

Planning Board Minutes
June 26, 2019

Chairman Chris Maron called the meeting to order at 7:00 p.m. with the following members present: Mr. Dwight Anson, Ms. Cynthia Fairbanks, Ms. Mary Lou Fitzgerald, Mr. Alan Hipps, Ms. Robin Severance, and Mr. Ken White. Also in attendance was Mr. George Hainer, Building Codes/Zoning Officer.

Chairman Maron: The first order of business is to approve the minutes from May 22, 2019. Do I have a motion to approve?

Ms. Fitzgerald: I don't think we've had time to go through them. Can it wait until the next meeting?

Chairman Maron: We'll put off approving the minutes until the next meeting.

Chairman Maron: The next order of business is the **Westport Bible Church (Tax Map No. 65.2-2-3.000)** Special Permit application to erect a 20'x30' pavilion. I'll have George explain it to us.

Mr. Hainer: I thought Bob Huestis was going to be here. They did a big project back in 2010. They expanded the church, but did not build the 16'x16' carport. Every year they have a bible school and set up a tent in that area. The tent is getting old and they'd like to put up a permanent pavilion – an open structure with a roof. You have copies of the basic plan. It's non-jurisdiction for the APA. When we went through the process the last time there was no comment from the county and no neighbors showed up at the public hearing. If you look at the permit under conditions it reads, "This permit is issued for the project as presented in the application. Any changes to the proposed project, considered by the Code Enforcement Officer to be other than minor, non-substantial changes, will require a permit amendment." I don't see this as requiring a permit amendment. It's an open structure, set right next to the building with plenty of screening. If you see it differently, you can go through the whole two-month process.

Mr. Hipps: I agree with you George, but you said the 2010 permit was for a 16'x16' structure and this is 20'x30'.

Mr. Hainer: I could see if there was a controversy or issues, but I reread the minutes from the first permit and there really wasn't anything there. It's more or less just running through SEQR Part 2 and 3.

Chairman Maron: Do we approve the project or do we just decide if we're taking jurisdiction?

Mr. Hainer: I think you would just approve the site plan review.

Mr. White: It looks like it's the same location where they used to put the tent.

Mr. Hainer: Yes, it is. It has a lot of screening, a lot of trees.

Ms. Severance: When you're standing in the tent you can't see the road.

Mr. Hainer: They really want to build this soon. The Amish are volunteering.

Ms. Fairbanks: It wouldn't be used in the colder months if it's not closed in?

Mr. Hainer: No, they just don't want to spend money on another tent.

Chairman Maron: I'll take a motion to approve the site plan review.

Mr. White: So moved.

Mr. Anson: I second.

Chairman Maron: Any discussion?

Mr. Hainer: Don't forget the SEQR. You have to fill out Part 2 and 3.

Chairman Maron: Let's table that motion and go through Part 2 – Impact Assessment.

- Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? No.
- Will the proposed action result in a change in the use or intensity of the land? No.
- Will the proposed action impair the character or quality of the existing community? No.
- Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area? No.
- Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? No.
- Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? No.
- Will the proposed action impact existing:
 - A. Public/private water supplies? No.
 - B. Public/private wastewater treatment utilities? No.
- Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? No.
- Will the proposed action result in an adverse change to natural resources? No.
- Will the proposed action result in an increase in the potential for erosion, flooding, or drainage problems? No.
- Will the proposed action create a hazard to environmental resources or human health? No.

Chairman Maron: Part 3 – Determination of Significance. We'll check the box stating, "Check this box if you determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts."

Chairman Maron: I'll take a motion to accept the Short Environmental Assessment Form Part 2 – Impact Assessment and authorize me to sign Part 3 Determination of Significance.

Ms. Fitzgerald: I'll so move.

Mr. Hipps: Second.

Chairman Maron: Discussion? All in favor? Approved.

- **Resolution 2019-14 Westport Bible Church SEQR Forms**

Resolved: To accept the determination that the proposed project will not result in any significant adverse environmental impacts and authorize Chairman Maron to sign Part 3 of the Short Environmental Assessment Form.

Moved by: Ms. Fitzgerald

Seconded by: Mr. Hipps

In Favor: Mr. Anson, Ms. Fairbanks, Ms. Fitzgerald, Mr. Hipps, Ms. Severance, Mr. White, and Chairman Maron

Opposed: None

Chairman Maron: Now back to the motion to accept the site plan. We've had a motion and a second. Is there more discussion? All in favor? Approved.

- **Resolution 2019-15 Westport Bible Church**

Resolved: To approve the Site Plan for Tax Map No. 66.2-2-3.000 as submitted by the Westport Bible Church.

Moved by: Mr. White

Seconded by: Mr. Anson

In Favor: Mr. Anson, Ms. Fairbanks, Ms. Fitzgerald, Mr. Hipps, Ms. Severance, Mr. White, and Chairman Maron

Opposed: None

Chairman Maron: On to **Bobby McGee (Tax Map No. 66.2-2-24.200 & 66.2-2-24.120)**, review of Special Permit. As you may recall, we issued a Special Permit that says that all the terms and conditions must be satisfied for the continuation of operation to take place. Unless I'm mistaken, the person who enforces this is George.

