



**MINUTES OF MEETING
TOWN OF CHESTER
PLANNING BOARD
JULY 18, 2016**

Chairman Little called the meeting to order at 7:01 p.m.

ATTENDANCE:

Chairperson Paul Little, John Nick, Al Muench, Rick Bump, George Hilton, Eugene Dutcher, Harold Ellsworth, Christine Hayes (Alternate), Walter J. Tennyson (Zoning Administrator), Jeremy J. Little (Secretary), Jacquelyn White (Town Counsel).

PUBLIC HEARING:

Having been duly advertised, the public hearing for Site Plan Review Application **#SPR2016-04** was opened by Chairperson Little at 7:03 p.m.

#SPR2016-04: Bernice Winchip is seeking Site Plan Review approval for the relocation of Winchip Engineering, to property located at 9 Panther Mountain Drive, identified by Tax Map Parcel #: 104.14-1-12, in Zone Classification Hamlet.

Zach Monroe was present to represent the applicant and Winchip Engineering. Bret Winchip and Larry Turcotte from Winchip Engineering, and Bernice Winchip (property owner) were also present in the audience.

Mr. Monroe briefly explained that the proposal is to renovate the first floor of the existing building for office space. Mr. Monroe questioned the Board that at the previous meeting, the Board passed a motion regarding the applicant need not comply with the landscaping requirements in Section 7.20 as it was determined as a less intensive use. Mr. Monroe did not believe the landscaping requirements apply to the project as the commercial project is not located on a State Highway. Mr. Monroe respectfully asked that if the Board determines the landscaping requirement does not apply, that the Board rescind that particular motion made at the previous meeting.

Mr. Muench made a motion that whatever the Board said at the last meeting in terms of Winchip Engineering not needing to do any landscaping under Section 7.20 that the Board strikes that from the record since it appears that there is no requirement at all for landscaping pursuant to Section 7.20, but in any event the Board thinks that based on the discussion last meeting that the landscaping being done there is adequate for our purposes; motion seconded by Mr. Dutcher.

Mr. Hilton agreed that Section 7.20 did not seem to apply, but he stated that the off street parking and loading regulations (Section 7.06) specifically outline buffer planting between the parking lot and streets. He said that perhaps the parking landscaping requirements may apply to this application.

Mr. Muench modified the above motion to also read that the project before the Board does not need to comply with Section 7.06(A)(6)(b). Motion carried 7-0.

Mr. Monroe confirmed that the sign on the window would not exceed 15% of the window area.

There was no discussion or concerns from the public regarding this proposal.

Mr. Bump made a motion to close the public hearing for **#SPR2016-04** at 7:09 p.m.; motion seconded by Mr. Ellsworth. Motion carried 7-0.

Mr. Muench made a motion that the Board approves **#SPR2016-04** based on the findings that the renovations affect only the first floor of the building and not the former residence on the second floor, the Planning Board finds that the commercial use is less intensive than the prior commercial use and that any landscaping already in existence is sufficient for the Board's purposes, the Planning Board finds that the renovation of the first floor of the building otherwise complies with the Zoning Law and any proposal for future occupation of the former residence on the second floor must be submitted to the Zoning Office; motion seconded by Mr. Dutcher. Motion carried 7-0.

Having been duly advertised, the public hearing for Site Plan Review Application **#SPR2016-03** was opened by Chairperson Little at 7:11 p.m.

#SPR2016-03: Andy Beadnell is seeking Site Plan Review approval for a 49-lot travel trailer campground, located at 8021-8035 State Route 9, identified by Tax Map Parcel #: 36.3-1-12, in Zone Classification Hamlet.

Tod Beadnell was present to represent the proposal. Andy Beadnell was also present in the audience. Mr. Beadnell briefly explained the proposal and discussed the proposed 49 RV site campground, with associated landscaping, lighting, parking, all of which is shown on the Site Plan. Mr. Beadnell mentioned the 24 parking spaces towards the front of the parcel. He stated the campground would have municipal water supply. Mr. Beadnell said that the lighting will be placed on the power poles, as shown on the Site Plan, and will be as minimal as possible. Mr. Beadnell briefly explained the landscaping on the campground and location of the plantings.

