

**TOWN OF LIBERTY
PLANNING BOARD MINUTES
March 6, 2012**

MEMBERS PRESENT

Diane S. Deutsch, Chairman
Lynn Dowe
John Van Etten
Denise Birmingham
Peter Stettner, Alternate

ABSENT

Ray Kelly

ALSO PRESENT

Walter F. Garigliano, Town Attorney
Mark Van Etten, Building CEO
See attached sign in sheet

CHAIRMAN DIANE S DEUTSCH CALLED THE MEETING TO ORDER AT 7:00 PM.

ON MOTION MADE BY LYNN DOWE AND SECONDED BY JOHN VAN ETTEN, THE BOARD UNANIMOUSLY APPROVED THE MINUTES FOR FEBRUARY 7, 2012 WITH ONE CORRECTION. ALL IN FAVOR, APPROVED.

PUBLIC HEARING:

White Sulphur Springs Fire Dept.

Special Use Permit

State Route 52

SBL: 32.-2-28.1

Zone: SC 2012-0008

Twenty-five hearing notices were sent, 20 green cards received, 5 outstanding.

Chairman Deutsch asked if there was anyone from the public who had any questions or comments.

There was no response from the public.

ON A MOTION MADE BY JOHN VAN ETTEN, SECONDED BY LYNN DOWE, THE PUBLIC HEARING WAS CLOSED. ALL IN FAVOR. APPROVED.

PUBLIC HEARING:

HASC

Special Use Permit

Old Route 17

SBL: 12.-2-1 & 2.1

Zone: R-1 2012-0003

Thirty-two hearing notices were sent, 25 green cards received, and 7 are outstanding.

Chairman Deutsch asked if there was anyone from the public who had any questions or comments.

Jimmy Green mentioned the trees that were to be planted and concern that HASC has just put up one building wants to put up another large building.

Judy Sisselman voiced concern over water issues wherein precautions should be in place to prevent anything flowing into her pond then overflowing into the area streams, springs and aquifers.

Jimmy Green rose again and stated that he spoke with the Village Water Department and was told that there would be no more tapings into the water supply allowed. He voiced concern over the low pressure of their water when the camp is in session and whether a study could be done on the draw as another building is going to draw more.

Chairman Deutsch asked if there was anyone else from the public who had any questions.

There was no further response from the public.

ON A MOTION MADE BY JOHN VAN ETEN, SECONDED BY LYNN DOWE, THE PUBLIC HEARING WAS CLOSED. ALL IN FAVOR. APPROVED.

White Sulphur Springs Fire Dept.

Special Use Permit

State Route 52

SBL: 32.-2-28.1

Zone: SC 2012-0008

Troy Green appeared for this project representing the WSS Fire Dept. The 239 review from County Planning was received stating that this is a project for local determination. Troy Green stated the Department of Transportation ("DOT") has completed their study for the driveway, but have not completed the paperwork. Chairman Deutsch asked when the paperwork might be ready. Troy said he was told a week or two as they need Binghamton's response. They have asked for 50 foot but will use the current 20 foot opening with or without the approval.

ON MOTION MADE BY JOHN VAN ETEN, SECONDED BY DENISE BIRMINGHAM, THE SPECIAL USE PERMIT FOR WHITE SULPHUR SPRINGS FIRE DEPT. WAS APPROVED WITH THE CONDITION OF A NEW CURB CUT PERMIT OR WRITTEN INFORMATION THAT NO PERMIT IS REQUIRED. ALL IN FAVOR. APPROVED.

HASC

Special Use Permit

Old Route 17

SBL: 12.-2-1 & 2.1

Zone: R-1 2012-0003

Randy Wasson appeared for this project. The 239 review from County Planning was received stating that this is a project for local determination. Randy said that both those building were approved last year, the only change being that the second one now proposed would be a bit larger. The dimensions for the second building are now 56 x 106 and there will be no population increase. Chairman Deutsch asked if he could address the concerns voiced in the public hearing. Randy said as for the drainage and the driveway cut it, that has been resolved by trees planted at the Board's requirement. That since that time, there was quite a lot of rain and rain storms. He was asked if any of the new trees needed replanting. He said not to his knowledge or at least not since September of 2011 when he was last there. Attorney Garigliano said that the Town Board was holding a bond on that landscaping. Randy said that Ms. Sisselman's pond was not downstream of the site and that HASC runoff ran down the hill and to the road. He said there was no problem with the Village and that they were aware there would be no more hookups and none were anticipated, which was the same as last year when it was originally approved. Denise Birmingham asked how far he'd gotten in combining the tax parcels into one. Randy said HASC has contacted the Town Assessor who has in turn contacted the County and that now it's in the County's hands.

