

**TOWN OF LIBERTY  
PLANNING BOARD MINUTES  
August 6, 2013**

**MEMBERS PRESENT**

Lynn Dowe, Chairman  
John Van Etten  
Lydia Rolle  
Denise Birmingham  
Judy Siegel  
Branden Reeves

**ABSENT**

Vincent McPhillips

**ALSO PRESENT**

Walter Garigiano, Town Attorney  
See attached sign in sheet

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**CHAIRMAN LYNN DOWE CALLED THE MEETING TO ORDER AT 7:02 PM.**

**ON A MOTION MADE BY JOHN VAN ETTEN AND SECONDED BY JUDY SIEGEL, THE BOARD UNANIMOUSLY APPROVED THE MINUTES FOR JULY 2, 2013 WITH ONE MINOR CHANGE. ALL IN FAVOR, APPROVED.**

**ON A MOTION MADE BY JOHN VAN ETTEN AND SECONDED BY JUDY SIEGEL, THE BOARD UNANIMOUSLY APPROVED THE MINUTES FOR JULY 23, 2013 WITH ONE MINOR CHANGE. ALL IN FAVOR, APPROVED.**

**Weitsman & Son of Liberty, LLC**  
Special Use Permit  
Sheehan Road  
SBL: 18-1-31 & 18-1-36.2  
Zone: IC #2011-0021

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

Attorney Howard Rittberg and James Tofte of Delta Engineering appeared for this project. Attorney Garigiano advises that the first document that he provided the Board with is a draft of an EAF Part 3. Attorney Garigiano explains that the Planning Board declared its

intent to be Lead Agency under SEQR for the application. This application involves a site plan but it's not a site plan approval application it's an application under section 93 - 6.2 B of the Town of Liberty Junkyard Law which allows for the Town Board to enter into an agreement with the owners of a junkyard to transfer the junkyard license. Attorney Garigliano advises that notices were sent to the appropriate interested and involved agencies and the Town Board suggested the Planning Board should be the Lead Agency or people failed to respond so the Planning Board assumed Lead Agency status. He advises that the Board has previously received and reviewed a Part 1 of the EAF for this project and Glenn Smith sent a draft of a Part 2 which is located in the project file. Attorney Garigliano advises that on page 18 the suggested response on traffic was originally that it would be a small to moderate impact but then questions were raised by the County in the 239 review and the NYS DOT on a letter they sent so Glenn's suggestion was that on question 15 under other impacts that the box that was checked be changed from small to moderate impact to potential large impact and that takes the Board to where they are with the project now. Once it is determined that there is a potential large impact then a Part 3 to the EAF needs to be prepared. The purpose of the Part 3 is to determine whether the potential large impact is significant enough under the SEQR regulations to require a project to prepare an Environmental Impact Statement. Attorney Garigliano advises that he has provided the Board with a proposed Part 3 that he has put together with Glenn Smith and the assistance of the applicant on some factual matters and it basically provides that Gary Zalkin and Ben Weitsman and Son of Liberty LLC have proposed to relocate an existing junkyard as authorized by section 93 – 6.2 of the Code. Attorney Garigliano went on to read and discuss the Part 3 of the EAF.

**ON A MOTION MADE BY JUDY SIEGEL AND SECONDED BY LYDIA ROLLE THE BOARD ADOPTS PART 3 OF THE EAF FOR THE BEN WEITSMAN AND SON OF LIBERTY LLC PROJECT. ALL IN FAVOR. APPROVED.**

Attorney Garigliano advises that the second thing he provided the Board with which is also related to the SEQR process is a Lead Agency Determination of Impact and in this case it is a determination that the project has no significant environmental impact and it would propose to declare a negative declaration.

**ON A MOTION MADE BY JUDY SIEGEL, SECONDED BY BRANDEN REEVES, THE BOARD UNANIMOUSLY DECLARES A NEGATIVE DECLARATION ON THE BEN WEITSMAN AND SON OF LIBERTY PROJECT.**

The Board has agreed to continue discussions and to read and review the resolution regarding this project at the end of the meeting as to not hold up all of the other applicants.

**PLANNING BOARD MEMBERS JOHN VAN ETEN AND DENISE BIRMINGHAM RETURN.**

**Lipsker Duchman Diamond Inc.**  
Special Use Permit  
1405 Horseshoe Lake Road  
SBL: 43.-1-18  
Zone: RD #2013-0018

No one is present for this matter.

