

TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015

Members present: Don Serotta, Chairman, Frank Gilbert, Carl D'Antonio, Steven Denes, Ernie Damiani and Barry Sloan.

Also present: Dave Donovan, Attorney, Al Fusco, Engineer and Tanya McPhee, Secretary.

A motion to adopt the minutes from the May 20, 2015 and June 3, 2015 meetings was made by Steve Denes and seconded by Ernie Damiani. Motion carried 6-0.

Chairman Serotta stated that the meeting for July 15, 2015 is cancelled due to Board attorney Dave Donovan's vacation. The next meeting will be held August 5, 2015.

Chairman Serotta updated the Board on the Primo Sports project. They have completed their Northern Cricket Frog study and have completed two different noise studies at two locations. They are finalizing the DEC dirt study. Many support letters have been coming in as well.

Leke Vataj 79 Southside Drive – WORK SESSION

First item on the agenda tonight is a work session for Leke Vataj of 79 Southside Drive. He purchased the home as a two-family home but shortly after closing was cited because it is not supposed to be a two-family home. At some point the single-family home was converted. The applicant is looking for Planning Board approval for a two-family home.

Leke Vataj stated he closed on the property in October 2014. Before closing he went to the assessor's office and searched the property and it was listed as a two family. The applicant stated that he also went to the building department and stated he was unable to check the whole file, but according to his research the property showed no violations. As soon as he tried to rent the property he states that he was issued a letter stating he was in violation. The applicant states that the assessor has had the property listed as a two-family since 1990.

Chairman Serotta stated he did not doubt that the assessor's office had the property listed as a two family, but the assessor's records do not reflect if there are violations. If the building department has no permits or C of O's for the property, the property will be cited. The applicant submitted a form from 1999 that shows no violations, but Dave Donovan said the form doesn't specify whether it is a single or two-family house.

Al Fusco submitted the following letter:

**TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015**



- 233 East Main Street
Middletown, NY 10940
Phone: (845) 344-5863
Fax: (845) 956-5865
- 19 Waywayup Lane
Port Jervis, NY 12771
Phone: (845) 956-5866

June 30, 2015

Donald Serotta, Planning Board Chairman
Town of Chester
1786 Kings Highway
Chester, New York 10918

RE: 79 Southside Drive
Letz

Dear Chairman Serotta,


We have reviewed the material submitted for our review.

I have visited the site and inspected the building. The building is separated into 2 separate dwellings. It appears to me that the single family dwelling was converted many years ago but not prior to establishment of the Town Zoning Code.

I believe that the application should be referred to the ZBA for a 2-family use and, if approved, come back to the Planning Board for review of the site plan.

Please advise if you have any questions.

Very truly yours,



Alfred A. Fusco, Jr., P.E.
FUSCO ENGINEERING &
LAND SURVEYING, P.C.
AAF/cam

TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015

Al Fusco stated that the building inspector asked him to do an inspection. Mr. Fusco met with the property owner and upon inspection said the property had been converted into a two family. The building inspector asked Mr. Fusco to see if the conversion predated zoning because there were no inspection records or building permits to convert it from a single family to a two family. His sole purpose was to determine if the conversion was done before or after zoning by looking at the electrical system. The electrical system was altered modernly and therefore the conversion was non-conforming. An order to remedy was issued due to the conversion without a permit sometime after zoning. Al Fusco stated the procedure should be to move forward with the Zoning Board of Appeals and then back to the Planning Board to review as a site plan.

Dave Donovan said it does not meet the dimensional requirements even though in SR.2 a two-family residence is allowed. He stated to the applicant that the Board cannot overrule the building inspector. Chairman Serotta stated in the SR. 2 zone in order to have a two-family house the applicant needs 175% square feet of lot size of a single-family home. His lot is substandard.

Dave Donovan stated the Planning Board should refer the applicant to the Zoning Board of Appeals for a variance from the bulk requirements to allow a two-family house on the lot.

A motion to refer the applicant to the ZBA was made by Ernie Damiani and seconded by Carl D'Antonio. Motion carried 6-0.

