

**TOWN OF LIBERTY  
PLANNING BOARD MINUTES  
September 1, 2009**

**MEMBERS PRESENT**

Diane S. Deutsch, Chairman  
Ray Kelly  
Lynn Dowe  
Dean Farrand  
Peter Stettner, Alternate  
Denise Birmingham, Alternate

**ABSENT**

John Van Etten

**ALSO PRESENT**

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

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**CHAIRMAN DEUTSCH CALLED THE MEETING TO ORDER AT 7:08 PM.**

**ON MOTION MADE BY DEAN FARRAND AND SECONDED BY RAY KELLY, THE BOARD UNANIMOUSLY APPROVED THE MINUTES FOR AUGUST 4, 2009.**

The minutes for the August 18, 2009 meeting were not approved. It was determined that the Robert T Werlau portion of the August 18, 2009 meeting would need to be transcribed "verbatim" since the portion of the meeting where what residential storage would mean was not mentioned. It will be done and resubmitted for the Board's approval in the October 6, 2009 meeting package.

**PUBLIC HEARING:**

**52 Liberty Inc./Save-Rite**  
Special Use Permit  
1885 Route 52  
SBL: 30.-1-76.1  
Zone: IC #2009-00261

Twelve notices sent, 9 green cards received, one returned, two outstanding. Chairman Deutsch asked if there was anyone present from the public.

No one appeared.

Chairman Deutsch mentioned the letter received at the meeting from a neighbor, Craig Atkins and that he had some concerns about the vehicular and pedestrian traffic and about adequate additional parking and ingress and egress.

**MOTION WAS MADE BY DEAN FARRAND SECONDED BY LYNN DOWE TO CLOSE THE PUBLIC HEARING. APPROVED.**

**52 Liberty Inc./Save-Rite**

Special Use Permit  
1885 Route 52  
SBL: 30.-1-76.1  
Zone: IC #2009-00261

Bill Sattler appeared for this project.

Bill Sattler: I didn't know until five hours ago that I was coming here. Usher shared some concerns with me about the flow of traffic. I made very few changes but the important thing is, if I think if you look at them now they will be easy to follow.

The Loch Sheldrake side of the parking lot will be labeled "exit only", on the Liberty side "entrance only" with an arrow showing parking in the Loch Sheldrake direction. At the end of that corridor a big sign saying "additional parking" to the side of the building. Other signs clearly that show exit only or entrance only just to avoid confusion.

Diane Deutsch: Where's the additional parking sign?

TAPE UNCLEAR

Bill Sattler: Right on the fence, so that as they're driving down through here looking for a parking spot they can't miss it. Just kind of help them. We kind of thought if that the exit here would help because if there's more cars out here and cars flowing in this direction rather than over here they would have to come over here where people are leaving the store, so it's probably safer to have the exit on that side, the Loch Sheldrake side.

Ray Kelly: You want to narrow the exit area?

Bill Sattler: Yeah, like I said I had five hours notice, but it will be DOT approved.

Attorney Garigliano: You'll have to revise your DOT permit right? Your DOT permit shows both of these curb cuts as being two-way curb cuts.

Bill Sattler: Yeah, so they will be reduced to one. I'm not sure what the DOT will want from us if anything except just to acknowledge that we're going to be compliant.

Attorney Garigliano: If that's fine, then you can just get a letter saying that's all you need.

Bill Sattler: The 25 foot curb cut is going to be in and out, so we will need to choke that down. The only other changes he wanted me to note in the back of the building refrigeration units. They're self contained like a truck body type of refrigeration unit.

Attorney Garigliano: Like a truck body or is a truck body?

Bill Sattler: I would say it's like a truck body.

Attorney Garigliano: Are they going to be permanently installed or sit on wheels.

Bill Sattler: No, they're there and going to sit on a concrete slab and if

Attorney Garigliano: That's fine.

Bill Sattler: If business is good enough, then he'll move them to somewhere else. Luckily for him, he's doing something right, business is growing. I'm happy for him.

Attorney Garigliano: Okay, we also need to see what the signs look like, so give us another sheet. Number and designs and show us what they're going to look like. Size, what they're going to be on. Wood posts, steel posts, screwed to the guardrail. I think there's one, two, three, four new signs proposed. Is that what you have?