Chairman Little mentioned that the Board has received the referral from the Warren County Planning Department regarding the proposal, with the recommendation that there would be no significant impacts on County properties or resources.

Mr. Muench stated that at the previous meeting, he mentioned Section 7.20 regarding landscaping, which applies to the project since it is located on State Route 9. Mr. Muench said that the Zoning Law requires landscaping for parking lots and other development along the Road. Andy Beadnell was unsure why the business should be hidden from the public eye. Discussion ensued regarding the screening. Discussion also ensued regarding the sign plans to be submitted with the Site Plan Review Application. Mr. Beadnell agreed that he would submit the sign plans for the Board to review at the next meeting in August. Brief discussion also ensued regarding the submission of written confirmation pertaining to the amount of open space on the campground, which had been calculated by Mr. Beadnell during the June 20th meeting, with a total of 5.4 acres of open space. Mr. Beadnell will submit a written statement to the Board confirming the amount of open space and make it part of the Record.

In the audience, Linda Muench stated that she has a friend in the nearby vicinity of the proposal, who is concerned of the screening. Tom DuRose commended Andy Beadnell and stated that any project he has done is a “class act”.

Chairman Little questioned the Board how much screening is required. He also believed that the screening is adequate and was unsure if cars on the campground property need to be totally invisible from the highway and passing motorists. He also mentioned that too much screening could possibly block the view of the camp office building. Mr. Muench read Section 7.20(C)(3) of the Zoning Local Law, which states that off-street parking should be screened from a public street or residential uses.

Penny Redmond agreed with Mr. DuRose’s statement and mentioned previous buildings and businesses that used to be located on the property.

Mr. Bump said that if Mr. Beadnell felt the need additional screening was necessary, he would certainly add more. Chairman Little’s view on the definition and intention of screening is to soften and not to hide the parking lot.

Mr. Ellsworth made a motion to close the public hearing for **#SPR2016-03** at 7:32 p.m.; motion seconded by Mr. Bump. Motion carried 7-0.

Mr. Muench stated that he did not feel the Board could legally take action on the proposal because the sign plans were not submitted to the Board for review and made part of the Application. Chairman Little said that since this is a new business, the sign regulations state that projects subject to site plan review need to include signage.

Mr. Beadnell said that the design of the signs and the letter regarding the open space will be submitted before the next meeting.

#SD2016-01: GILMA Enterprises, Inc. is seeking approval for a 3-lot subdivision, on property located at State Route 8, identified by Tax Map Parcel #: 87.-1-41.11, in Zone Classifications Hamlet and Moderate Intensity.

Attorney Robert Simon, from Smith and Simon, LLC, was present to represent the applicant. Tom Magee was also in attendance.

Mr. Simon said that the applicant is proposing a three-lot subdivision with no change in use at the moment. Mr. Simon said that an Application has been submitted to the APA for review of the subdivision.

Chairman Little mentioned the Board has received a Notice of Incomplete Permit Application from the Agency regarding the subdivision. Mr. Muench said that at the last meeting, he determined that the Board could consider the initial plat submitted as the Final Minor Subdivision Plat. Due to the Notice of Incomplete Application issued by the APA, Mr. Muench believed that the Board is not able to consider the Plat submitted as the Final Plat until the issues raised in the Notice of Incomplete Permit Application have been resolved. Mr. Simon had no objection and agreed.

Having been duly advertised, the public hearing for Subdivision Application **#SD2016-01** was opened by Chairperson Little at 7:42 p.m.

Clementina Maltbie, who owns property adjoining the proposed subdivision, stated that she had no concerns or issues with the proposal.

Mr. Ellsworth made a motion to close the public hearing for **#SD2016-01** at 7:44 p.m.; motion seconded by Mr. Dutcher. Motion carried 7-0.

Chairman Little mentioned that there will be no action taken until the Board has received a Notice from the APA that the additional information has been provided to the Agency and the issues noted by the APA in the Notice become resolved.

