

Gardiner Town Planning Board

Meeting Minutes

December 18, 2018

Present:

Chairman- Paul Colucci, Marc Moran, Joe Hayes Vice-Chairman-Keith Libolt, Clerk- Mariela Roman
John Friedle, Ray Sokolov, Secretary- Carol Richman, Josh Verleun

Others Present:

- James Freiband - Principal Planner
- Marc Millsbaugh- Sterling Environmental
- David Brennan- Attorney to the Planning Board

Meeting Called to Order: Start time- 7:03 p.m.

Roll Call Taken

NEW PUBLIC HEARING:

1. Golden Dome Realty, LLC – SBL #94.003-4-34

Minor Special Permit application for a commercial kitchen and retail outlet. Rte 208 (Cathgro Building)

SBL # 94.003-4-34

Mr. Colucci read public hearing notice.

Applicants and others present included Tom Cino, representing as architect and engineer, Joe Fitzpatrick owner of Golden Dome realty, and Roberta and Eric Schwarz, owners of Doc Schwarz Wine Jellies.

12/12/18 Memo (on file) from James Freiband, principal planner, read by Mr. Freiband.

Floor opened for public comment.

Public Comment from resident John Mcneil of 657/655 Rte 208: Owner of property across the street- Inquired of some specifics of the business use, including hours of operation, lighting, parking, and shared business use. Lightning Express already in operation on site and this would include use of two businesses and parking. Resident also inquired about lighting in parking areas. Asked if a traffic study had been done to estimate traffic flow.

Public Comment from resident Tom Carano:

Expressed his concern about the lack of stamp on maps presented. Stated that every map presented before a municipal court should be stamped by a professional engineer. Claimed the Planning Board of being in violation. Board noted that a seal was on the table copy.

Public Comment from resident Pam Free – Resident is neighbor of Roberta and Eric Schwarz for 23 years. Stated that applicants have been outstanding members of the community.

Mrs. Schwarz addressed the first comment. Explained that she works at a school Monday-Friday. Therefore, business hours will primarily be 10-5 on weekends.

Ten parking spaces already existing will be used. Mr. Colucci inquired about the combined business use in regards to the parking, and truck traffic. Applicant explained that the business is run by same owner and runs under the different name, Lightning Express. The primary use of the space considered is for

warehouse space. Business office is run out of Modena. Applicant referred to "road access" section of a site analysis (on file) done by surveyors in which this issue was already cleared.

Mr. Colucci confirmed with applicant that the existing warehouse use will have no change.

Mr. Colucci asked Planning Board members to inquire further details.

Mr. Sokolov inquired of the type of business; whether retail or wholesale. Mrs. Schwarz expressed her intent to have mainly local level shows. Included that her independent clientele is low. For example, having only two private clients last year.

Mr. Colucci inquired if she was going to be covered under Ags. and Market. Replied Yes. Additionally, this means that Board of Health approval is not required.

Also, building inspection occurred one week ago.

Mr. Colucci expressed the need to provide the Planning Board with license and permit for this specific site facility for approval.

Mr. Friedle inquired if there is a planned increase for the Lightning Express. Mr. Schwarz replied that there is no planned growth.

Mr. Libolt inquired of Mr. Brennan if it was ok to proceed without a signed site plan.

Mr. Freiband explained that this is not a site-plan, it is a special permit and

220-65 states that the board can waive the requirement of a site plan, which is not necessary to begin with.

Mr. Carano's question about map signatures was not addressed as it was an error.

Mr. Colucci informed applicant that the Planning Board is waiting on response from the UCPB after referral submitted.

Mr. Freiband's recommendation is to have the resolution be such that it authorizes board to sign the site plan.

Applicant reemphasized that nothing has changed on the site from original plans.

2. John Calderone- SBL# 92.004-2-14.120

Minor Two Flag Subdivision- South Mountain Rd at Calderone

Mr. Colucci read public hearing notice.

Mr. Freiband's read his memo (on file) dated 12/12/2018

Mr. Colucci asked for a review from the applicant for the board's benefit.

Applicant stated that initial plan was a 5-acre layout, which would have required a conservation easement. Decided to do a flag lot development so one lot would now be 10-acres.

Floor opened for public comment.

Attorney Vincent Gadelano, representing Ms. Calderone (Not Applicant). Attorney stated that when the SEAF Form was completed, it did not identify the ongoing business of Ms. Calderone, which is in the intended 50-foot right of way. Mr. Calderone is running a part-time landscaping and excavation business out of that property. The main concern is the potential noise and dust that kicks up. The B&B's pool is only 25 yards from the road-to-be. The actual impact is not for Ms. Calderone's property, but adjacent to it. SEAF should have properly indicated that there is a business. Because there is no screening, this would impact the business Ms. Calderone is running. Ms. Calderone put together a package including photos

and an appraisal by Mr. Terrance W, which states there will be a negative impact on the value of her property.

Ms. Calderone noted that she is concerned about the peaceful setting being interrupted. The amount of dust is not a problem now but the new intended use is of concern in this regard. Doesn't understand why Mr. Calderone is not using the current driveway.

Resident Mr. Carano asked to see if these maps were stamped. He was shown the physical maps stamped, but not the PDF's online.

Mr. Colucci asked Mr. Calderone the approximate distance and inquired about the required screening at the time the business was opened. Mr. Calderone explained that it was required but put up. Mr. Colucci explained there will be a revision of the original site plan to see if it complies.

Regarding the driveway surface, Mr. Calderone the existing is a shell driveway. Type of business is an excavation business, mainly mowing lawn, and the biggest piece of equipment is a mini excavator. The trucks moving in and out are 2 1-ton trucks. Mr. Calderone also noted that Ms. Calderone has box trucks coming with deliveries almost daily.

Mr. Colucci asked the proposed right of way is at this particular spot. Applicant explained there isn't enough room between the house and the garage to get to lot 2. The position of the septic system also plays a role.

Mr. Colucci inquired what the intentions were for a driveway construction. Mr. Calderone stated he has no intentions of building a driveway there. He would just like to be able to break off the land in the future if necessary.

Upon inquiry from Mr. Colucci, Mr. Freiband explained that there could be one additional lot developed, under the same right of way. The second lot could be developed under open space but there would be a need for a public road. As of now, it is sufficient for flag lot development.

Mr. Hayes asked for clarification.

Mr. Libolt noted that he would like to request for additional screening. Mr. Freiband noted that a provision could be made if a driveway was actually constructed. Mr. Colucci reiterated that the building inspector will be addressing the board as to the current status and need for screening.

Ms. Richman inquired if the screening could be the responsibilities of all parties involved. Mr. Colucci replied that Mr. Libolt's discussion answered that. Mr. Freiband clarified for Mr. Richman that the applicant is not asking for a right-of-way, rather a driveway.

Mr. Verleun had no additional questions.

Mr. Colucci informed Mr. Calderone that the board will be looking at both property files to check that they both are already in compliance. If Mr. Calderone's property is pre-existing in conditions, the planning board's "hands are tied"

Ms. Richman inquired if as a condition, the old right of way is to be used for any new business, rather than the new built one.

Mr. Freiband explained that the stipulations and original conditions for landscaping should be referred to answer this.

Mr. Libolt ask for and received confirmation that both lots are under same ownership.

Mr. Colucci emphasized

Ms. Calderone stated that the Planning Board only required her to do partial screening and that it was the board's mess up. She also demonstrated how she has zig-zagged trees. She inquired what the setback was for the property. She was answered 10 feet.

- Mr. Libolt motioned to close the public hearing.
- Mr. Friedle seconded.
- Motion carried unanimously.