Bill Sattler: We have one sign, two signs that say exit only on the Loch Sheldrake side.

Attorney Garigliano: Yep

Bill Sattler: On the Liberty side, one sign saying entrance only and the additional parking on the side of the building.

Chairman Deutsch: So there's five new signs?

Bill Sattler: Four new signs.

Chairman Deutsch: Well you have these entrance only and this one. Oh that's existing, I'm sorry. Okay, that's good.

Attorney Garigliano: Just give us, there's a section in our Code about signs and just give us the details that requires, size, color, what it's going to be hooked to. You're going to have to get them built from somebody, so whoever he gets them from can give you a cut sheet you can put on there.

Bill Sattler: Okay. So besides the actual signs, anything else?

Attorney Garigliano: The DOT. We're going to need to hear from them before we take any action on it.

Bill Sattler: Okay.

Attorney Garigliano: And if you're choking the entrances down, show them the size they're going to be.

Chairman Deutsch: Does this have to go for 239 again?

Attorney Garigliano: uh hmmm

Chairman Deutsch: So when we get the finals.

Peter Stettner: Should these signs be lit up?

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Attorney Garigliano: They're not allowed to be lit from the inside. They're allowed to have ground light on them.

Chairman Deutsch: No up in the air please

Bill Sattler: So noted.

Chairman Deutsch: Thank you.

Bill Sattler: He is open during dark hours.

Chairman Deutsch: Okay so he can have it from the top coming down to light it.

Bill Sattler: Or cut off. Which would you prefer?

Chairman Deutsch: As long as it's not polluting.

Does anyone have anything else?

Ray Kelly: The signs should be able to be looked over or under.

Chairman Deutsch: They can't block the sight line.

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Bill Sattler: I'll give you another page, I'll show you a clear elevation view of the signs.

Attorney Garigliano: The point is they better not be very high off the ground. Right in view of the traffic.

Bill Sattler: If they're too close to the ground, you're not going to see them. I would think they would want to be high enough so that you could look underneath them.

Attorney Garigliano: You better look at the regs., because what if you're driving a dump truck. It might be to just set back from the traffic lane so that you can see both sides.

Chairman Deutsch: So you can see out and what's coming in either direction.

Attorney Garigliano: But where they are and how they appear is critical.

Bill Sattler: Alright. Then you'll send it for 239?

Chairman Deutsch: I think we'll need the changes. We'll want to see what you're doing.

**Michael Moriggia**  
Special Use Permit  
State Route 55  
SBL 44.-1-54  
Zone: SC #2008-0023

No one appeared for this project.

**Robert T Werlau**  
2 lot Subdivision  
5988 State Route 55  
SBL: 23.-1-54,2  
Zone: RS #2009-0025

Michael Woods and Robert T Werlau appeared for this project.

Michael Woods: On these maps we've added the additional note that the Board requested last week starting with note 6 what the use is for, note 7 is also, pinpointing the access of the driveway shown only in that area. Note 8 concerns the letter here from Alvin Adler Engineering did the perc tests on the property and the last note is about termination of the driveway should this subdivision be approved so that the driveway doesn't continue across both lots.

Mark Van Etten: Walter, I don't know if the Board has been made aware of the letter I received from the prospective owner with concerns.

Attorney Garigliano: Yeah, I wanted to go back. I looked in the minutes, I didn't see anything. I thought we had asked Rob if there was any well or septic hooked up to that building.

Dean Farrand: You did ask that question.

Attorney Garigliano: and the answer?

Dean Farrand: The answer was no.

Chairman Deutsch: No.

Dean Farrand: And there apparently is from the contents of this letter. You asked him and it is in the minutes.

Chairman Deutsch: It's not on the map.

Attorney Garigliano: So I guess the question is, is there a well and if there is, where is it? And if there's a septic system, do you have a permit Mark? Or do you have any knowledge of it?

Mark Van Etten: I have no knowledge of it. I had a conversation in the afternoon on Friday with Alan and he was going to address those issues.

Attorney Garigliano: You know anymore Rob?

Chairman Deutsch: And an oil tank?

Rob Werlau: The oil tank is for the furnace. It's a 275 above-ground oil tank.

Attorney Garigliano: The oil tank, my belief is, the custom in Liberty is that you would not issue a permit for an above-ground oil tank.