**Machne Gila**  
Special Use Permit  
5335 State Route 55  
SBL: 36.-1-13 & 15  
Zone: R-1 #2013-0021

Joel Rosenfeld and Randy Wasson appeared for this matter. Randy advises the Board that Mr. Rosenfeld has decided to downsize the project at this time. Randy explains that at this time they have removed all of the residential units from the plan and they are just requesting a kitchen addition and a storage building. Randy explains that the addition to the kitchen will be 40' X 90'. Randy advises the Board that they will be putting in another access way to be able to access the kitchen and for garbage pickup. He advises that they will be submitting an application to the County for access approval. Attorney Garigliano advises that everything seems to be in order and this matter can be scheduled for a public hearing.

Attorney Garigliano reads SEQR into the minutes.

**ON A MOTION MADE BY JOHN VAN ETEN, SECONDED BY JUDY SIEGEL, THE BOARD UNANIMOUSLY DECLARES A NEGATIVE DECLARATION ON THE MACHNE GILA SPECIAL USE PERMIT.**

After a brief discussion the Board requests that the applicant show the overflow parking area on the plan. It is determined that this matter will be scheduled for a public hearing at the September meeting and will be sent to the County for 239 review.

**Yeshiva Letzirim Inc.**  
Special Use Permit  
85 Ferndale Loomis Road  
SBL: 35.-2-18.1 & 18.2  
Zone: RD #2013-0022

Representatives for Abe Brach appeared for this matter. CEO Van Etten advises the Board that there has been a lot of improvement in the condition of the camp. All garbage and debris has been cleaned up. Chairman Dowe advises that a public hearing was held and that SEQR has been done. Mr. Brach's representative advises the Board that there were some changes made to the parking area. He advises that the parking area will now be outside the fenced area to prevent any of the campers from being hurt.

A brief discussion continued and it is determined that before any further Certificates of Occupancy are issued the new proposed parking must be built and shown on the site plan.

**ON A MOTION BY JOHN VAN ETTEN, SECONDED BY JUDY SEIGEL, THE SPECIAL USE PERMIT FOR YESHIVA LETZIRIM WAS APPROVED WITH THE CONDITION THAT NO CERTIFICATES OF OCCUPANCY BE ISSUED UNTIL THE PARKING AREA IS COMPLETE AND SHOWN OF THE SITE PLAN. ALL IN FAVOR, APPROVED.**

**USA DEVANAND YOGA CULTURAL CENTER, INC.**

Special Use Permit

Parks Road

SBL: 24.-1-29.1

Zone: AC #2013-0023

**PLANNING BOARD MEMBER, JUDY SIEGEL RECUSED HERSELF FROM THE FOLLOWING PROJECT BEFORE THE BOARD.**

A representative from Devanand Yoga Cultural Center appeared for the project. The representative explains to the Board that they currently have a place in the city where they teach people to relax, breathe and exercise to be healthier happier people. He explains that they would now like to bring their center to the country to have retreats where people can come in for a weekend or a day to get out of the city and relieve some stress. He explains that they also do exercises, go for walks, do meditation, lectures, etc. He also advises that they have a medical doctor and a natural doctor along with a psychologist. Chairman Dowe explains that the application is requesting a bed and breakfast and Attorney Garigliano advises that this does not fall under the definition of a bed and breakfast. Attorney Garigliano advises that the property is located in the AC zoning district and this is not a permitted use or even a special use.

A discussion continued as to whether it could be considered a bed and breakfast or an Inn. Based on the information provided the use is not allowed in the AC zone. Attorney Garigliano advises the applicant to put together a business plan explaining what exactly they are intending to do and the Board will review it.

PLANNING BOARD MEMBER JUDY SIEGEL RETURNS.

**ABBOTT / WARD**  
Subdivision  
Dahlia Road  
SBL: 5.-1-45.8  
Zone: RD #2013-0024

Jeanne and Bruce Abbott and Aaron Ward appeared for this matter. Mr. Abbott explains that they would like to do a 2 lot subdivision. Mr. Abbott provides the Board with an Engineers report for a septic system. Mr. Abbott advises the Board that a change was made to the plan. The lots should be reversed one lot will be 7.39 acres and the other will be 25.55 acres roughly. Attorney Garigliano advises the applicant that if a new plan is submitted the matter can be scheduled for a public hearing at the next meeting.

Attorney Garigliano reads SEQR into the minutes.

**ON A MOTION MADE BY JOHN VAN ETEN, SECONDED BY BRANDEN REEVES, THE BOARD UNANIMOUSLY DECLARES A NEGATIVE DECLARATION ON THE ABBOTT / WARD SUBDIVISION.**

A brief discussion continued and it was determined that this matter will be scheduled for a public hearing and sent to the County for 239 review if new maps are submitted.