ON MOTION MADE BY JOHN VAN ETEN, SECONDED BY LYNN DOWE, THE SPECIAL USE PERMIT FOR HASC WAS APPROVED. ALL IN FAVOR. APPROVED.

OLD BUSINESS:

Camp Bais Yaakov

Special Use Permit

482 Stanton Corners Road

SBL: 46.-1-57

Zone: RD #2012-0001

Yosef Newhouse appeared for this project. A letter dated February 29, 2012 from the DOH was presented to the Board. It seems the DOH will require of the applicant a new utility plan showing the gallons per day flow for each building based on sleeping rooms and camper capacities and identify to which septic system each building flows. They have no objection to

this project conceptually. Construction of an approved sewage disposal system will be required prior to approval by the DOH for use of this building. The letter went on to say that their letter did not constitute approval for any of the construction projects and that they required a Notice of Intent and building plans be submitted to their office at least 60 days prior to planned construction and subsequent approval by their office. That construction shall not occur without approval being granted by their office.

After some discussion as to the meaning of the DOH letter, the Board decided they could approve the Special Use Permit conditional upon Camp Bais Yaakov completing the tasks set forth in the DOH letter and a valid SPEDES permit.

ON MOTION MADE BY JOHN VAN ETEN, SECONDED BY DENISE BIRMINGHAM, THE SPECIAL USE PERMIT FOR HASC WAS APPROVED WITH THE CONDITION OF COMPLETION OF TASKS SET FORTH IN THE DOH LETTER AND A VALID SPEDES PERMIT. ALL IN FAVOR. APPROVED.

Agudath Israel of America
Special Use Permit
Upper Ferndale Road
SBL: 29.-1-24.1
Zone: RS #2011-0022

Gary Silver and Meir Frischman appeared for this project. The 239 review from County Planning was received stating that this is a project for local determination. Attorney Garigliano brought a proposed resolution and went over the points by reading them to the Board members. A copy of this resolution will be attached at the end of the minutes including the limitation of campers to 613 and staff/spouses to 231. Chairman Deutsch asked what the Board members thought of the proposed resolution. John Van Eten said he thought it was very thorough. Lynn Dowe said he thought it was fine and that the enclosed basketball courts should help with the neighbors as it would be a lot quieter than having basketball games outside. The Board was polled and all were fine with the resolution.

ON MOTION MADE BY JOHN VAN ETEN, SECONDED BY DENISE BIRMINGHAM, THE SPECIAL USE PERMIT RESOLUTION FOR AGUDATH ISRAEL OF AMERICA WAS APPROVED. ALL IN FAVOR. APPROVED.

Green Acres Cottages, Inc.
Special Use Permit
Rt 52 / Denman Road
SBL: 30.-1-90.3
Zone: SC 2012-0005

Allen Frishman appeared for this project. He said he was in contact with the DOH for the water and the DOT for the road cut. Denise Birmingham said the map was not certified as to

accuracy. Allen said that he got this map from the original survey which then went to Kelly Engineering and he carried it over and that there were no modifications, he was just clarifying the buildings. Again it was brought to his attention that nobody was certifying the map and that meant the map was not certified. Attorney Garigliano said that whether right or wrong the Board has always required a map certified by an engineer or architect. The map presented was a survey by Joe Woods, Site Plan by Kelly Engineering, drawn by Allen Frishman.