Mr. Hainer: Yes, based on your actions.

Chairman Maron: The project description was to upgrade the Special Permit for an existing small engine repair to include vehicle tire change, oil change, light mechanical repair, and state licensed inspection of vehicles as well as to approve a towing service with parking of tow trucks, pickup trucks, and flatbed auto carriers and temporary storage of wrecked and insurance recovery vehicles. It's noted that that has been taking place for over a year without Special Permit, but we approved it. The project would include the construction of a 42'x30' storage building. We noted the history of the property and went

through our findings of how it addressed certain criteria for Major Project Special Permits. We found that there were a couple areas that would be affected. It was felt that we would set conditions on the permit to address those. The first condition is that the property shall have a neat and well-managed appearance and the applicant shall install and maintain vegetative screening to the best of his ability to limit views of the property from Lake Shore Road and adjoining properties.

Mr. Anson: I think some of the things you're discussing are impacted by Mother Nature. I don't think they'll have much luck screening it. I've been going in and out of there and you can't see down the road. If the trees he just planted get too high, you're not going to see traffic.

Chairman Maron: The county approved this with the site distance, so the County Highway Department felt the site distances were okay.

Mr. Anson: I don't agree with it.

Chairman Maron: The first condition acknowledges the need to adequate site distance, the shallow depth of bedrock, while requiring a neat appearance and the installation of vegetative screening. It's been three years since we issued that permit and the shrubs have just been planted.

Mr. Anson: He had planted some before and they died.

Ms. Fitzgerald: This is the second time planting, at least.

Chairman Maron: So he's following the condition that new replacements must be planted during the growing season and maintained on a year-round basis.

Mr. Anson: When the shrubs get to be three-four feet tall, you're not going to be able to see when pulling out.

Chairman Maron: It also says the planted vegetation must be pruned to allow for appropriate site distance for those entering Lake Shore Road. It sounds like that would address the issue. Maybe we should go through these conditions, do a site visit, and then discuss at the next meeting.

- Condition 2: Continuing Jurisdiction – the Planning Board will review the planting and screening progress over a three-year period every six months to determine if additional screening is needed in order to satisfy the objective of the Special Permit. We didn't do that.
- Condition 3: The applicant shall install a fence or other demarcation noting where the proposed action cannot expand eastward into the forest or south into or along the top of the ravine.
- Condition 4: The applicant shall not place or store tires outside without being covered.
- Condition 5: The applicant shall not place waste materials on the site.

- Condition 6: Sponsor shall submit plans for the approved structure to the Planning Board for Site Plan Review before beginning construction and shall not begin construction before approval is granted by the Planning Board.
- Condition 7: Prior to commencing construction of any improvements requiring a building permit, the applicant shall apply for and receive such building permits, and shall comply with all applicable regulations of the NYS DMV and other agencies with jurisdiction over the project. Did he get a building permit for the building he has there?

Mr. Hainer: No, but I think he came here for Site Plan Review.

Ms. Severance: Yes, he came in.

Mr. Hainer: He did not get a permit and I talked to him about it.

Ms. Fairbanks: Is that the building he came here to talk about? What he built is not-

Ms. Severance: That lean-to type, the three-sided building. He came here one night and talked to us about it.

Chairman Maron: We should probably look at the minutes. My understanding is that the building was supposed to be parallel to the road with an entry to the south.

Ms. Severance: I think when he came and spoke that night about building the one that is set back now, he said that he didn't have the money to build the structure he was approved for. He ended up building this to have a place for his mowers and whatnot.

Mr. Hainer: He was really looking to build a motor vehicle shop, a bigger one.

Chairman Maron: We can look at that when we go there.

- Condition 8: Exterior lighting shall be shielded and directed downward so as not to cast light onto adjoining properties or illuminate the night sky.
- Condition 9: The applicant shall properly maintain the property's drainage system to minimize off-site run-off.
- Condition 10: Excluding the applicant's spouse and children, the Special Permit may not be transferred to another person, party, business, corporation, or entity.
- Condition 11: The applicant must clean up the site upon closure of the business.
- Condition 12. Upon closure of the business, the applicant shall contract to have a Phase I Environmental Assessment of the property and shall comply with all recommendations and requirements of that Assessment and any subsequent Assessments (Phase II and Phase III).
- Condition 13. Any expansion of the business beyond what has been described in the application and the permit will require an amendment to this Special Permit.
- Condition 14. The applicant shall reimburse the Town of Westport for its legal costs to enforce and litigate compliance with this Special Permit and/or to rescind the Special Permit if a court of law or other legal proceedings decide that the Sponsor has

violated and of its conditions. The Town of Westport may place a lien on the property to ensure receipt of those funds.

