

MINUTES OF A MEETING AS HELD BY THE
TOWN OF AURORA PLANNING & CONSERVATION BOARD

July 10, 2019

Members Present: Norm Merriman
Timothy Bailey
Douglas Crow
David Librock
Jerry Thompson

Alternate Member: Alice Brown

Absent/ Excused: Donald Owens, Chairman
Richard Glover
Laurie Kutina

Also Present: Greg Keyser, GHD
William Kramer, Code Enforcement Officer
2 Members of the public

Chairman Don Owens has appointed Norm Merriman to temporarily preside over tonight's meeting which began at 7:00 p.m. at the Town Hall, 300 Glead Avenue, East Aurora, NY. Dave Librock led the recitation of the Pledge of Allegiance to the Flag.

Doug Crow made a motion to accept the minutes, with the corrections from Norm, of the June 5th, 2019 meeting. Seconded by Dave Librock. Motion carried.

PUBLIC COMMENTS: None

OLD BUSINESS:

Referral from Town Board for an Open Development Area Application for 840 Quaker Rd. as presented by Mark Katilus, owner.

Mr. Katilus begins by introducing himself and stating that he was not notified of the last meeting. Mr. Katilus bought the property in 2009 with a house on it that was rather dilapidated. Prior to purchasing it, I asked the Building Inspector at the time if I bought the property and demolished the house and cleaned the property up, would I have any problems building on it again? And he said "absolutely not." I purchased the property, cleaned it up and if it can't be built on then I feel stuck, it's useless to me because it doesn't meet the new requirements of the flag lot. If I can't

build on it then I never would have bought it. Every step of the way, I called and talked to the Building Inspector at the time about the pipe and the fill. There are utilities all back there, about half way back, close to where the “flag” part starts. I have the old documents from when the realtor sold it to me, it was sold as vacant residential land use. I measured from the cliff today and if I follow the current setbacks, a new house would be in the creek. I haven’t heard of any neighbors opposing it.

Jerry Thompson asks for clarification that this lot had a house on it previously, or is it just a portion of that property that had a house on it?

Mr. Katilus responds that the house was on this lot.

Doug Crow asks for clarification that the house was on the property when he bought it or was it already torn down?

Mr. Katilus responds that he tore down the house.

Bill Kramer states that the house was on the East side of the ravine.

Further discussion by board members and Mr. Katilus on the location of the house, referencing the included maps in the packet and where the pipe was installed.

Jerry Thompsons states that as I understand this, it doesn’t meet the (current) ODA standards because of it’s size. Correct?

Doug Crow states that it was talked about last month, there were a couple of issues. Front and side yard setbacks as well as overall area.

Jerry Thompson asks so he has to get a variance and the only one who can give those variances is the Town Board, correct?

Bill Kramer states that yes, the Town Board would grant those variances.

Doug Crow states that the Town Board has asked for the Planning Board’s input.

Jerry Thompson asks what the Planning Board’s role is in this situation?

Doug Crow responds that the Planning Board either recommends that they approve it or disapprove it.

Jerry Thompson asks Mr. Katilus if he has a survey of the lot that has the house that was torn down?

Further discussion by Mr. Katilus and the Board members on the location of the previously existing house, review of the survey/maps/aerial views provided.

Jerry Thompson discusses previous code discussions for ODA's and that this lot clearly does not meet all of the requirements.

Bill Kramer responds that previous discussions were in regards to newly created ODA lots, whereas this lot was an existing condition and they code changed during ownership.

Doug Crow states that the fact it was an existing lot with a house on it was not made clear at the prior meeting. That was one of the questions that was raised at the last meeting.

Further discussion again by Mark and the Board members on the location of the previously existing house.

Jerry Thompson states that because it was previously existing that makes it a different case.

Doug Crow responds, correct, that was not made apparent at the last meeting. That was part of the discussion because it looked like it could have been part of the adjacent property and split off. That's what we want to discourage, we want to discourage someone taking a 2-3 acre parcel and splitting it into a flag lot. We don't want to create a flag lot unless they are of a material size, which is the whole point of the ODA code.

Discussion by the Board members of precedent that would be set forth if this is approved?

Dave Librock asks Mr. Katilus if the neighbors in front were notified of this because it's close?

Mr. Katilus states that her (the neighbor in front) house is approximately 150' in front of the front lot line of the ODA lot. Mark states that he put a berm in with pine trees.

Dave Librock states that was going to be his next question, can something be done to mitigate the view for privacy?

Mr. Katilus has talked to that owner previously. He also states that at one time he had planned to build a house there for himself but now lives in Elma. He'd like to sell because the market is good.

Dave Librock asks how much fill was brought in?

Mr. Katilus responds that there's approximately 300 loads, equaling about 3'-4' in depth. Fill is all clean, hard fill, some of it came from a block house in Orchard Park that was demolished (also fill from rebuilding of roads in Cheektowaga). It's good fill that will test good.

Discussion about the testing of the fill, which will be required to be verified by an engineer upon obtaining a Building Permit.

Mr. Katilus also mentions that he already has gotten the lot perc tested for the septic system. He renewed it a few times, but it has since expired so will need to be re-applied for.

Norm Merriman states that a civil engineer will now be required for the design of the septic system.

Dave Librock reiterates that since the lot is pre-existing, that changes things.

Greg Keyser states that Mr. Katilus may have to show evidence of it being a pre-existing lot.

Discussion by Board members and Bill Kramer regarding the ODA code, when it was established and most recent change.

Doug Crow asks if the decision/approval would transfer to a new owner.

Bill Kramer responds that yes, it would transfer as long as the new owner (of the property) agrees to it.

Doug Crow moved to recommend the Town Board approve the ODA application proposal, presented by Mark Katilus, with requested variances because it was an existing previously occupied lot, with the condition that he complete a berm with trees for screening purposes. The Planning Board recommends to approve the front yard setback at 75 feet.

Planning Board **rescinds the previous recommendation from the June 5, 2019** meeting to recommend the Town Board does not approve this ODA proposal.

Seconded by Jerry Thompson.

Upon a vote being taken:

eyes – five

noes – none

Motion Carried.

NEW BUSINESS:

Referral from Town Board for an Open Development Area Application for V/L Blakeley Rd. as presented by Eric Osmanski, applicant/buyer.

Mr. Osmanski introduces himself as applicant, is in contract to purchase the lot and is contingent upon approval of the ODA application. Mr. Osmanski states that the property is 10 ½ acres, is a flag lot and he intends to build a single family home.

Discussion about the location of the property by Board members.

Norm Merriman states that the width requirement of the driveway is 20' wide, asks for clarification on the width of the driveway from the road all the way back to the residence (in the drawing, it appears to narrow).

Mr. Osmanski it will be 20' wide all the way to the house, with the required bump-outs/pull-offs. The builder may have just drawn it that way but it will meet the requirements.

Doug Crow states that Greg Keyser has brought up the requirement for a sprinkler system because of the distance from the street.

Mr. Osmanski states that the driveway will be between 725' -750'.

Doug Crow asks if the intention is to make the driveway just shy of the 750' so he doesn't have to meet the sprinkler system requirement?

Mr. Osmanski states that no, they just have not planned out exactly where the house will be but they know the general area, and reiterates the driveway will be between that 725' and 750' mark. Mr. Osmanski reiterates that he is aware of the driveway requirement and the sprinkler requirement.

Doug Crow ask for clarification that it's not the intention to go over the 750' driveway length and would like an exception to the sprinkler rule?

Mr. Osmanski states that no, he is not asking for an exception to the sprinkler requirement.

Dave Librock asks about the drain that's noted on the drawing as "existing drain", is that the overflow for the pond?

Mr. Osmanski states that the overflow is in the back corner (pointing it out on the map). He explains that the pipe is drainage from the yard that drains into the pond.

Discussion about the pipe and pond drainage.

Jerry Thompson and Doug Crow both state they have no problems with this application as it meets all of the requirements.

Jerry Thompson moved to recommend the Town Board approve the ODA application proposal, as presented by Eric Osmanski.
Seconded by Dave Librock

Upon a vote being taken:

eyes – five

noes – none

Motion Carried.

Referral from Town Board for a Rezoning request at V/L Olean Rd., as presented by Todd Lehmann, owner and Ken Klapper (architect).

Mr. Lehmann begins by explaining his business (Precious Memories), fine jewelry making (light manufacturing & assembly). Mr. Lehmann also explains that the business has outgrown its current location. The business is currently renting multiple storage sites in order to store boxes, etc, which is costing a lot of money in addition to rent. The building being proposed on this site is approximately 8700 square feet, majority of which will be warehouse. Mr. Lehmann explains their manufacturing process, light manufacturing and assembly. A lot of work is done on computers as well.

Doug Crow asks simply to better understand your business, approximately how many employees do you have?

Mr. Lehmann responds that he has about 16 or 17 and also hires some college age kids during the summer. Mr. Lehmann goes on to explain the proposed building will be set off the road approximately 150' in order to keep a low profile. We'd like it to look more residential than commercial, so we plan to keep the design of the building with that in mind. I live in this area with my family and I wouldn't want the building to stand out as commercial. As far as impact on the neighborhood, we get typical FedEx/UPS deliveries twice a day and very few large trucks in for delivery. Once we have this building, we will have even fewer deliveries because of the warehouse space we'll have.

Mr. Lehmann explains that he reached out to neighbors via letters, introducing himself and his business and what the plans are. I've received some nice replies to this point. I did talk to one neighbor (Mr. Kumro) who did bring up some concerns regarding drainage and lighting. We don't use a lot of water, no more than a residential home would use. In regards to lights, we will have very low level landscaping lights (light wash the front) for security purposes. We do not have any retail so we don't have a higher need for additional lighting.

Jerry Thompson asks what the size of the building is?

Mr. Klapper responds that it is 9,000 square feet.

Doug Crow states that it is a mix of commercial and residential neighborhood. It would need to be rezoned to B2, and there is a lot of business in this area.

Discussion by the board regarding the prior rezoning of this property several years ago.

Jerry Thompson asks what types of chemicals are used in the business and if there is anything concerning?

Mr. Lehmann states that there is little chemical use, no more than what would be used in a place like a residential garage. Low cost jewelry is made with a lot of plating which requires chemicals but you don't need that with fine jewelry.

Jerry Thompson confirms with Bill Kramer that this property needs to be rezoned to B2.

Bill Kramer states that yes, it will need to be B2 because of the warehouse.

Further discussion by the board members of other businesses in the area, impact on neighborhood and use of the property.

Ken Klapper indicates that once it's rezoned to B2 they will still need to apply for the Special Use permit through the Town Board, which helps the Town to control what the property is used for and we fit into that perfectly.

Norm Merriman states that approximately 20 years ago, this lot was filled, it wasn't all the same fill and you'll have to find that out once you go through with construction.

Mr. Lehmann stated that he actually has all of the information on the fill that was used.

Jerry Thompson moved to recommend the Town Board approve the Rezoning request, as presented by Todd Lehmann (owner) at V/L Olean Rd. to B2 – Business 2.
Seconded by Doug Crow.

Upon a vote being taken:

ayes – five

noes – none

Motion Carried.

Referral from Town Board for a Special Use Permit request at 1089 Davis Rd., as presented by Michael Gish, tenant.

Mr. Gish is currently leasing a building at 1089 Davis Rd. for his business.

Discussion by Board members regarding previous business at this location.

Mr. Gish states that they started renting the property a few months ago, cleaned it all out, replaced the roof. The building is now empty, interior is in good condition. Septic was tested and passed today (July 10, 2019). The plan for the building is to be used as a warehouse and offices for my business.

Greg Keyser asks what type of construction does the business do?

Mr. Gish replies that they are an HVAC construction company. We are also a specialty contractor for some foundation work and Helical Pile installation. We have some inventory and equipment. We have a 2-ton excavator and a Skid Steer.

Jerry Thompson asks if that equipment will be stored inside or outside?

Mr. Gish responds that they will be stored outside.

Greg Keyser asks if there will be raw materials or spoils stored on site?

Mr. Gish states that they really do not have any spoils from their work, since the Helical Piles are screwed into the ground.

Doug Crow asks if there will be storage of materials/inventory prior to going on job site?

Mr. Gish states that yes, there will be the large steel screws (on pallets)

Norm Merriman asks if there is a plan to have a containment area for security purposes?

Mr. Gish states that he has cameras up everywhere. He is not too concerned with security because of the residential nature of the area.

Jerry Thompson states that this is just a Special Use Permit in a B2 zone, everything exists, it's just the type of business to be run there.

Greg Keyser states that it should be noted that the Zoning Code states any materials storage outside is required to be screened/not visible or stored inside.

Discussion on possible screening options (possibly store equipment where there is space behind the building).

Doug Crow moved to recommend the Town Board approve the Special Use Permit, as presented by Michael Gish (renter) at 1089 Davis Rd.
Seconded by Jerry Thompson.

Upon a vote being taken:

ayes – five

noes – none

Motion Carried.

Referral from Town Board for a Special Use Permit request at 12 Old Glenwood Rd., as presented by James Wasik, friend of applicant/business owner.

Applicant is not in attendance tonight. James Wasik, friend of applicant is present to represent Nataalka Prytula.

Mr. Wasik begins by discussing the parking of the business.

Discussion by board members and Mr. Wasik of the location of parking on the map/sketch included in the application documents.

Mr. Wasik stated that he cleaned up the property, removed a lot of brush and garbage, moved some stone in the parking area.

Jerry Thompson asks (directed to Bill Kramer) if the issue is not enough parking?

Bill Kramer states that is one of the issues. I haven't done an exact count of the required number of parking spaces. The previous businesses always used the area that's actually State property, for parking and it was never questioned because it was continuous use by the businesses. The State never objected to it.

Doug Crow states that it should be resolved (parking on the railroad property/State owned land) because there is an ongoing proposal to try to turn the rail line into the "Rails to Trails" project. If they do a lot of work there in the future (with the rail line), the parking should be resolved.

Discussion on Rails to Trails, how it works.

Bill Kramer states that this applicant was referred to the Planning Board to review the Special Permit, which typically looks at the hours of operation, impact on the neighbors, etc. The parking issues haven't been brought up yet.

Jerry Thompson asks how long the (previous) bar has been closed for?

Renee Ronan, of 13 Old Glenwood Rd. (across the street), states that it's been closed since it was Tombstone Saloon a few years ago.

Dave Librock asks if anyone is living upstairs?

Mr. Wasik states that there is a gentleman that's been living there for about 30 years.

Ms. Ronan states that the man's name is Rick (owner of the previous bar).

Bill Kramer asks is there is just 1 apartment?

Ms. Ronan replies that there is room for 2 apartments. No one else is living there, just Rick.

Jerry Thompson discusses clarification on what the Planning Board should be looking at?

Bill Kramer replies that part of the Special Permit is the hours of operation, again parking may be an issue.

Greg Keyser states that one thing that should be established that yes it is reopening as a restaurant and there is a provision within the off-street parking requirements (in the code) that says if you're not expanding, whatever parking existed for the previous bar/restaurant would be fine.

Ms. Ronan states that her concern (as well as other neighbors) is the hours of operation (prior bar had late hours, music outside, fireworks, etc.), parking on the side of the road. People will park on both sides of the street which narrows the street down to one lane. There have been accidents,

so I am most concerned with safety issues. I also talked to Natalka about possibly planting some shrubs or having some kind of way to help stop the sound that travels and we can hear at our house.

Doug Crow states that your comment regarding safety is very relevant.

Discussion by Ms. Ronan and Board members about previous accidents on the road and parking.

Doug Crow asks for clarification on where exactly parking will be?

Mr. Wasik states that the parking will be along the back of the building and along the side towards the front, approx. 25' from the building to where I'd like to clear (brush, etc).

Bill Kramer asks Mr. Wasik if he could provide a diagram of exactly how much of the property is cleared, where the parking will be?

Doug Crow states that's a great idea, to provide a site plan with dimensions to help visualize the parking, how many spaces.

Further discussion on what should be looked at while reviewing the Special Permit (hours of operation, parking, music, etc.).

Doug Crow states I think we need an actual more clarified site plan which has actual measurements of where the parking is going to be, length, width, how many spaces. This application does have hours of operation, so I would be very interested to see what the details would be for any live music outside, or no music?

Further discussion about the previous businesses at this location and issues that arose, specifically with parking.

Jerry Thompson moved to table the referral from the Town Board for the Special Use Permit, presented by James Wasik (friend of business owner) at 12 Old Glenwood Rd. Planning Board requests that the applicant supply a detailed site plan showing measurements and parking spaces. Seconded by David Librock.

Upon a vote being taken:

ayes – five

noes – none

Motion Carried.

CORRESPONDENCE: None

A motion was made by Jerry Thompson and seconded by Doug Crow to adjourn at 8:36PM.

THE NEXT SCHEDULED MEETING WILL BE WEDNESDAY AUGUST 7th, 2019 AT 7:00 P.M. AT THE TOWN HALL, 300 GLEED AVENUE, EAST AURORA, NEW YORK