Denise Birmingham asked what the re-grading was for. Allen Frishman said it was so that water doesn't go under the units. She then asked what the line was from building #1 to the property line and a 103 foot line from building #4 to the road. Allen Frishman said they were his reference lines. Chairman Deutsch asked if he was clear that he needed a certified map. He said yes and asked if he could have a public hearing. It was explained that he would need a certified map submitted before a public hearing. Attorney Garigliano said the narrative was good and helpful when he went to do an on-site check. Several Board members agreed. Chairman Deutsch asked if there were any questions by the Board members, they all said no. A public hearing will be held on April 3rd providing a "certified" map is submitted.

ON A MOTION MADE BY LYNN DOWE, SECONDED BY JOHN VAN ETEN, A NEGATIVE DECLARATION WAS DECLARED ON GREEN ACRES COTTAGES, INC. ALL IN FAVOR, APPROVED.

This project is to be sent for 239 review and a public hearing will be held on April 3rd providing a "certified" map is submitted.

Sean Zigmund
Special Use Permit
Fox Mountain Rd & Route 52
SBL: 32.-3-14
Zone: RD 2012-0007

Sean Zigmund appeared for this project. He had provided the Board with a certified site plan and a business plan. After a short discussion wherein he stated that he had prior to the zoning change permission from prior owners Marion Herron and Mitch Roth to farm on the parcel in question, it was determined that he give to the Board an affidavit from the prior owners that he was authorized to do farming on the parcel in question prior to the zoning change on April 11, 2011. Nancy is to e-mail the procedure for site plans to Mr. Zigmund for his reference.

After a short discussion it was determined that there was no trigger for a 239 review. Attorney Garigliano did the SEQR.

ON A MOTION BY JOHN VAN ETEN, SECONDED BY LYNN DOWE, A NEGATIVE DECLARATION WAS DECLARED ON THE SEAN ZIGMUND PROJECT. ALL IN FAVOR. APPROVED.

A public hearing will be scheduled for April 3, 2012.

Ester Newhouse
8 lot Subdivision
Twin Bridge Road
SBL: 30.-1-88
Zone: R-1 #2011-0015

Randy Wasson appeared for this project. He said that they had submitted their work to the DOH and had no permit as yet. They are waiting for the lab to get water test back in April.

The conditional approval stands waiting for the DOH permit.

Efraim Reiss
Special Use Permit
West Mongaup Road
Village Green Condominiums
3 Village Green Circle
SBL: 47.-3-2/0301
Zone: DCC #2011-0023

Glenn Smith appeared for this project. This project was denied and sent to the ZBA in December of 2011. They were granted an Area Variance at the February 21, 2012 meeting. Chairman Deutsch asked if any of the Board members had any questions. No one had.

ON A MOTION BY JOHN VAN ETEN, SECONDED BY LYNN DOWE, A NEGATIVE DECLARATION WAS DECLARED ON THE EFRAIM REISS PROJECT. ALL IN FAVOR. APPROVED.

This project is to be sent for 239 review and a public hearing scheduled for April 3, 2012.

BSD, LLC a/k/a Liberty Business Park
Special Use Permit
Harris Road
SBL: 41.-1-27
Zone: IC #2011-0020

Gerard Fitamant appeared for this project. After a short discussion wherein Mr. Fitamant explained that they had received the Town Engineer's review and answered same in a letter, which was provided to the Board members at this meeting, it was determined that the Board would hold an informational public hearing on April 3rd to get the public's response to the project. Therefore, no SEQR would be done beforehand. There will also be no revisions until after public comment. Mr. Fitamant agreed. No word from the Town Planner has yet been received.

NEW BUSINESS:

Congregation Kahal Yirei Hashem, Inc.

Special Use Permit

5357 St Rt 55

SBL: 36.-1-12

Zone: R-1 2012-0009

Randy Wasson appeared for this project. Attorney Garigliano asked, "what are 21, 22 & 23?" Randy said there were no buildings there. It was suggested to him that he make a note on the map that there was no 21, 22 or 23. John Van Etten asked about external lighting. Randy said he didn't think there would be any. Mark Van Etten spoke up and said if the proposed decks were screened in they would require a light either in the ceiling or by the door with a 60 watt maximum. Denise Birmingham said that unit 20 was a bit close to the offset set back. Randy said he would take care of that and have it go straight out back.

Attorney Garigliano did the SEQR.