**CAROL FANNING**  
Special Use Permit  
Stanton Corners Road  
SBL: 47.-2-3.1  
Zone: DCC #2013-0025

Carol Fanning appeared for this matter. Ms. Fanning explains that she would like to construct an 8' X 30'6" addition onto her one family home but zoning does not allow her to do so without a Special Use Permit. A brief discussion continued as to what zoning district the property is located in and it is determined that it is in the DCC zone. Attorney Garigliano advises that this matter is not subject to SEQR. Board Member Branden Reeves asks the Board if the existing septic systems should be shown on the plan or at least be identified as to where they are located to be sure the proposed addition is not going to be constructed on them.

A very brief discussion continued and it was determined that this matter will be scheduled for a public hearing and will be sent to the County for 239 review.

**LIBERTY SELF STORAGE**

Special Use Permit

NYS Route 52

SBL: 30.-1-90.7

Zone: SC #2013-0026

Sol Ekstein and Joe Pfau appeared for this matter. Mr. Pfau explains to the Board that Mr. Ekstein received approvals for the project in September of 2000 and then filed an amendment to change the size of the buildings and they are now requesting to change the size of a previously approved building. Mr. Pfau explains that the approval was for a 40' wide building and they would like to make it 60' wide. He explains that 40' is not wide enough to access the unit from both sides. Attorney Garigliano advises the Board that the proposed building will be located behind the existing office building. Mr. Pfau explains that nothing else on the plan will be changed it will just be the size of the building. Attorney Garigliano advises that the catch basins were already installed. Board Member Judy Siegel advises the Board that if the property is located in the SC zone that it only allows for buildings less than 5,000 sq. ft.. The Board reviews the SC zone and agrees that this is not a permitted use or Special Use and that the matter will require an area variance from the Zoning Board of Appeals.

**ON A MOTION BY JOHN VAN ETEN, SECONDED BY DENISE BIRMINGHAM, THE SPECIAL USE PERMIT FOR LIBERTY SELF STORAGE WAS DENIED DUE TO THE BUILDING BEING OVER 5,000 SQ. FT.. ALL IN FAVOR.**

Chairman Dowe advises the Board that there are two items left that are for information only.

**Information only**

Bill Sattler from Adler Engineering is present to ask the Board to clarify Zoning Law 147-31. Mr. Sattler explains to the Board that his understanding is if a building is not structurally altered in any way or changing the use that the Building Inspector has the authority to grant a building permit without going through the Planning process. Attorney Garigliano explains that you can repair a non-conforming use you just cannot increase the footprint of the building. Attorney Garigliano advises that if the nature of use is being changed then a Special Use Permit is required.

**North Eastern Expansion Development Corp.  
The Paramount Hotel - Tanzman Road  
Swan Lake Resort Hotel – Briscoe Road  
Information only**

Joy Johnson appeared for this matter. Ms. Johnson explains to the Board that she represents North Eastern Development Corp. who is a non-profit group and they do supportive housing for Veterans. She explains that they cater to Veterans that are seeking permanent housing and supportive housing that are coming from hospitals. She advises that they have 2 properties that they are interested in. She is interested in the old Paramount Hotel site and the Swan Lake Resort site. Ms. Johnson explains to the Board that at the Swan Lake Resort site they would like to reface the building and then they would phase in whatever development needs to be done. She explains that at the Paramount Hotel site they would demolish the buildings that are there now with the exception of the lobby portion of the building.

After discussions it is determined that Ms. Johnson will need to present this matter to the Town Board.

**Continuation of:**

**Weitsman & Son of Liberty, LLC  
Special Use Permit  
Sheehan Road  
SBL: 18-1-31 & 18-1-36.2  
Zone: IC #2011-0021**

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

Attorney Garigliano advises that what they have for the Board to consider is a resolution approving the site plan and dealing with the transfer of the junkyard license. The approval of the transfer of the junkyard license comes from the Town Board after they are notified that the findings required in section 93-6 (C-H) have been met.

The Board reads reviews and modifies the resolution with Attorney Garigliano.

Attorney Garigliano advises that the resolution must be filed with the Town Clerk.

**ON A MOTION BY JUDY SIEGEL, SECONDED BY LYDIA ROLLE, THE RESOLUTION FOR BEN WEITSMAN AND SON OF LIBERTY IS ADOPTED AS MODIFIED. ALL IN FAVOR, APPROVED.**

**PLANNING BOARD MEMBERS JOHN VAN ETEN AND DENISE BIRMINGHAM RETURN.**

**ON A MOTION BY JOHN VAN ETEN AND SECONDED BY JUDY SIEGEL, THE MEETING WAS ADJOURNED AT 9:15PM.**

Respectfully submitted,

Tammy Wilson, Planning Board Secretary

The foregoing represents unapproved minutes of the Town of Liberty's Planning Board from a meeting held on August 6, 2013 are not to be construed as the final official minutes until so approved.

  X   Approved as read.