Mark Van Etten: Correct.

Attorney Garigliano: Now if the oil tank happens to be hooked to something, like a furnace, don't you have to have a permit for the furnace.

Mark Van Etten: Correct.

Attorney Garigliano: And is there one?

Mark Van Etten: I believe Alan said there was one.

Attorney Garigliano: there was right?

Rob Werlau: Yes.

TAPE UNCLEAR – MUMBLING AND TALKING TOO SOFTLY

Rob Werlau handed papers to Mark Van Etten

Chairman Deutsch: So you're looking for permits on the well and the septic?

Mark Van Etten: These are applications. These are applications that were dated today.

Attorney Garigliano: So you'll deal with them.

Mark Van Etten: Yes.

Attorney Garigliano: Now do you know where the well is located?

Rob Werlau: Yes it's on the application.

Chairman Deutsch: Why isn't it on the map? Where is it?

Rob Werlau: Right on the corner of the building.

Attorney Garigliano: Southwest corner of the building.

Chairman Deutsch: Is it inside the building?

Rob Werlau: Yes.

Chairman Deutsch: It's inside the building.

Michael Woods: I didn't see it. I wasn't inside the building.

TAPE UNCLEAR - SEVERAL TALKING AT ONCE.

Rob Werlau: It was put inside because the ledge rock is so high there, there's no way to get TAPE UNCLEAR, so it's inside and it's top feed out straight to a pressure tank.

Chairman Deutsch: And when did you put that in?

Rob Werlau: Two thousand.....five.

Chairman Deutsch: And you never got a permit to do it?

Rob Werlau: Not for a well, I did not, no.

Unidentified Board member: You don't need one for a well.

TAPE UNCLEAR – ALL TALKING AT ONCE

Attorney Garigliano: it's the same with a fuel tank, you don't need it for a fuel tank you need it for the furnace. You don't need it for a well, you need it for pumping the well.

Chairman Deutsch: So, you don't drill a well and just,

Attorney Garigliano: No, no you don't.

Dean Farrand: When you're asked if there's water, you don't say there isn't when there is.

Attorney Garigliano: Okay, septic area. I'm sure you know because you built it, or your dad did. Around here someplace?

Rob Werlau points to map where it is.

Chairman Deutsch: Rob, when we asked you to do a perc and you already have a septic in, why wasn't that mentioned?

Rob Werlau: Because you were talking about a house going on it. I asked you if the perc for this would work and you said not because over three acres would allow,

Chairman Deutsch: But you already put a septic on this parcel.

Rob Werlau: For the bathroom that's in this, yes.

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Dean Farrand: We specifically asked if there was water on the site, and we were specifically told no.

Chairman Deutsch: We specifically asked for perc because we didn't know if it would perc, but you already knew you had a septic and you didn't mention you had a septic.

Rob Werlau: That's correct. I don't know.....

Chairman Deutsch: And where is that septic?

Attorney Garigliano: Is it shown on the permit he just gave you Mark?

Rob Werlau: Yes.

Chairman Deutsch: Right next to the well?

Dean Farrand: Less than 100 feet away from the well?

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Mark Van Etten: the leach trench is 100 feet from the end of the building. One T off it is 75 feet. Is that correct?

Rob Werlau: That's correct.

Mark Van Etten: Where is it in relationship to the other well, the well to the house.

Rob Werlau: It would be a minimum of 350 feet from the well of the house. The well from the house is on the map.

Chairman Deutsch: That's on this map, but not the septic of the house.

Rob Werlau: That's in the front lawn.

Dean Farrand: So this perc test was done pretty much on top of this existing well and existing septic system, which is more than 350 feet.

Rob Werlau: That's correct.

Dean Farrand: It can't be where you've shown here.

Attorney Garigliano: Lampropoulos has nothing.

Rob Werlau: Not that I'm aware of, no.

Attorney Garigliano: I mean is this vacant or is there a house?

Rob Werlau: They come up, I think, every two or three weekends.

Chairman Deutsch: There is a house there.

Mark Van Etten: In proximity to New York systems, where does that fall for them.

Rob Werlau: I would have to find that out.

Attorney Garigliano: You probably have a permit for them?

Mark Van Etten: I'll look and see.