ON A MOTION BY JOHN VAN ETTEN, SECONDED BY LYNN DOWE, A NEGATIVE DECLARATION WAS DECLARED ON THE CONGREGATION KAHAL YIREI HASHEM, INC. PROJECT. ALL IN FAVOR. APPROVED.

This project will be sent for 239 review and a public hearing scheduled for April 3, 2012. Randy Wasson is to get a revised map submitted as soon as possible.

Milo Moore

Special Use Permit

Frankie Lane TR 129

SBL: 35.E-1-14 & 15

Zone: SC 2012- 0010

George Fulton appeared for this project. He explained that this property is on Frankie Lane behind the VFW where Poley Paving used to stockpile and also store equipment. It is now cleared and leveled, so level in fact that he could get no contours. There will be no change of grade or building. No change in drainage. It will be used as an impound yard and storage. The wreckers will be inside and the yard will be fenced on the side of the building so that the vehicles are not visible from the highway. Inside will be used for storage for police investigation purposes. An area for disabled vehicles will not be fenced. Chairman Deutsch asked how long these disabled vehicles would be there. The answer was not more than few hours or a day or two at most. Most would be inside the fence. They would be towed to this business from the direction of the police or from accidents. Attorney Garigliano asked that a note be put on the map as to why there were no contours. They were then asked what type of surface was in the lot. The answer was surface gravel and crusher run, the same as Poley Paving had for years.

George Fulton was asked to make a note on the map with respect to lighting and to have a cut sheet showing the lighting fixture used. John Van Etten asked if they knew how many cars would be there. The answer was that it would be hard to estimate, that the yard was large enough to accommodate a tractor-trailer and large trucks but at this point and in future they didn't know what would be coming in. Attorney Garigliano said that because of the purpose being short term storage, it would be hard to say and that a note should be placed on the map that the designated disabled storage have a 10 day maximum limit.

When asked about fluids possibly draining, it was determined that the business has pads and containers to catch and absorb any fluids outside and/or inside if need be. Asked how many employees there would be they answered that they would be starting with three but depending on how good the business did they could go as high as 10, 12 or 15. They would be applying to be a fully registered repair shop to get on the towing rotations list with the police departments and they must have an area set aside for that, any repairs would be done inside the building.

They are required to present a business plan to the Board showing hours of operation, even though it is understood that it would be a 24/7 operation due to the nature of the business. Asked how heavy their towing capability was and they answered they could handle all aspects.

ON A MOTION BY LYNN DOWE, SECONDED BY JOHN VAN ETTEN, A NEGATIVE DECLARATION WAS DECLARED ON THE MILO MOORE PROJECT. ALL IN FAVOR. APPROVED.

This project will be sent for 239 review and a public hearing scheduled for April 3, 2012.

CH222, Inc.
Special Use Permit
St Rt 52
SBL: 35.D-3-11
Zone: SC 2012-0011

Steven Green and Will Foster appeared for this project. Will Foster wants to expand his business with addition for wines & liquors, which would have a separate entrance and area yet remain attached to Catskill Harvest and have an area of 1050 square feet, a covered walkway, a patio and receiving dock. The Board looked over the map and documentation. Contour lines need to be added to the map.

ON A MOTION BY JOHN VAN ETTEN, SECONDED BY LYNN DOWE, A NEGATIVE DECLARATION WAS DECLARED ON THE CH222, INC. PROJECT. ALL IN FAVOR. APPROVED.

This project will be sent for 239 review and a public hearing scheduled for April 3, 2012.

AERO Star Petroleum, Inc.
Special Use Permit
County Rd 71 (Swan Lake Rd)
SBL: 36.-1-110.3
Zone: SC 2012-0012

Steve Kalka appeared for this project. He explained that their plan was to remove the present retail store and replace it with a new store and their one concern was that they would like to have it be 5,000 sq foot but were not sure if the Town of Liberty considered the canopy for the gas pumps as part of that area. If not, they would have the retail store 5,000 square feet. If the Town did consider the canopy, they would limit their retail store to 3,500 square feet. After a short discussion it was determined that the canopy was not considered as part of the building, therefore the applicant will go with a 5,000 square foot building. It was also determined that a location map needed to be on map and the contours needed to be shown as well as the lighting to be used.