OLD BUSINESS:

#BLA2016-01: All Brands Redemption Center, LLC is seeking approval for a boundary line adjustment for properties located at 6393 State Route 9 and 17 LaFlure Lane. The lot identified by Tax Map Parcel #: 104.10-2-8 will decrease from .70 acres to 29,125 square feet and lot identified by Tax Map Parcel #: 104.10-2-9 will increase from 9,918 square feet to 11,285 square ft. Conveyance is approximately 1,367 square feet.

Attorney Matthew Ludemann was present to represent the applicant, in Attorney Silvestri's absence. Paul Mundrick was also present.

Chairman Little mentioned that the Zoning Board of Appeals approved the variance portion of the boundary line adjustment application at the June 28th meeting regarding the sideline setback.

Mr. Muench made the following motion:

Pursuant to Section 7.22 of the Zoning Law I move that this proposal is not a boundary line adjustment as defined in Section 2.03.A of the Zoning Law since it consists of a less than minimum lot size due to the creation of lot with a side setback of less than 15 feet, the minimum specified in Section 4.03 of the Zoning Law.

Furthermore, the Planning Board denies and disapproves this request based on the following findings:

1. Creation of this substandard lot is inconsistent with the Town Master Plan which states, in part, "The Hamlets of our Town are encouraged to improve in appearance to reflect the positive qualities of small town life. To best accommodate the needs of our residents and visitors, the commercial areas should be kept centralized and accessible. The commercial corridors, the hamlet entrance, and the residential areas should given special attention to counter the affect of age, neglect, and economic erosion." The creation of the requested substandard Brand lot appears to run counter to this stated goal and objective of the Master Plan since the Brand lot is a prime piece of commercial property at the hamlet entrance on Route 9 from Route 8 and it would be degraded by becoming a non-conforming lot.
2. Creation of this substandard lot is inconsistent with the Town Master Plan which states, in part,

“The Town should ... return lots of discontinued nonconforming use to one of conformance with the zoning of its surroundings.” If a stated goal is to discontinue non-conforming uses, it follows that the Master Plan has the goal and objective of not creating new non-conforming uses such as the proposed Brand lot which would create a non-conforming side setback where none appears to be necessary. The Mundrick lot appears to already have adequate access to the rear of the lot and creating a non-conforming Brand lot is unnecessary.

3. Creation of a substandard size, non-conforming Brand lot appears to be contrary to the Town Master Plan by purposefully impairing a prime commercial lot at the gateway to the town by inhibiting or prohibiting emergency or other access to the rear of the Brand lot from the southerly side of the property and would also preclude appropriate landscaping on the southerly side of the lot which would have an inadequate side setback. Future use of the commercially zoned Brand lot would also be significantly impaired by turning it into a non-conforming, substandard size lot.

4. The proposal would impair a prime piece of commercial real estate at the gateway to the town from Route onto Route 9 in the following ways:

a. It would take a valuable piece of real estate from a high intensity commercial use and attach it to a low intensity residential use.

b. It would inhibit or preclude emergency or other motorized access to the Southerly side of the principal structure on the Brand property for the current and future use of the property.

c. It would inhibit or preclude appropriate screening and landscaping on the Southerly side of the Brand property for the current and future use of the property.

d. It would significantly decrease the value and current and future utility of an important piece of commercial property in the Hamlet.

e. It would be counter to the orderly development envisioned by the Town Master Plan.

f. It would present an extremely poor precedent in opposition to appropriate commercial zoning in the Hamlet.

Motion seconded by Mr. Nick.

Mr. Hilton did not believe that the proposal is a non-conforming use and that there are no non-conforming uses involved with the Application. Mr. Hilton expressed his concern that since there is already a variance approved associated with the boundary line adjustment, if the Board were to approve the above motion made by Mr. Muench, he believed it would set the Board up for potential litigation. Mr. Hilton also stated that after the modification, both of the proposed lots would conform to the lot size required in the Hamlet zone.