Attorney Garigliano: What we can do is let Mark issue the permits and if he can't issue permits, if there's some problem, he'll let us know. We can't do anything with those issues.

Chairman Deutsch: Okay, we can't really do anything until these are resolved, the permits.

Attorney Garigliano: If Mark says there's violations, we've got to treat it like everything else we do when Mark says there's violations. And that's what his letter to Harry George says. I'm not sure how Mark will deal with where the septic is located, but he'll try and figure it out.

Chairman Deutsch: I guess you'll have to let us know.

Mark Van Etten: Yes.

TAPE UNCLEAR – SEVERAL TALKING AT ONCE.

Chairman Deutsch: So I guess until this is resolved, we're not going to be able to make any determination.

Mark Van Etten: to Rob Werlau – I'll be in touch with you by mid-day tomorrow.

€ Attorney Garigliano: Where it comes to Ironic. I just want to make sure that everyone knows why they are no longer on there. They asked to have it taken off.

Jeffrey Davis of Hiscock & Barclay in Syracuse appeared for this project.

Jeffrey Davis: I did send a letter to the Town providing the Town with the name change. They used to be Omnipoint Communications d/b/a T-Mobile, they are now T-Mobile Northeast LLC. We haven't made any changes since the last time we were here which I believe was in June. At that time the Board asked that we send a whole packet and a statement to the consultant, so that consultant could review it and his report came out August 19<sup>th</sup>. There were no issues at all in this report. There were a couple of recommendations for conditions of approval dealing with tower foundation being supplied obviously to the Building Department before conditional approval. Either a removal bond or letter of credit be provided and that we provide an estimate again for conditional approval and that we be bound by the Town Code to require co-location of the tower and the condition/comment that the digital analysis was excellent and recommended on the proposals that we put forward that the stealth tree design be utilized. If you remember we went over that in June. Number 5 just requested that we provide a resume of the engineer that did the studies and I do have that with me tonight if you would like that. That would be the extent of comments from the consultant. Otherwise, like I said, there weren't any changes to the site plan, and the consultant didn't really request us to do any changes so we're kind of looking for the Board to move it along if we can. Maybe send this on to County and do what we need to do to have a public hearing.

Attorney Garigliano: What we're going to need to do to get to a public hearing is to complete SEQR and we were recently sent a Visual EAF Addendum, right?

Jeffrey Davis: It's been in our application since February.

Attorney Garigliano: Okay.

Mark Van Etten: Isn't this the diner property in Parksville? The owners have a huge pile of garbage and they have violations. They closed the diner up, so if this is not taken care of quickly.

Jeffrey Davis: This is the I-86 diner?

Mark Van Etten: Yes.

Attorney Garigliano: When he said they closed it, he didn't mean closing it like a sale, that they put up a sign up in the window that closed for business and when they left their last two weeks of garbage was left.

Mark Van Etten: A phone call from you would go a long way or we're going to hold you up.

Jeffrey Davis: No, give me a call with anything like that, and we'll take care of it. Anything from us to them doesn't start unless we get approved.

Attorney Garigliano: They may be motivated.

Jeffrey Davis: If you're looking for that type of incentive, yeah, I'll make a call.

Attorney Garigliano: What we would typically do with the EAF is to get recommended proposed responses from Tom who is the same person who did the evaluation. Clearly this is a very positive evaluation.

Chairman Deutsch: I didn't get to see it. It was only e-mailed today.

Attorney Garigliano: I actually have two copies, one for me and one for you.

Nancy Saucier: Tom's report?

Chairman Deutsch: No the visual EAF.

Attorney Garigliano: Nancy just sent back around this.

Nancy Saucier: I sent you this. put it in your packets.

Attorney Garigliano: It's in here.

Chairman Deutsch: Okay.

Nancy Saucier: I just typed this up so it's a cleaner copy.

Chairman Deutsch: Oh okay I didn't pull that out.

Attorney Garigliano: Totally your call. I would suggest that we could do it quickly at a work session with Tom and the applicant. Work through a part II and probably a couple issues on a part III like the visual EAF addendum and others that we identify going through the process. Again it's completely up to you.

Chairman Deutsch: I think that's a very good idea because we seem to get a lot done when we do that.

Attorney Garigliano: That seems to be the most efficient way is to just get you and Tom in the same room. We can make that happen.