ON A MOTION BY LYNN DOWE, SECONDED BY JOHN VAN ETEN, A NEGATIVE DECLARATION WAS DECLARED ON THE AERO STAR PETROLEUM INC. PROJECT. ALL IN FAVOR. APPROVED.

This project will be sent for 239 review and a public hearing scheduled for April 3, 2012.

OTHER BUSINESS:

Mark Van Etten spoke up and said that the Town Board had asked him to put before the Planning Board the fact that HASC would like to have their Bond refunded and if the Planning Board would make a decision on that. Attorney Garigliano explained that it was not a Planning Board decision since the Bond was with the Town Board. Supervisor Barbuti was at this meeting and he thanked Attorney Garigliano for the information.

ON A MOTION BY LYNN DOWE AND SECONDED BY JOHN VAN ETEN, THE MEETING WAS ADJOURNED AT 9:35 PM.

Respectfully submitted,

Nancy Saucier, Planning Board Secretary

The foregoing represents unapproved minutes of the Town of Liberty's Planning Board from a meeting held on March 6, 2012 are not to be construed as the final official minutes until so approved.

___ Approved as read

TOWN OF LIBERTY PLANNING BOARD
RESOLUTION APPROVING SITE PLAN AND AUTHORIZING
THE ISSUANCE OF A SPECIAL USE PERMIT FOR THE
CONSTRUCTION OF A STRUCTURE TO HOUSE INDOOR BASKETBALL
COURTS AT AGUDATH ISRAEL OF AMERICA, A NON-CONFORMING USE
ON UPPER FERNDALE ROAD, LIBERTY, NEW YORK

WHEREAS, the Town of Liberty Planning Board (“Planning Board”) received an Application and supporting materials from Agudath Israel of America (“Applicant”), dated October 18, 2011, which requested site plan review and authorization for issuance of a Special Use Permit for the construction of a structure to house indoor basketball courts, pursuant to the Town of Liberty Zoning Law, relating to property located at Upper Ferndale Road, Liberty, New York, Town of Liberty (SBL #29-1-24.1) (the “Project”); and

WHEREAS, pursuant to Town of Liberty Zoning Law §§147-32 and 147-28, the Applicant has provided all applicable information and related Project materials requested by the Planning Board, including, but not limited to, a completed Application form, Project description, explanation of need, Short Environmental Assessment Form (“SEQR”), site plan and letter of John C. Horton, Architect, dated January 3, 2012 as to potential stormwater run-off; and

WHEREAS, the Applicant and/or its representative appeared before the Planning Board on November 1, 2011, January 3, 2012, February 7, 2012 and March 6, 2012 to discuss the Project and supporting materials and answer questions raised by the Planning Board; and

WHEREAS, the Planning Board duly issued a negative declaration pursuant to SEQR with respect to the Project on January 3, 2012; and

WHEREAS, the Project was referred to the Sullivan County Planning Board (“County Planning Board”) in accordance with General Municipal Law §239-m, and on January 27, 2012 the County Planning Board determined that the proposed action was a matter for local determination; and

WHEREAS, on February 7, 2012, the Planning Board held a duly noticed public hearing regarding the Project, which such public hearing was held at the Town of Liberty Town Hall, located at 120 North Main Street in Liberty, New York, County of Sullivan, State of New York, on the 7th day of February, 2012 at 7:00 p.m., and all persons in interest and citizens desiring to be heard had an opportunity to be heard; and

WHEREAS, at said public hearing on February 7, 2012, there was public opposition to the Project, but such public opposition has not changed the decision or determination of the Planning Board to issue a negative declaration for this Project pursuant to SEQR (in which determination it had been noted that there was no public opposition to the Project at that time); and

WHEREAS, the Planning Board has reviewed all of the documents and materials regarding the Project to insure compliance with the Town of Liberty Zoning Law, and specifically §§147-32, 147-27 and 147-28; and

WHEREAS, the Planning Board has followed all of the procedures specified in the Town of Liberty Zoning Law; and