Baroda Realty Black Meadow Road – Subdivision

Next item on the agenda is the Baroda Realty Subdivision. Appearing before the Board was Mark Siemers, Professional Engineer. The applicant's last appearance before the Board was in December of 2014 to discuss the yield plan revisions and the request of clustering. At that time there was a discussion on the soils testing that was previously done on the site as well as what more soils testing would be required to prove out the plan. Since that meeting there has been an additional meeting with Al Fusco, Don Serotta and Dave Donovan to specify which lots on the yield plan would need to be tested to prove out that all the lots work. Deep pit soils tests were then conducted on the yield plan on Lots 1, 7, 8 15, and 28 to provide a good cross section. All of those tests passed and showed that the sewage disposal system could be installed on the proposed lots.

Additionally the wetlands had been discussed and the sign off of the wetlands. Mr. Siemers spoke with Doug Gaugler of the NYSDEC. Mr. Gaugler signed the DEC delineation map on March 29, 2012, however it appears there are no signed maps on file

TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015

anywhere for anyone to get copies of. He requested that he be provided with a map for him to sign and return. The applicant met with him in person and showed him the maps and Mr. Gaugler is okay with them and they have been submitted to him for signature. Once the applicant receives those maps back, they will submit it to the Board for the file.

In addition there is Army Corp of Engineer wetlands on the site. Mr. Siemers spoke with Brian Orzel. A wetlands jurisdictional letter was issued in October of 2012. Mr. Orzel supplied the applicant with a copy of that letter which was provided and is on file.

The applicant responded to the remaining items in Al Fusco's last review letter, including designing the yield plan lots in accordance with §83.22 of the Town Code. They provided the verification of proper well to sewage disposal system separations. The yield plan demonstrates that 30 lots can be achieved on the 168-acre parcel.

The applicant also submitted a revised cluster subdivision plan. The proposed cluster subdivision plan contains 29 proposed lots. The cluster plan preserves large areas of conservation area. The conservation area will encompass all of the NYSDEC wetlands including the 300-foot bog turtle habitat buffer that surrounds the DEC wetlands, the majority of the Army Corp of Engineers wetlands, the 100-year flood plain and a large majority of the steep slopes located in the southern portion of the project site. All of these are targeted in the cluster subdivision regulations as areas to be preserved.

Additionally the applicant provided based on the highway superintendent's request a 100-foot right-of-way located on the northeast side of Bairds Cross Road along Black Meadow Road. It will be an offer of dedication to the Town of Chester so a better shoulder can be provided if needed.

The last revision of this plan was a removal of a revision that was submitted in December of a boulevard. It is now a proper entrance onto Black Meadow Road.

In anticipation of designing the cluster subdivision the applicant has begun soil testing on the site. They have performed a number of percolation tests and have received very good soil results all in the sewage disposal system areas. Percolation tests have been completed for 20 of the lots and the remaining lots are scheduled for the week ending July 3, 2015.

The applicant is requesting the acceptance of the yield plan and authorization of the cluster subdivision so that they may proceed into the design phase of that cluster.

Chairman Serotta asked Mr. Siemers to explain Lot 29. Lot 29 is going to be retained by the current owner and the majority of the lot will be encompassed in a conservation easement with agricultural rights. Dave Donovan explained that a conservation

TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015

easement cannot be built on or subdivided. Ultimately the determination of what could be allowed is for the Town Board to make.

Al Fusco submitted the following letter:

**TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015**



- 233 East Main Street
Middletown, NY 10940
Phone: (845) 344-5863
Fax: (845) 956-5865
- 19 Waywayup Lane
Port Jervis, NY 12771
Phone: (845) 956-5866

June 30, 2015

Don Serotta, Chairman
Town of Chester Planning Board
1786 Kings Highway
Chester, NY, 10918

Re: Baroda Subdivision
Section 12, Block 1, Lot 31

Dear Mr. Serotta and Planning Board Members,

We have reviewed the most recent submittal and offer the following:

Project: Baroda 29 Lot Subdivision
Material Reviewed: Yield Plan by Pietrzak & Pfau
Cluster Plan by Pietrzak & Pfau
Review Letter by Pietrzak & Pfau

