 12. The applicant should assure the Board the ADA parking area will be

marked and maintained in accordance with the I.C.A.N.S.I., A117.1, 2009 or latest version and the 2010 Building Code or latest version. The drive isles are less than required by code and could possibly pose a problem for maneuvering. This project is subject to Broome County 239 review and is a Type II action under SEQR. Approval is recommended if the applicant agrees to apply for the necessary variances.

Mr. Russell recommended approval with a building permit being required.

Mrs. Burke was present to answer questions from the Board.

Mrs. Paddick – Is there any other place you can move the accessory building, so there would be no need for a variance?

Mrs. Burke – There is a grassy area that I would like to keep, but it is on the opposite side and would be further away from us to access and difficult to maneuver around. The current placement would give us better accessibility to load and unload parts without losing any parking.

Mr. Urda – What if you rotate the shed and place it next to your existing building. Would that eliminate the need for a variance?

Mrs. Paddick – It has to meet the setback code requirements.

Mrs. Burke – We tried to line it up different ways. Any place on that side will require a variance regardless. I can't believe this is all necessary for just a shed.

There being no further comments a motion was made by Mr. Worden, seconded by Mr. Carl to approve this site plan update with a building permit being required contingent upon applying for the area variances and receiving Zoning Board of Appeals approval for the shed being in front of the principal use and the rear yard setback.

Roll Call: Ayes – 5 Nays - 0

ADVISORY OPINION/REFERRALS

- **PATRICK WILLIAMS** - 186 Wilson Hill Rd. – TM#094.03-2-37 - Application for a Use Variance to allow an accessory structure in front of the principal use in an agricultural zone.

Mr. Urda – The applicant is requesting to have a pole barn in front of the house in an agricultural zone. Upon reviewing the documentation the pole barn will be considerably setback from the road any neighbors and is buffered by trees. A variance for the height will not be necessary for 16' to 25' since the setback of 25' has already been met. A building permit will be required through the Ordinance Office prior to any construction. This is a Type II action under SEQR. A favorable advisory is recommended since this will not be injurious to the surrounding area.

Mr. Russell recommended a favorable advisory be forwarded to the Zoning Board of Appeals with a building permit being required.

Applicant was present to answer questions from the Board.

There being none a motion was made by Mr. Worden, seconded by Mr. Carl to forward a favorable advisory to the Zoning Board of Appeals for this use variance with a building permit being required.

Roll Call: Ayes – 5 Nays -0

- **JASON ROSENBERGER** – 202 Ransom Rd. –TM#094.03-2-46 - Application for a Use Variance to allow domestic game bird breeder –Class B in a residential zone.

Mr. Urda – Applicant requesting a use variance to allow domestic game bird breeding (Class B) located in a residential zone. In reviewing the application the noise and odor shall be maintained in accordance to Town Code. The birds should be fenced and not able to run free range off the property. Also consider the fence setback from the neighboring property. The Board should think about limiting the number of birds and having the variance terminate in the event of new ownership. This is a Type II action under SEQR. A signed document from the neighbors they have no objection to this variance. Granting this variance is necessary for reasonable use of the land and is in harmony with the general purpose and intent of this chapter. A favorable advisory is recommended.

Mr. Russell recommended a favorable advisory to the Zoning Board of Appeals with the stipulation limiting the number of birds being kept on the parcel to applicant’s letter of intent pen raised 8 chickens, 6 turkeys, 4 pheasants, 8 ducks and 2 geese and a building permit being required.

Mr. Rosenberger was present to answer questions from the Board. This variance was triggered by a complaint from the neighbor regarding free range birds. We were under the impression this was an allowed use in an agricultural area. We have been made aware it is residential. The free range issue has already been corrected. Would like to amend our request lowering the number of ducks and increase the number of pheasants if possible.

Mr. Blythe- So you are asking for a total of 28 birds only.

Mr. Rosenberger -Yes

There being no further discussion a motion was made by Mr. Donnelly, seconded by Mr. Blythe for a favorable advisory to the Zoning Board of Appeals with a building permit being required and limiting the total number of birds to 28.

Amended by Mr. Carl to include the use variance terminates upon transference of the property.

Roll Call: Ayes – 5 Nays -0

OLD BUSINESS

- **BINGHAMTON CHRYSLER JEEP DODGE DEALERSHIP** – Joseph Dell – 1261 Upper Front St. – TM#111.16-1-34 – Application for site plan update to allow temporary vehicles staging area at the Ponderosa site.

Mr. Urda – This is a site plan update to temporarily stage vehicles at the former Ponderosa site. There will be no selling or business conducted at this location. The pavements and lighting will remain unchanged. The applicant should note where the new vehicles will be unloaded and cannot be in the public right-of-way. The number of vehicles shown on the plan will not be exceeded and the vehicular access aisles will remain clear to traffic. They should also reassure that all and any cross access easements for parking/ingress/egress with adjoining properties are maintained. This project is located within the Aquifer Protection Zone 1 “Wellhead Protection Zone” currently complies with the Town Code §73-55 and will continue to do so. This is subject to Broome County 239 review and is a Type II action under SEQR. Approval is recommended.

Mr. Russell from the Ordinance Office recommended limiting the number of vehicles to the maximum of what they requested being no more than 75 vehicles as long as the fire lanes are kept to code requirements and requiring regular maintenance on the vegetation around the property, approval is recommended.