Mr. Muench said that, “We are not looking at just the specific instance before us, we are looking at future use of that lot, and you are taking contrary to the Town Master Plan a lot that is now fully in compliance with all of the side setbacks and size requirements of the Zoning Law and creating a substandard lot.”

Chairman Little stated he would not vote unless there was a tie. Chairman Little referred to several statements made during Mr. Muench's motion and gave his thoughts. He did not feel the boundary line adjustment would prohibit emergency vehicle access to the Southerly side/rear of the lot or affect landscaping on the Southerly side of the parcel. Further, Chairman Little did not see where anyone would notice that Mr. Brand's parcel decreased in lot size.

Attorney Ludemann stated that All Brands Redemption Center has agreed to a Court Order that the boundary line adjustment should occur, in order to comply with the Court Order. He explained that this is part of an ongoing litigation and is the route that All Brands Redemption Center and the Mundrick's have decided to take to settle it.

Mr. Nick was concerned that if in the future the parcel is sold and a new owner purchases the lot, that it would make it difficult for the new owner to construct as large of a building as the sideline setback of 15 ft. would need to be met.

Mr. Muench read Section 7.22(C) of the Zoning Local Law. Mr. Nick questioned the distance of road frontage from the new proposed boundary line to the guardrail and if the distance was 75 ft. Brief discussion ensued regarding the distance of road frontage.

Attorney White stated, "What we are talking about is whether or not a deficient lot would be created. The applicants have already gone to our Zoning Board of Appeals and received approval...the lot has been given permission to lawfully exist."

Chairman Little asked the Secretary to obtain the Site Plan Approval for All Brands Redemption Center (#SPR2014-05) and during that time, Chairman Paul Little briefly adjourned the meeting at 8:26 p.m.

Chairman Little called the meeting to order and re-convened at 8:35 p.m.

Chairman Little mentioned that the current question before the Board is whether the Brand lot will have 75 ft. of frontage (as required in the Hamlet) if the proposal is granted. After review of the Site Plan, Chairman Little stated that the Brand lot currently has well over 100 ft. of frontage and the proposal would shift the boundary line over 8.9 ft. As a result, Chairman Little said that the Brand lot would maintain well over 75 ft. of road frontage, if the proposal were to be approved.

Arnold Jensen, who was the Acting Chairperson of the Zoning Board of Appeals at the June 28th meeting, briefly explained the reasoning behind the ZBA's approval of the variance associated with the boundary line adjustment.

John Nick questioned if it was determined that the two lots currently have municipal water supply, as that concern was raised at the previous meeting. It was confirmed that both lots use Town water.

Chairman Little stated that if there were no further questions from the Board, he would run through a roll call vote, pertaining to Mr. Muench's motion to deny and disapprove the request:

George Hilton: No
Al Muench: Yes
John Nick: No

Harold Ellsworth: No
Eugene Dutcher: No
Rick Bump: No

Motion not carried. 1-6.

Mr. Muench mentioned that during the previous meeting, he advised Attorney Silvestri that an additional variance was needed because of Section 9.01(A) which states, "No nonconforming use may be expanded, enlarged, increased or extended or placed on a different portion of the parcel it occupies without obtaining a use variance."

Attorney White questioned if the Zoning Administrator has determined if a use variance is required. Mr. Muench replied, "It is not an issue for him to decide since the Law is clear in saying that if you enlarge it, you need a use variance." In reply, Attorney White said that the Planning Board does not have the authority to determine if a use variance was required.

Mr. Hilton did not see where either use is non-conforming as one lot is residential and the other is retail, all of which are allowed in the Hamlet.

Mr. Muench mentioned that there are wetlands on Mr. Brand's parcel. Mr. Muench stated, "The APA regulations say that creating by subdivision any lot that contains wetlands, and the creek borders the Brand lot with wetlands, any lot that contains wetlands or adjoins a lot that contains wetlands, which includes the Mundrick lot, either requires a Permit or an Agency letter that makes certain findings." Mr. Muench believed without a Permit or Agency Non-Jurisdictional Letter, the Board could not make a decision on the request.