- In the event that any conditions above cannot be satisfied for reasons beyond the control of the applicant due to changed circumstances, the applicant may request a modification of such conditions from the Planning Board except where a Special Permit Amendment is required by the terms of this Special Permit or the Land Use Law.

Chairman Maron: My understanding is there's been couple of complaints about the property, so it's due for us to take a look.

Mr. Anson: I think they should be people that don't live in Westport.

Chairman Maron: They live in Westport.

Mr. Anson: I mean they shouldn't be. I think, in some respects, I have a little more mind as to what goes on with Bobby or anyone else who's trying to make a living here. He is supporting quite a few people right now and people are coming to him because they like him and he can get things done.

Chairman Maron: I don't think that's a question.

Ms. Severance: Is our proposed visit driven by his compliance to the conditions or by the complaints?

Chairman Maron: I think the complaints are perhaps because he's not complying with the conditions in the permit.

Ms. Severance: Let's finish this first before we worry about someone's complaint. We can address the complaints as well, but let's finish this process first. Because we didn't do our part in checking every six months, we need to hold him to what his new project is. That's maybe how we can respond to the people who are complaining.

Chairman Maron: I think there was a letter acknowledging that he's done something and congratulating him for it.

Mr. White: What type of complaints have we received?

Chairman Maron: That the property is sort of a mess and that there's no screening.

Mr. Anson: I think those people just don't understand what the piece of property is like. To me, the screening is not going to work. It's going to cause more dangerous problems. I also heard rumors that the boundary lines may not be right on the south side. That's going to be checked out.

Ms. Fairbanks: As the Planning Board, we can address it and say that yes, he is doing this or that and then go to the complaints. We still have to go through that process. We can't let it go just because he's a nice guy and everybody likes him.

Mr. Anson: He's helped me out quite a few times.

Ms. Fairbanks: That shouldn't matter according to what our roles are here. If you're on the board, that's separate.

Mr. Anson: I agree to a certain point. There has to be common sense put in to this. You have to see how the traffic is on the road and trying to get in and out of there.

Ms. Severance: I think that'd be the importance of the site visit. We'll be able to get a visual of pulling into and coming out of the property.

Ms. Fairbanks: It will have a lot more strength in the community if it comes from a Planning Board that has done its work.

Mr. White: I think what we're saying is that we're not going out there against Bobby, but to make sure everything's the way it's been set up. It sounds to me like it has been.

Mr. Anson: I know that he spent a lot of money trying to fix it.

Mr. White: You can see that just by the shrubs.

Mr. Anson: You should see the gravel that's come in to try to soak up the runoff from the road that the county was supposed to fix.

Chairman Maron: Let's see if we can plan a site visit. Are there times anyone is not available?

Mr. Fairbanks: I'm working until 4:30 in the next couple of weeks. If we could meet after that-

Chairman Maron: Would a meeting at 4:30 work for everyone? Do we want to set it through email? I'll send some dates and we'll see what works.

Mr. Hainer: You should contact Bobby to make sure he'll be there.

Ms. Fitzgerald: Maybe we should start with Bobby then.

Ms. Severance: I think it's easiest if we pick a date and give him a couple days notice.

Chairman Maron: Okay, I'll send an email to everybody.

Chairman Maron: Other business: we have a resolution from the Town to adjust the zoning.

Mr. Hainer: The Town Board has the intent to be the Lead Agency for rezoning of the 32 acre sewer extension that just occurred. Once the APA grants the map amendment and changes the land from agricultural to hamlet zoning, we have to incorporate the hamlet zoning into our zoning law. It would be put into the same village zone that the current Country Club is in.

Mr. White: This is for the golf course?

Mr. Hainer: This is the start of a SEQR process and it's quite a long process. The Town Board sends a letter to the APA, Department of State, and DEC. The agencies have 30 days to contest the Lead Agency request. If they don't, the board will go through SEQR Part 2 and determine significance. The APA then takes it to their board to get our zoning changed. At the July APA meeting they're setting the map amendment to change it from agriculture to hamlet. If the APA approves it in July, the next step is to put it into our zoning district.

Mr. Anson: Is that where they want to put the buildings.

Mr. Hainer: Eventually, yes.

Mr. Anson: Is it going to be a process like Rolling Hills?

Mr. Hainer: It'll be a similar process where they'll have to pay for our consultants to review their plans and then go from there.

Mr. Hipps: You're giving this to us for information, right? There's no action to be taken?

Mr. Hainer: The amendment process can be started by anyone. The Town Board and the Country Club started the map amendment process and the amendment to our zoning ordinance. The law requires comment from the Planning Board. At some point you'll have to draft a letter in support of or against it.

Further business: The board discussed protocols regarding review of and decision making for proposed projects.

On a motion by Mr. White, with a unanimous second, the meeting adjourned at 8:05 p.m.

Respectfully submitted,

Julie Schreiber, Secretary