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

Mrs. Paddick – Are you in agreement that 75 vehicles is sufficient for staging at this site.

Mr. Dell- yes

Mr. Russell – I counted 77 vehicles today.

Mrs. Paddick – We need a new site plan that indicates 75 vehicles. You understand that the fire lanes have to meet code for safety reasons and the driveway cannot be blocked.

Mr. Urda - The manhole on the site appears to be caving in. Will the owner or yourself be fixing this issue?

Mr. Dell – the maintenance of the property and building would not be up to us. We are only leasing the parking area. Any repairs would be the owner’s responsibility.

Mr. Urda- I will recheck the site and see what is happening and who would be responsible for the maintenance.

Mr. Carl – You will not be parking vehicles on the sidewalk or in the right-of-way.

Mr. Dell – No

There being no further discussion a motion was made by Mr. Donnelly, seconded by Mr. Blythe to approve this site plan update with the following stipulations:

- Limiting the maximum number of vehicles to 75.
- New site plan indicating the proper number of vehicles being staged to (75) and the parking space dimensions noted on the site plan.
- Fire lanes are kept to code requirements
- Any change will require site plan update with the Planning Board.

Roll Call: Ayes - 5 Nays - 0

- **BINGHAMTON CHRYSLER JEEP DODGE DEALERSHIP** – Joseph Dell – 1161-1171 Upper Front St. – TM#111.20-1-12,111.20-1-13 & 111.20-1-37 – Application for site plan update to allow temporary vehicles staging area at the former Brother Brown location.

Mr. Urda – The applicant supplied the Town an updated site plan as requested by the Planning Board. Upon reviewing, they are requesting 3 parcels within a Pdd-c zone for vehicle staging. This will be at an additional location from the Ponderosa site. No selling or business will be conducted from these properties. The unloading of new shipments must not be done in the public right-of-way. The applicant has assured that the number of vehicles shown on the site plan will not exceed the number on the plot plan. The vehicular access isles will remain clear to traffic. They indicate a maximum of 500 vehicles to be staged. However, the Board may consider specifying a number of vehicles not to exceed. Also request a parking setback from the front property line. This is located within the Aquifer Protection Zone 1 “Wellhead Protection Zone” the site currently complies and will continue to do so. This is subject to Broome County 239 review and is a Type II action under SEQR. We recommend approval with the conditions mentioned.

Mr. Russell stated the previous application for the two lots (PB-21 2012) was limited to 100 vehicles. Now there is a third parcel being used. We would suggest limiting the amount of vehicles to a maximum of 300 vehicles as long as the fire lanes are kept to code requirements and requiring regular maintenance on the vegetation around the property, approval is recommended.

Mrs. Paddick- Would you lower the number of vehicles requested?

Mr. Dell – We would like 500.

Mrs. Paddick – How many vehicles are on the site now?

Mr. Russell – I counted 383 vehicles today and it was a tight squeeze.

Mr. Blythe – Does this comply with the fire lanes.

Mr. Russell – There is no way a fire truck can go through to the back of the lot the way they are parked now.

Mr. Worden – I looked at the site last week and you are not getting a fire truck through there.

Mr. Dell - This is just a field there is no way of knowing what the dimensions are or a way to label them.

Mr. Boland – It measures 14' across the access looks like a good representation.

Mr. Urda – It appears the engineer did a vehicle overlay on the site. We need the dimensions for the vehicle parking and the access roads indicated on the site plan.

Mr. Carl – I'm not anti-car lot, but there are weeds growing between the cars and looks terrible. We have 14 car dealers on Front Street and the Brother Brown site looks the worst. The weeds are 4' tall around the vehicles. Something has to be done to clean this up. You cannot have more vehicles than what is on the site plan. You must be a regional dealer to have that many vehicles on hand. Having them in a field you are open to vandalism and increased insurance costs.

Mr. Worden – That is a lot of liability for the owner or dealership insurance.

Mr. Urda – It looks like from my rough count there is a total of 424 on the site plan.

Mr. Carl - Would 300 vehicles be a safe number to have.

Mr. Boland – With 400 vehicles is there room or not with a 13-14' access road for the fire lane and 8 ½' parking spaces is comparable.

Mrs. Paddick – I feel 500 vehicles is too much. If you take away vehicles in the front and limit them to 400 vehicles and have the Ordinance Office work with Mr. Dell get the fire lanes into conformity it should work.

Mr. Boland – I agree 400 should be enough to meet the fire code. But what happens if for some reason you can't have 400 vehicles, you will have to cut back some more cars to comply with the fire lane access.

There being no further discussion a motion was made by Mr. Donnelly, seconded by Mr. Blythe to approve this site plan update for Binghamton, Chrysler, Jeep, Dodge to use 3 parcels for vehicle staging with the following conditions:

1. Limiting the maximum number of staged vehicles to 400 on site.
2. Fire lanes are kept to code requirements.
3. All loading & unloading of vehicles is done at 1279 Upper Front Street.
4. Required regular maintenance on the vegetation around the property.
5. Any changes will require site plan update with the Planning Board.

Roll Call: Ayes - 5 Nays - 0

There being no further business before the Board they unanimously agreed to adjourn at 8:05 p.m.

Respectfully submitted,

**Diane Aurelio
Ordinance Secretary**