Jeffrey Davis: Yes

Attorney Garigliano: You and one other person.

Chairman Deutsch: Anyone? Dean? Ray?

Attorney Garigliano: Are you recusing yourself?

Ray Kelly: No, I'm not recusing myself.

Attorney Garigliano: He can do it then.

Chairman Deutsch: Do you want to?

Ray Kelly: Yes. It will depend on the time of day.

Chairman Deutsch: It will probably be in the evening. Like the same time our Board meetings are.

Attorney Garigliano: Tom sometimes is hard to get in the evening.

Chairman Deutsch: Right, cause he has other meetings.

Attorney Garigliano: Ray is available all day every day, because he's retired. Trouble with being retired is you never run out of things to do.

Ray Kelly: That's right.

Attorney Garigliano: I think with Tom it will probably be during the day. And you're coming from Syracuse, right?

Jeffrey Davis: Yes.

Attorney Garigliano: So if we can accommodate him during the day that would be fine.

Jeffrey Davis: Anytime after 10:00 a.m. is fine, just give me a couple hours to get here.

Chairman Deutsch: So why don't we find out when Tom is available.

Attorney Garigliano: We'll need to coordinate.

Nancy Saucier: We could set it for 1:00 in the afternoon, that would give you time to get down here.

Jeffrey Davis: That's fine yes. Now how would that work timing wise. Would you send it to County Planning?

Attorney Garigliano: They're probably going to want to see, we can send it to County Planning. They may respond or they may say our submission is incomplete because we haven't provided them with SEQR.

Jeffrey Davis: Okay.

Attorney Garigliano: If we do it fairly quickly, there may not be a difference. I don't know what Tom's schedule so I don't want to speak for Tom, but I would try to do this next week if you could.

Jeffrey Davis: Next week is a little tough for me. I'm doing a series of projects in the Adirondack Park for T-Mobile and I have a three-day meeting with them on six of them starting on Wednesday. Monday of the following week would be fine.

Attorney Garigliano: I don't think on a cell tower that we're going to gain anything by sending it to County Planning without the SEQR.

Jeffrey Davis: I've never seen a Board do SEQR before they send it County Planning.

Attorney Garigliano: It's one of our County Planning Department's requirements. The 239 section of the Town Law says that it needs to be a complete submittal. They have this little checklist.

Jeffrey Davis: No, okay, I'm familiar with it. Normally we do our SEQR documents and our full EAF and visual addendum and that's considered, and we submit that.

Attorney Garigliano: I say that's a complete submittal. In my opinion that's a complete submittal. We have a new planning director that started this week. So I really can't give you a lot of guidance.

Jeffrey Davis: Ideally, T-Mobile is trying to get this thing built before Thanksgiving. I don't know if that's going to be a possibility based on that schedule 'cause I don't know what the Board is where you can't get on the October agenda to get stuff done through 239 and then put this on November.

Attorney Garigliano: The October meeting is?

Nancy Saucier: The October meeting is on the 6<sup>th</sup>.

Chairman Deutsch: We can always have a special meeting if we have to.

Attorney Garigliano: There's another alternative too, which is to try and to this with you calling in from the Adirondacks and we'll get Tom in the same room as us, that would work just as well.

Jeffrey Davis: He has all the materials.

Attorney Garigliano: And he may have questions, which is why it is better to do it live.

Jeffrey Davis: Set it up as soon as you can and worst case scenario I can get somebody from my office to come down and stand in for me.

Attorney Garigliano: We could have you call in.

Further discussion was held to determine that the meeting will be held by conference call with Jeffrey Davis on telephone, Chairman Deutsch, Member – Ray Kelly and Tom Shepstone in Attorney Garigliano's office so that a conference call can be handled efficiently with his telephone system.

A public hearing will be scheduled for October 6, 2009.

Mark Van Etten brought to Jeffrey Davis's attention the issue of the I-86 Diner being closed now and the garbage being left outside. Jeffrey Davis said he would mention it to the property owners.

**ON A MOTION BY DEAN FARRAND AND SECONDED BY RAY KELLY, THE MEETING WAS ADJOURNED AT 8:00 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 September 1, 2009 are not to be construed as the final official minutes until so approved.   X   Approved as read