COMMENTS:

1. The revised yield plan has taken our previous comments into consideration. The design engineer has demonstrated compliance with the design requirements. We can accept the Yield Plan as submitted to be technically sufficient. It is, however, a Board decision if they feel the unit count is excessive for the site based on all of the factors under consideration.
2. The overall cluster plan is only a sketch and much more detail is required in order to even comment on this plan.
3. The wetland delineations need further documentation which appears pending.
4. Lot #29 with the Agricultural Conservation Easement should be explained to the Board; possible consideration for open space.
5. Board comments.

ACTION:

1. Consideration of Yield Plan approval.
-

**TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015**

Please advise if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'AAF', is written over the typed name.

Alfred A. Fusco, Jr., P.E.
Fusco Engineering & Land Surveying, P.C
AAF/cam

TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015

Al Fusco read from his letter. He explained to the applicant he would like to witness a few of the soils testing.

Chairman Serotta polled the Board for questions and/or comments regarding the yield plan. Barry Sloan asked where the proposed access is for Lot 29. Mr. Siemers stated Bears Cross Road which is an existing driveway. It's part of the right-of-way.

Dave Donovan stated the first action the Board needs to take is to accept the yield plan and it is the only action needed at this stage to state what the maximum number of lots can be. The Planning Board shall render a determination of the allowable density based on an acceptable yield plan so there will be a motion that the yield plan is acceptable.

Motion to accept yield plan made by Frank Gilbert, seconded by Steve Denes. Motion carried 6-0.

Mr. Siemers said his next request would be authorization for clustering. He stated that he didn't want to go through and design the whole cluster to have the Board say at the next meeting they don't like the cluster.

Dave Donovan stated that the code indicates that once the Planning Board agrees that the yield plan is accepted, the Planning Board may hold a preliminary public information meeting. Upon receipt of acceptable cluster and conventional yield plan, then SEQR review starts and lead agency is established.

Mr. Siemers asked if a move toward the cluster be endorsed by the Board so the applicant has something to lean on. Chairman Serotta polled the Board for questions and comments. Frank Gilbert stated that after everything they've seen on this project up to this point this is the best approach. Al Fusco stated that by establishing the yield and getting to this point of cluster, the Board has demonstrated sufficiently that is the direction the Board wants to go to. The rest of the Board members stated they were good with a cluster plan from the applicant. Barry Sloan said as long as the applicant understands it's not sketch plan approval.

Chairman Serotta stated the poll of the Board indicated to the applicant that they are going in the right direction. Dave Donovan stated the next step would be to have the revised EAF submitted in order for the Board to declare its intent to be lead agency.

Applicant to come back August 5th with revised EAF.

TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015

LAVIANO – SITE PLAN APPROVAL

Next item on the agenda is an application for a gas station and convenience store on a two (2) acre site. Appearing before the Board was Jay Samuelson with Engineering and Surveying Properties.

Mr. Samuelson stated the application is for a gasoline filling station with an approximately 2800 square foot retail center. Its location is 1831 Kings Hwy. The site is steep and there will be some grading accomplishments that will have to be completed to get the site to function. This is the initial application showing the first plan for the first time to get the Board's feeling on what is being proposed. Only a concept sketch has been submitted at this time. Some soil testing has been done showing adequacy for a septic system.

Al Fusco submitted the following letter:

**TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015**



- 233 East Main Street
Middletown, NY 10940
Phone: (845) 344-5863
Fax: (845) 956-5865
- 19 Waywayup Lane
Port Jervis, NY 12771
Phone: (845) 956-5866

June 30, 2015

Donald Serotta, Chairman
Town of Chester Planning Board
1786 Kings Highway
Chester, NY, 10918

Re: Laviano
Section 6, Block 1, Lot 68.2
Orange County, New York

Dear Chairman Serotta,

We looked at the proposal and offer the following:

Project: Laviano Gas Station-Convenience Store
Zone: GC
Acreage: 2 Ac
SBL: 6-1-68.2
Material Reviewed: Sketch from Engineering Properties
Short Form EAF/NYSDEC Mapping
Application Form

Comments:

1. This is a preliminary review but 239 GML requires distribution.
2. On County Road they need OC Dept. of Public Works review.
3. SWPPP required – disturbance over 1 acre.
4. All Chester Code site plan requirements needed.

TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015

Please advise if you have any questions.

Very truly yours,



Alfred A. Fusco, Jr., P.E.
Fusco Engineering & Land Surveying, P.C.
AAF/cam

Cc: Alex Jamieson, Supervisor
Town Board
Anthony LaSpina, Highway Superintendent
Town Attorney
Board Attorney
Joseph Mlcoch, Building Inspector
Linda Zappala, Town Clerk

TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015

Al Fusco stated that 239 General Municipal Law would have to be done once complete data are submitted. The site is on a County road so Department of Public Works will need to be done. The disturbance appears to be well over an acre. A SWPPP will be needed as well as all the other code requirements.

Chairman Serotta asked about site distances. Mr. Samuelson said site distances are on the plan. On the northern-most entrance they have about 395 feet of site distance to the left which is the top of the knoll. The speed limit is 40 miles per hour there. This will all be reviewed by the County DPW.

Chairman Serotta stated the application meets the zoning as an allowable use in the GC zone. The zoning then refers to §98-29 J which states that no church, library, school, playground or similar place of public assembly shall be with 500 feet of the site. The site is farther than 500 feet from the Chester Public Library.

Barry Sloan asked about Frozen Ropes. Chairman Serotta stated he didn't know if it was a place of public assembly, but rather a business. Barry Sloan stated that was one of his objections as he believed Frozen Ropes is a place of public assembly. Mr. Samuelson stated it is a private business. Mr. Sloan said it is a private business, with kids.

Dave Donovan stated the code defines a place of public assembly as a meeting hall, clubhouse, auditorium, place of worship or other structure or portion of a structure accommodating 25 or more persons and used at regular or periodic intervals as a gathering place for purposes of conference, deliberation, worship, entertainment, amusement, recreation, education or performance of social, athletic or cultural programs.

Mr. Samuelson asked if the fields were considered a structure or is it the inside buildings of Frozen Ropes. He stated the building is more than 500 feet. Dave Donovan stated he would have to look into it. Barry Sloan stated it is a place of assembly and he vehemently objected to the project on various levels.

Chairman Serotta stated the application met all the other requirements in the GC zone. He then polled the Board for questions and comments. Ernie Damiani thought the pumps should be rotated 90 degrees. Mr. Samuelson stated these were just preliminary sketches and the applicant was open to all suggestions.

Dave Donovan stated regarding §98-29 J he was unsure what the intent of the requirement was or what objective is trying to be achieved. Al Fusco speculated it could be because the retail store will sell beer, but had no idea why either. Dave Donovan stated his conjecture might be safety issued because there are underground storage tanks. Chairman Serotta stated he did not know how to find that out.

TOWN OF CHESTER
PLANNING BOARD MINUTES
July 1, 2015

The applicant requested a referral to the Zoning Board of Appeals for an interpretation of §98-29 J. Chairman Serotta stated he thought that was the right thing to do.

Chairman Serotta stated he would like to make a motion to refer the applicant to the ZBA for an interpretation of §98-29 J(2). Motion made by Steve Denes, seconded by Ernie Damiani. Motion carried 6-0.

At this point a member of the audience approached the Board and introduced herself as Katri Billard and stated she was being affected by the Goosepond Mountain annexation of the Open Space Institute. She stated there is a 22-acre parcel of property in between her property and the part that is already owned by the Open Space Institute. The owner of that land would like to sell her a portion of that land as a buffer so that the State Parkland won't abut directly onto her property.

The Board informed Ms. Billard that she would have to submit an application for a lot line change with all of the pertinent documentation and fees and come before the Planning Board formally.

Next Planning Board meeting is August 5th, 2015.

The meeting was adjourned at 8:35 pm.

Respectfully submitted,

Tanya McPhee
Planning Board Secretary

Minutes adopted August 5, 2015