There was a brief discussion regarding the proposal and whether the request was a subdivision or boundary line adjustment.

Mr. Hilton said he would be in favor of approving the boundary line adjustment with the condition that states the Jurisdictional Determination be filed with the Secretary and/or the Zoning Office prior to filing the deeds at Warren County.

Chairman Little mentioned that he felt that it was best to wait for the applicant to submit the proposal to the Adirondack Park Agency for review and receive their answer before making a final decision.

Chairman Little briefly adjourned the meeting at 9:03 p.m.

Chairman Little called the meeting to order and re-convened at 9:07 p.m.

NEW BUSINESS:

#SPR2016-05: Salvatore Tirone is seeking Site Plan Review approval for an amendment to condition #4 of approved Site Plan Review Application #SPR2015-11 to change the approved size of the props from 4 ft. x 8 ft. to 10 ft. x 10 ft. Properties are located at 6254 State Route 9 and State Route 9, identified by Tax Map Parcel #: 104.14-1-34 and #: 104.14-1-31.2, in Zone Classification Hamlet.

Mr. Muench said, "June Maxam sent a letter to the Board indicating her view that the Board could not legally consider the application because while Mr. Tirone submitted the application within the 10 day period prescribed by the Zoning Law, he did not submit his application fee in that period of

time.” He further stated his belief that Section 5.02(B) of the Zoning Local Law allows the Board to waive any Site Plan Review application requirements.

Mr. Muench made a motion that pursuant to Section 5.02(B) to waive any application requirement that may exist, that the fee for #SPR2016-05 be received more than 10 days prior to this meeting, and approval of that motion would allow the Board to consider without any concern that the fees were submitted in time; motion seconded by Mr. Ellsworth. Motion carried 7-0.

Sal Tirone presented the application and proposal. He said he is seeking to amend Condition #4 of a previously approved Site Plan Review application (#SPR2015-11). He further stated that Condition #4 read that the props are not to exceed 4 ft. x 8 ft. The proposal to the Board is to change the size of the props from 4 ft. x 8 ft. to 10 ft. x 10 ft.

Mr. Nick said that during previous discussions regarding the size of the props, he had indicated that there are three-dimensions involved: height, width, and depth. Mr. Nick questioned what the 10 ft x 10 ft. dimension means. Mr. Tirone stated that he is only looking to change two measurements and wants to “stay within the conditions that were approved.” Mr. Nick further said that the Board approved “L” shape props, not three-dimensional props. Mr. Tirone stated that the structures currently measure 8’(L) x 8’(W) x 6’(H). Mr. Tirone also confirmed that the helicopter on top of one prop, as discussed at the June meeting, has not been removed.

Mr. Muench stated that the Application refers to “Laser Tag HQ, LLC” and asked Mr. Tirone if that was the official name of his business. Mr. Tirone answered yes. Mr. Muench asked Mr. Tirone when his business became an LLC, as Mr. Muench stated the Department of State (DOS) has no record of a Laser Tag HQ, LLC. Mr. Tirone said that the LLC was filed in Pennsylvania. Mr. Tirone stated, “The DOS is fine with it...because the proper paperwork is already filed for a tax ID.” Mr. Muench requested Mr. Tirone to submit to the Board where the DOS allows him to use that as his business name in New York.

Mr. Muench also stated that the Application is not complete until Questions 5, 6, 9, and 16 have been answered in the Short EAF Form. Mr. Nick said that the business is operating out of two parcels and as a result, Mr. Muench said that the section on the Application referring to “Current Use of Property” must also include the Deer Crossing Restaurant, not just the laser tag facility. In that same question, Mr. Tirone did not provide all structures on each parcel. Mr. Muench stated that the Board is clearly interested in all structures on the property and that they are to be identified.

Mr. Muench questioned when the helicopter would be removed. Attorney White reminded the Board that its role is to review the Site Plan Application and not to act as an enforcement entity. Mr. Muench also questioned Mr. Tirone if the property owner has authorized him to submit the application. Mr. Tirone answered yes.