WHEREAS, the Project is consistent with the provisions of the Town of Liberty Zoning Law and the zoning and land use regulations contemplated therein, as follows:

- (a) the use of the subject property (together with SBL #29-1-25) as a summer camp is a valid pre-existing non-conforming use of such property;
- (b) the construction of indoor basketball courts and the recreation opportunities provided thereby are included in the concept of a summer camp and are not an accessory use to the permitted use as a summer camp;
- (c) the indoor basketball court and the building within which it will be housed is a permitted accessory structure;
- (d) the provisions of Town of Liberty Zoning Laws §§147-32.A and B are inapplicable, since the Project does not involve the storage of materials;
- (e) the Project complies with Town of Liberty Zoning Law §147-32.C since it complies with all yard, setback and height requirements;
- (f) the Project complies with Town of Liberty Zoning Law §147-32.D since there will be no increase in runoff from the property as a result of the Project as evidenced by the letter to the Town Planning Board of the Town of Liberty, dated January 3, 2012 from John C. Horton, Architect;
- (g) the Project is in compliance with Town of Liberty Zoning Law §147-32.E, since the Project would not increase the number of persons on the premises, the traffic or parking, it being observed that pursuant to a Special Use Permit issued to the Applicant dated December 19, 2006 the use of the subject property (together with Town of Liberty SBL No. 29-1-25), which has been merged into a single tax parcel, limits the use of the premises utilized as a Camp to 613 campers and 231 staff/spouses, and Applicant has represented that the use of such premises will not exceed such limitations and the Planning Board hereby notes that such limitations remain applicable to the Applicant;
- (h) the provisions of Town of Liberty Zoning Law §147-32.F are inapplicable since the Project will not extend onto other properties of record in the same ownership as the Applicant;

- (i) the provisions of Town of Liberty Zoning Law §147-32.G are inapplicable since the Project does not involve any uses which are specifically prohibited as uses in the Town of Liberty;
- (j) the Project is in compliance with the provisions of Town of Liberty Zoning Law §§147-15.C(2) and (3), since the building is a permitted accessory structure (i.e., a “sports facility such as a swimming pool, children’s playground, tennis or other game courts”) and all buildings and structures will not cover a total of more than thirty five (35%) percent of the site;
- (k) the Project is in compliance with the provisions of Town of Liberty Zoning Law §147-27, in that (i) it is harmony with the proposed goals, objectives and standards of the Town of Liberty Comprehensive Plan, Chapter 147 of the Town of Liberty Zoning Law, and all other regulations of the Town of Liberty, in that (1) Article IX of Chapter 147 permits a change or an expansion of a valid pre-existing non-conforming use if the requirements of that Article are met and, as set forth above, they have been met, and (2) among the goals of the Comprehensive Plan are the balance of conservation and development to provide for sustainable growth, to provide residents and visitors with a diversity of year round activities while preserving and capitalizing on the Town’s natural resources, to provide for economic development (which includes developing and engaging in activities beneficial for the economic future of the Town and its residents), in that it works towards a diversified tourism industry with a balanced mix of year round activities, and further the fact that the Comprehensive Plan does not specifically address non-conforming uses while the Town of Liberty Zoning Law specifically permits the change or expansion of non-conforming uses with the issuance of a special use permit upon compliance with the provisions of the Town of Liberty Zoning Law, (ii) the Project in its proposed location will not result in a detrimental over-concentration of a particular use within the Town or within the immediate area of the Project location; (iii) the Project in its proposed location will not result in a substantial or undue adverse effect on adjacent property, character of neighborhood, traffic conditions, parking, public improvements, public sites or rights of way or other matters affecting the public health, safety and general welfare, nor is it or may be so developed in the future, and (iv) the Project will not result in an undue burden upon the improvements, facilities, utilities and services of the Town of Liberty; and

WHEREAS, the Planning Board now wishes to adopt this Resolution approving the Site Plan and authorizing the issuance of a Special Use Permit for the Project.

NOW, THEREFORE, BE IT RESOLVED THAT this Planning Board hereby approves this Applicant’s Site Plan and authorizes the issuance of a Special Use Permit, subject to the following conditions:

