

**TOWN OF LIBERTY
PLANNING BOARD MINUTES
May 1, 2012**

MEMBERS PRESENT

Lynn Dowe, Chairman
Ray Kelly
John Van Etten
Denise Birmingham
Vincent McPhillips
Peter Stettner, Alternate
Lydia Rolle, Alternate

ABSENT

ALSO PRESENT

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

CHAIRMAN LYNN DOWE CALLED THE MEETING TO ORDER AT 7:01 PM.

Chairman Lynn Dowe explained to the Board that the Ester Newhouse project would not be on the meeting's agenda.

He then proceeded to explain the letter from the Village of Liberty wherein the Village has requested to be notified from now on when a project before this Planning Board will use Village water or sewer.

Green Acres Cottages, Inc.

Special Use Permit
Rt 52 / Denman Road
SBL: 30.-1-90.3
Zone: SC 2012-0005

Allen Frishman and Bill Sattler of Adler Engineering appeared for this project. A short discussion was held where it was determined there were five (5) access points into Green Acres for fire/emergency access. It was also determined that the applicant and the Board are waiting for a letter from Glenn Illing, DOH. Access into the swimming pool through the pool surround for fire access was brought to everyone's attention by Mark Van Etten. The applicants said they would see to it.

ON MOTION MADE BY JOHN VAN ETTEN, SECONDED BY RAY KELLY, THE SPECIAL USE PERMIT FOR GREEN ACRES COTTAGES, INC. WAS APPROVED WITH THE FOLLOWING 2 CONDITIONS:

(1) ACCESS THROUGH THE CHAIN LINK POOL SURROUND FOR FIRE TRUCK ACCESS IN CASE OF EMERGENCY/FIRE; (2) A LETTER RECEIVED FROM GLENN ILLING, DOH WHICH FORM AND CONTENT MEET WITH CHAIRMAN LYNN DOWE AND CODE ENFORCEMENT OFFICER MARK VAN ETTEN'S APPROVAL. ALL IN FAVOR. APPROVED.

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

Sean Zigmund appeared. Attorney Garigliano prepared a resolution incorporating information from the business plan and a limitation on how many of each type of fowl could be on the premises at any one time. Sean said in future if he expanded at all he would expand at the back of his property, which would meet zoning requirements.

ON MOTION MADE BY JOHN VAN ETTEN, SECONDED BY DENISE BIRMINGHAM, THE SPECIAL USE PERMIT FOR SEAN ZIGMUND WAS APPROVED BY RESOLUTION. ALL IN FAVOR. APPROVED.

Milo Moore
Special Use Permit
Frankie Lane TR 129
SBL: 35.E-1-14 & 15
Zone: SC 2012-0010

Milo Moore appeared for this project. It was explained to Milo Moore that the Board would need money in escrow to cover the costs of Town Engineer and/or Planner reviews. The review from Glenn Smith, Town Engineer was discussed. The applicant received a copy before the meeting and after reading it through agreed with the landscaping suggestions. He did not agree with the oil/water separator stating that there would be minimal to no oil or fluid leakage from the vehicles. Tommy of Tommy's Towing came up to the front and said that from what he understands, an oil/water separator starts at \$30,000 and that price was too high. After a short discussion where Tommy said all fluids were basically drained at accident sites, and offering to continue the drainage process checking for further leakage inside the shop for each accident vehicle brought in, the Board told the applicants that they should have their own engineer take a look at Glenn Smith's review and put forth an alternative. This project will be scheduled for an appearance at the June 5th meeting.

PLANNING BOARD MEMBERS, JOHN VAN ETTEN AND DENISE BIRMINGHAM RECUSED THEMSELVES FROM THE FOLLOWING PROJECT BEFORE THE BOARD.

ATTORNEY GARIGLIANO SAID: He wanted to board to be aware of an article 78 lawsuit concerning this property against the town that was served this morning. He said the Board could continue to review the following project.

Chairman Lynn Dowe said that he was involved in the Comprehensive Plan in the beginning and that when he was, the zoning for the entire 17 corridor was to be "IC" industrial commercial. He said he was surprised when he saw the finished Comprehensive Plan, that it was no longer shown that way. Attorney Garigliano said Chairman Dowe might have to do an affidavit to that effect for the lawsuit in future.

Ben Weitsman & Son of Liberty, LLC
Special Use Permit
Sheehan Road
SBL: 13-1-7.1, 13-1-7.2, 18-1-31 & 18-1-36.2
Zone: R-1 #2011-0021

Howard Rittberg and James Tofte appeared for this project. Mr. Tofte explained they've compared it to the Zalkin junkyard in size. The Zalkin yard was 6.5 acres. This project site will be 3.5 to 4 acres. The Board is okay with this figure. They have submitted a noise study and a traffic study to the Board. Mr. Tofte said that he did another check on the noise earlier in the day in the center of the property and the levels from highway noise were in the low 70's. He then went up on the Parksville Road and checked and the highway noise level there was 85. He said they would not break these thresholds. Mr. Tofte explained that they had Sheehan Road and their private driveway to handle the traffic.

Mr. Tofte showed illustrations of the elevations of the proposed buildings on the site and explained that the buildings would be landscaped not only for aesthetic reasons but for storm water as well. He then explained again at this meeting about the runoff being a sheet flow to a dry well which then drained into an outfall pond. He said they are required to sample this yearly to be sure it meets the benchmarks.

When asked about the possibility of receiving possibly stolen items such as copper pipe, Mr. Tofte said that they are aware of the issues and require a driver's license ID and an affidavit of where items come from. It was also mentioned that there are security cameras everywhere and money is exchanged by ATM only.

Attorney Garigliano asked if there were any Federal permits they would need to obtain. Mr. Tofte said no there weren't for this type of business. They were checking about some possible State permits. It was reiterated that this project would need to go before the Town Board and work out an agreement. Zalkin's must be completely gone before the new one can be in place, up and running as the Town only allows for a total of three (3) junkyards.

Mr. Tofte said he had a video that he would like the Board to see on how their facilities are run. Someone mentioned that it may be on You-Tube. Mr. Rittberg said that the owner has taken over some pretty messy sites and has brought them around and that this site in Liberty would be like a prototype.

It was determined that this project will be now sent to the Town Engineer for review. The applicant will see that an escrow account is established with the Town for such reviews.

PLANNING BOARD MEMBERS, JOHN VAN ETTEN AND DENISE BIRMINGHAM ARE BACK ON THE BOARD FOR REMAINDER OF MEETING.

Brian Thompson
Special Use Permit
1852 Route 52
SBL: 30.-1-22.2
Zone: SC 2012-0013

William Sand appeared for this project. He said that he has been renting the property repairing lawn mowers at the property for the last twelve seasons. Before that it was used for storage for construction equipment by the owner and/or the owner's family. Mark Van Etten said it was never approved for the business he is running and that he would need a special use permit to continue to run it. Mr. Sand said he was a seasonal business and closed from October 1st through April 1st. Later he said he was a "one-man show" and had no employees.

Chairman Lynn Dowe said he believed he should be grandfathered in after 12 years and that if the area is less than 2,500 square feet it should be permitted. Attorney Garigliano said the prior CEO probably let the business come in because it was less than 2,500 square feet. Mark Van Etten said that may be but Mr. Sand put up an addition after the zoning change last year and that was the basis of his sending Mr. Sand to the Planning Board. Mr. Sand said he put up a carport-like roof and that he did not realize he needed a permit for that when he did it and apologized for doing so.

It was determined that Attorney Garigliano will do a resolution for a waiver of the site plan requirement since the business has been there for 12 years.

This project is to be scheduled for a Public Hearing on June 5th and sent for 239 review. It is a type II action and therefore requires no SEQR declaration.

ON A MOTION BY JOHN VAN ETTEN AND SECONDED BY DENISE BIRMINGHAM, THE MEETING WAS ADJOURNED AT 8:37 PM.

Respectfully submitted,

5/1/2012

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TOWN OF LIBERTY PLANNING BOARD

RESOLUTION APPROVING SITE PLAN AND AUTHORIZING
THE ISSUANCE OF A SPECIAL USE PERMIT FOR A
PROPOSED PROJECT ON MINERAL SPRINGS ROAD,
LIVINGSTON MANOR, NEW YORK

WHEREAS, the Town of Liberty Planning Board (“Planning Board”) received an Application and supporting materials from Sean Zigmund (“Applicant”), dated January 25, 2012, which requested site plan review and authorization for issuance of a Special Use Permit to operate a small farm and convert an existing single family trailer to farm use for storage of farm related materials, tools and products, pursuant to the Town of Liberty Zoning Law, relating to property located at 68 Mineral Springs Road, Livingston Manor, New York, Town of Liberty (SBL #32.-3-14) (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, Short Environmental Assessment Form (“SEQR”), site plan and Affidavits of Midge Roth, sworn to on March 13, 2012 and March 31, 2012 and the Root and Roost Farm Business Plan; and

WHEREAS, the Applicant appeared before the Planning Board on February 7, 2012, March 6, 2012 and April 3, 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 March 6, 2012; and

WHEREAS, on April 3, 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, 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 April 3, 2012, there was public concerns expressed about the Project, but such public concerns have not changed the decision or determination of the Planning Board to issue a negative declaration for this Project pursuant to SEQR; 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 Planning Board now wishes to adopt this Resolution making certain findings and approving the Site Plan and authorizing the issuance of a Special Use Permit for the Project subject to the conditions hereinafter set forth.

FINDINGS

The Town of Liberty Planning Board makes the following findings:

1. While the Application focuses on a single parcel (Liberty 32.-3-14), due to the proposed conversion of the trailer on that parcel to farm use, the Planning Board has reviewed the farm use of the Applicant on both 32.-3-14 and 32.-3-15
2. The subject parcels (Liberty 32.-3-14 and 32.-3-15) are located in the RD Zoning district. The subject parcels were located in the RD Zoning district prior to the 2011 amendment to the Town Zoning Law.
3. The RD Zoning district provides for “Dairy, Livestock and Poultry Farming” as a specially permitted use. Prior to the 2011 Zoning Law amendment, farming was a permitted use the RD Zoning district
4. While the current minimum lot size in the RD zone is three (3) acres, it is accepted that the farming operations on both subject lots commenced prior to the increase in minimum lot size which occurred in 2011 (see the Midge Roth affidavit). Accordingly, the use of both subject parcels for farming pre-dates the zoning change so the uses may continue subject to a review of the change in use of the trailer on the former Herron parcel.
5. The Town of Liberty adopted a Right to Farm Law (Local Law 3 of 2006), which provides in applicable part:

“76.1 Legislative intent and purpose.

A. The Town Board recognizes farming is an essential enterprise and an important industry, which enhances the economic base, natural environmental and quality of life in the Town of Liberty (hereinafter the “Town”). The Town Board further declares that it shall be the policy of this Town to encourage agriculture and foster understanding by all residents of the necessary day-to-day operations involved in farming so as to encourage cooperation with those practices.

B. It is the general purpose and intent of this chapter to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operations of farms, to encourage the initiation and expansion of farms and agri-businesses and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the Town of Liberty, it is necessary to limit the circumstances under which farming may be deemed to be a nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.”

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:

1. At no time shall the Applicant have more than the following animals at the subject lots:
 - Three (3) pigs;
 - Fowl aggregating to not more than three hundred (300) points. For purposes of this limitation, species of fowls shall be assigned points, as follows:
 - a. Chicken – 1 point
 - b. Duck – 1 point
 - c. Turkey – 4 points”
2. The farming activities shall be:
 - (a) conducted in conformity with generally accepted and sound agricultural practices;
 - (b) conducted in conformity with applicable local, state and federal laws and regulations; and
 - (c)\ conducted in a manner that does not constitute a threat to the public health or safety;

and be it further

RESOLVED, that the Planning Board Secretary shall file this Resolution with the Town Clerk.

Motion Made by: John Van Etten
Motion Seconded by: Denise Birmingham
A roll call vote thereon as follows:

	YES	NO
Lynn Dowe, Chairman	<u>X</u>	_____
Raymond Kelly	<u>X</u>	_____
John Van Etten	<u>X</u>	_____
Denise Birmingham	<u>X</u>	_____
Vincent McPhillips	<u>X</u>	_____

IN WITNESS WHEREOF, this Resolution was properly adopted by the Planning Board by a vote of five (5) in favor of, zero (0) opposed, zero (0) abstentions, at its April 24, 2012 meeting.

Liberty, New York
Dated: May 1, 2012

Town of Liberty Planning Board

Nancy Saucier, Planning Board Clerk

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