- Mr. Friedle motioned to approve the SEAF Part I
- Mr. Sokolov seconded.
- Motion carried unanimously.

Discussion had to establish that the board will be filling part II of SEQR. This will occur after the issue with screening is depending on the building inspector's findings.

OLD BUSINESS:

3. Heartwood- SBL # 93.4-1-42.100 & 93.4-1-41.120

Special Permit & Site Plan Review : Lot Line Revision -Rte 44/55 and Tuthilltown Rd.

Mr. Colucci informed the public that the Planning Board will not be voting on any resolutions for approval at this meeting. Will be discussing information regarding the special permit and site plan review.

Introduced to the discussion was Ms. Richman's 6-page memo (on file) dated 11/20/2018 (An analysis of Gardiner's Law in Respect to the Preservation of the Shawangunk Kill's Riparian Zone and Floodplain Forest)

Focus was given to the 12/14/18, 1-page memo from Ms. Richman (on file) which serves as a summary, using the 11/20/18 memo as its authority.

Ms. Richman stated her concern to advance and to protect Gardiner's zoning laws and protect natural resources. Addressed the 150-foot buffer that is required by the DEC. Highlighted the consideration of expanding the buffer to protect the Riparian Forest. Building cabins amidst these trees would be ignoring the open space plan and master plan. Stated that the applicant said they will not take down trees to an extent not practical. Does not understand how there would be a negative economic impact to the applicant by adhering to a larger buffer. Wild life corridor would also be negatively affected.

Mr. Verleun sees the recommendation for a larger buffer. From a zoning perspective, and the ongoing concerns from the community, agrees that further discussion is had.

Mr. Sokolov inquired about the number of cabins that are in the woods. Believes the 23 eco-cabins would be the most attractive sites of the development because of the wilderness. Mr. Colucci described the

different capacities for all cabins. Stated his understanding of weighing public concerns against the firm desire of the development to have some segment sheltered and resembling camping.

Mr. Friedle stated his opinion that there is no bank below the cabins, as had been stated in some concerns. Also, that at the top of the slope, you can not see the cabins from up there. Agrees with Mr. Sokolov that the cabins in the woods *are* more appealing than those in the field. Mr. Friedle stated that he disagreed with Ms. Richman's entire premise.

Mr. Libolt had no comment.

Mr. Hayes expressed his opinion that the discussion has been had for too long. Cabin location was discussed since initial review, board has received topographic maps, have made numerous changes to the site plan, a reduction has been made to the number of cabins, have gone through the SEQR process, enough public comment has been heard and addressed by the applicant. Strongly believes it is time to make a decision.

Mr. Colucci referenced his request to Mr. Millspaugh (consultant engineer) to address the 12/14/18 memo from Ms. Richman with regard to the measurement of the stream bank.

Mr. Millspaugh highlighted the definition of "Bank Full" by FEMA as "the condition when a stream or river is at its highest flow stage, just below foot stage, when it's bank full."- The bank is the immediate shoreline of the flow channel. Definition of the town code, almost verbatim to DEC definition, is "the land that is immediately adjacent to, in which naturally slopes towards the bed of a water course, which is necessary to confine the water course in its natural flow channel. A stream bank is not considered to extend more than 50 feet horizontally from the mean high water line, except that where a generally uniform slope greater than 25% , or greater, adjoins the stream bed and is considered to extend to the crest of the slope or definable break in slope, which may be a natural feature or constructed feature such as a road parallel to the water course."

Mr. Millspaugh displayed the DEC definition and noted the only difference is the steeper slope of 45 degrees.

He demonstrated on site map, a walkable bank except for the 8-foot high face point.

Even at this point, the cabins are set back over 100 feet.

Difference of stream bank and stream slope being defined differently.

Mr. Millspaugh attempted to show some photos from a flash drive- but display was unsuccessful.

Mr. Libolt inquired of the definition of the of eco-cabins.

Discussion had about the various movements of the cabins in relation the stream.

Discussion had about the placement of the existing mature trees. Mr. Moran expressed his concern for the long-term affect to said trees.

Mr. Colucci made the entire board aware about the memo from Mr. Moran, dated 12/17/18. In order to fully review this memo, it will be necessary to review at the planning board's next meeting, giving the members time to review. Public comment period has ended and those for review are in the files.

Mr. Moriello expressed that any further comments by non- planning board members, will not be considered by the applicant as these are untimely.

Ms. Richman expressed concerns about the cabins along the river bank.

In frustration, Mr. Colucci referenced several current homes built by opposing neighbors along the river bank within the last two years. which had been clear cut to the waters edge.

As reiteration, Mr. Colucci reminded that the DEC has weighed in on this issue, and the 666 permit has been issued.

Mr. Brennan provided a 26-page draft resolution. This serves as framework for approval of the project. Included are the basic facts of the project. Mr. Brennan explained the layout of the document. Language from the code is italicized. Lot line revision includes (Mr. Brennan's) whole review. Laid out every provision that had to be considered. This project requires Lot line revision, issuance of a special permit and site review.

Some struggle with some items are the findings the board may need to agree to.

Mr. Brennan proposed that each item be addressed and he make changes for the January meeting.

Mr. Brennan began reading notes on findings 1-12.
Addressed his concern for the term "Freedom of land use". Addressed was the noise concerns to be further discussed in Mr. Moran's memo.

Board member Moran inquired why the noise discussion memo was not addressed today.
Mr. Colucci explained that there was not enough time to review by its receipt date.
Mr. Brennan stopped reading at item 8 for Mr. Colucci's inquiry.
Mr. Colucci suggested that the board members look at the document and correspond with some concerns.
Mr. Freiband's suggested for the next meeting that for each item the Board have a straw vote-similar to SEQR review.
Mr. Hayes suggested that review be made in blocks of 4 major points.

Mr. Colucci suggested the board have a special meeting for review- similar as had for Shaft Rd. project. Special meeting for document review was scheduled for Thursday, January 10 at 7:00 pm pending confirmation from Town Hall availability.

Ag Easement where Mr. Millspaugh, applicant proposed a building envelope for about 400 feet back on the property. Within envelope, the structures could be built without having to go back with specific size requirements.

Mr. Brennan made suggestion in reference to an Ag Easement "middle ground" since there is no special permit for agriculture. To be written as an administrative review for items such as an internal road access. To be written by building inspector, planning board chairman, and fire department chief. To be done so in consideration of health in safety.

Mr. Colucci expressed his discomfort and different view to this suggestion. What should be considered now should be in the document or left blank.

Mr. Libolt stated that what the board has agreed to will be expressed in the upcoming agreement.

Mr. Moran disclosed that he had an ex-parte conversation with Ms. Rapaport in regards to the easement.

Mr. Colucci took a question from Ms. Adler requesting this meeting's documents.

4. Jeff Frey- SBL #93.4-1-7.300 & 7.200
Commercial Site Plan Review & Lot Line Revision- Rte 44/55 and
Albany Post Rd.

Mr. Colucci reminded Mr. Frey to note the end-of-year invoices that need to be paid to close out the year with the town's bookkeeper.

December 12 Mr. Freiband memo (on file) read by Mr. Freiband.

Sterling Environmental memo by Mark Millspaugh, dated December 13, 2018 read entirely and used as a reference for discussion by Mr. Millspaugh.

Small discussion had to discuss the combined lots.

Discussion had to the relevance of the volume of runoff.

Mr. Medenbach offered to prepare a Stormwater Management Plan to control discharge. Expressed that a full Storm Water Pollution Prevention Plan is much more involved and included different criteria. It is much more involved and a bit of a burden on construction.

Discussion had about relevance of the current one-lot size and it's adjacent lot. Mr. Millspaugh stated that the dilemma this creates for board is when the second lot gets developed. [The client could "max out" items pertaining to piece milling, and storm water decisions when dealing (in the future) with less-than-one-acre standards. Mr. Medenbach argued its lack of intended future purpose complicates the definitions for now.

Mark: Look at building envelope on the second lot, and its ability to care for itself. Securing that the discharge across 44/55 is no larger in volume than it is now.

Freiband: There has been no development of the property. There has only been division of the property. Mr. Friedle inquired about the egress from Albany Post Rd.

Mr. Freiband explained that was all part of the egress study done so that each lot would have the ability to have two accesses.

Mr. Libolt inquired if this is suggesting a pre-plan SWPPP for future plans.

Mr. Millspaugh replied Yes, because the 2003 was ahead of current storm water guidance. That is where the big difference is. Meets the test of a common development site. The 1 acre is for whole project, not just for the phase moving forward now.

Mr. Frey asked what makes it a common development plan?

Mr. Brennan suggested that Mr. Medenbach writes to the DEC and ask they define this project because of its unique situation.

Mr. Medenbach agreed.

Mr. Millspaugh continued the "Grading" portion of this memo.

Mr. Medenbach stated that a landscaping plan will be created.

For discussion under "Wastewater" Mr. Medenbach stated that correspondence of approval from UCDOH.

For discussion under "Drinking Water", Mr. Medenbach stated that they will be looking for a different classification, as not "public water", from the Department of Health because of population and use size recalculated.

For discussion under "Signage", Mr. Frey expressed his uncertainty of signage at this point.

Mr. Colucci emphasized the importance of submitting all items for review all together, as possible.

Mr. Frey expressed his efforts to follow through on all requests thus far.

Discussion had about consideration of signage type and location. Mr. Frey is uncertain if he will have signage.

Discussion had for items needed at next submission. Mr. Freiband noted items awaited on will include those mentioned in his November 10 recommendations. These include:

A letter from the DEC,
Storm Water Protection Plan, and
A letter from the Board of Health stating this is not public water supply.

Mr. Colucci reviewed additional items to be addressed, including:
Landscaping plan and
Letter from the fire department and engineer.

Discussion had as to the likely submission of items in January of February.

- Mr. Hayes motions to schedule a public hearing in February, subject to receiving required items
- Mr. Libolt seconded motion
- Motion carried unanimously

INFORMATIONAL:

5. Robert O'Brien- SBL# 93.1-1-32

Subdividing property located at 655-57 S. Mountain Rd.

-
Discussion had with Mr. O'Brien about the intended use of the three parties purchasing this
5 acre property.

Initial intention is to subdivide "wasteland property", 5-acre property, and woodland property.

6. Peter Elani - SBL# 93 3-2-2.100

302 Mckinstry Road , Dig Inn

-
Mr. Elani and Larry (manager/representing company) present.
Mr. Elani stated their main intent is to gut or renovate buildings to
farm the land, growing vegetables for the existing line of restaurants, possibly a small café in the future,
and lodging for the employees.

Hopes to add a small events space for internal and public use and
build incubator operations. The business is intended to be education focused for the farmers, chefs, etc.
Mr. Colucci stated this will not be a small project.

Discussion had as to what the main intended use would be classified as.
Mr. Freiband identified the two understood uses as agricultural use, and small scale business use.
Best path Maintain agricultural use , allowing building additions and use the existing main house for the
teaching uses., or with minimal changes.

NEW BUSINESS:

None

County Board Correspondence

None

Approval of Minutes

- Mr. Friedle motioned to approve November 20 minutes as amended
- Seconded by Mr. Libolt
- Motion carried unanimously

Adjournment

Submitted,

Mariela Roman

Mariela Roman
Planning Board Clerk

Approved: 3/19/2019

Filed: 3/21/2019 - *Michelle A. Mosher*

Approved by - _____