Mr. Muench said that he would like to have answers to the following questions/requests:

- Precisely what laser tag guns are going to be used
- Will any guns or other devices be used which shoot or otherwise propel a projectile or other object?
- Fencing

Chairman Little mentioned that he does not believe there is any other way of modifying an already approved Site Plan, other than filing an entirely new Site Plan Review application. Further, he stated that Mr. Tirone is only seeking to modify Condition #4 of the #SPR2015-11 Approval and he believed that it is all the Board should be considering during its review. Chairman Little said that if the props do become visible, then color of the props might be something that the Board may consider.

Mr. Nick said to Mr. Tirone to give the Board the three-dimensions and a rendering of his props. Mr. Nick also mentioned his concern regarding the proposed prop height of 10', with a 6' stockade fence that already exists.

Mr. Muench asked Mr. Tirone if there was a copy of Notice of Violation that explains how the violation regarding the props was resolved. Attorney White again reminded the Board that its role is to review the Site Plan Application independently and not to act as an enforcement entity. Supervisor Leggett said that the submission of the new Application was to remedy the violation.

Chairman Little stated that the Board needs the third dimension of the props and if each prop were to be 10 ft. high, the Board would consider the visibility of the props from neighboring properties.

Mr. Nick said he would like to request the dimensions and the material types of the props. Mr. Nick asked Mr. Tirone if he could give the Board an idea on the maximum number of props that would be located on the property. Mr. Muench questioned Mr. Tirone if there was anything to report on the signs located on each prop, which was discussed at the June meeting. Attorney White again reminded the Board that its role is to review the Site Plan Application independently and not to act as an enforcement entity.

Chairman Little stated that the Board requests the following information: (1) The three dimensions (length, width, height) and a rendering (i.e. model, drawing) of the props; (2) Maximum number of props and location; (3) Visibility; and, (4) Color. Chairman Little stated that the signs on the props can be addressed to the Zoning Administrator who is to determine if the signs require further approval.

Mr. Nick was concerned that the buildings will be safe for the patrons. Mr. Muench mentioned that he will provide the Secretary with a list of items seen in the application that he would like further explanation. Mr. Tirone questioned how he would go about properly correcting the application. Mr. Muench recommended to Mr. Tirone to provide the Secretary with a copy of answers to the requests.

Discussion ensued regarding the process of applying for an amendment. Chairman Little again stated that the Board is only to consider Condition #4.

Chairman Little stated that the application is not complete and Mr. Tirone will need to come back with answers to the questions from the Board. Brief discussion ensued regarding some of the props being visible from the Day Care property. Mr. Hilton suggested that the Board possibly make a detailed resolution with the items requested to avoid any confusion.

Chairman Little asked if there was any public comment regarding Mr. Tirone's proposal. Christopher Walsh owns property adjoining the laser tag business. He stated his concerns regarding the fencing and the visibility of the operation from nearby properties.

Mr. Nick recommended to Mr. Tirone that if on the provided map, he could include the placement of the structures and their dimensions, to give the Board an idea of the prop visibility from nearby properties. Mr. Tirone stated that "all of the props meet the 15 ft. setback." Brief discussion ensued regarding movement of the props on the laser tag property.

MINUTES:

Mr. Muench made a motion to accept the minutes for the June 20, 2016 meeting; motion seconded by Mr. Nick. Motion carried 7-0.

CORRESPONDENCE: Zoning Administrator and Sanitary Code Enforcement Officer's Activity Report for June 2016. Letters from June Maxam dated July 15, 2016 and July 16, 2016 regarding #SPR2016-05; Letter from Lizco Realty, Inc. dated July 15, 2016 regarding laser tag business.

BOARD PRIVILEGE:

PUBLIC PRIVILEGE:

ADJOURNMENT:

Mr. Muench made a motion to adjourn the meeting at 10:27 p.m.; motion seconded by Mr. Ellsworth. Motion carried 7-0.

Respectfully submitted,

Jeremy J. Little
Secretary