



Town Of Amenia

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PLANNING BOARD MEETING THURSDAY APRIL 4TH, 2013

Present: Chairwoman, Nina Peek
Anthony Robustelli
Peter Clair
James Walsh
Nathan Roy

Absent: Norm Fontaine, Larry Moore

MOTION TO OPEN THE PLANNING BOARD MEETING AT 7:00 P.M. was made by Peter Clair, seconded by Nathan Roy.

Cumberland Farms Route 343 Amenia, NY

Per request of Cumberland Farms, postponed until May 2013 meeting.

Alan Shope Lot Line Adjustment Sinpatch Road Wassaic (Amenia) NY

Brian Houston presented proposal for Alan Shope. Mr. Shope currently owns 3 parcels of land on Sinpatch Rd, which were formerly part of the Taconic DDSO. Currently lots are 178 acres, 9 acres and approximately 8 ½ acres. Mr. Shope is proposing lot line changes to consolidate all the buildings and infrastructure from the old DDSO campus onto one lot (Lot #11 = 70 acres) and create one lot with no buildings or infrastructure (Lot #4 = 125 acres). No development or improvements are proposed for Lot #4 at this time.

Mr. Shope has spent the last 12 years trying to do something with the old campus and nothing has happened. By reconfiguring the lots, Mr. Shope believes there is an opportunity for something to happen to that campus in the future, but this will alleviate his tax burden. Mr. Shope is going to put the vacant parcel up for sale and the parcel with the campus will be as it is now for sale as well. The hope is that everyone knows the main campus is owned by the state and will be up for sale when the facility closes and whoever wants to buy the old campus will also want to buy the old dilapidated campus as well.

Ms. Peek noted for the record that the escrow account is funded and the Planning Board has received a complete application. This is a minor project - Site Plan review of a lot line adjustment and a SEQRA Type II Action.

Julie Mangarillo went through her review memo with the Planning Board. Ms. Mangarillo stated that her memo was based upon previous drawings submitted to the Planning Board (January 3, 2013).

However, Mr. Houston submitted revised drawings yesterday (April 3rd, 2013) which addressed some of her comments but not all of them.

Ms. Mangarillo's comments are as follows:

- Revise the EAF to include soil mining as a land use in the vicinity to reflect adjacent land use.
- Zoning tables for both Lots should be included on the Site Plan. This is now reflected in new drawing.
- The Primary Valley Bottom Aquifer (PVBA) should be added to the Site Plan

Ms. Mangarillo stated her biggest concern is that proposed Lot #11, which includes all the existing buildings and infrastructure and exceeds the maximum allowable impervious surface coverage of 10 percent. The new Lot data table shows impervious coverage at about 16 percent. The Planning Board cannot create a non-conforming lot. Ms. Mangarillo suggested some ways around the requirement: would be open space development or moving the proposed lot line until parcel is in conformance. Ms. Mangarillo said she had asked for markers to be put in where the new lot line would be and they are now proposing steel pins. Mr. Houston revised the Site Plan to include significant physical features such as federal wetlands, woods and fields, and steep slopes/contours. The revised Site Plan also now includes adjacent property owners. Ms. Mangarillo asked that the Site Plan reflect the original use of the existing buildings, however, this has not been added to the revised plan.

Because the property is located in the MCO, the Planning Board would be concerned with residential density. When a development proposal is presented to the Planning Board for those parcels, an open space conservation analysis would be required.

Brian Houston noted that a lot of those existing buildings are going to have to be torn down. There are no windows in them, the roofs leak, there is asbestos in them, you name it. The property is in disarray. The roadways and sidewalks are deteriorating. Everything out there is going to have to be redone or redesigned. Mr. Shope proposes to add a note on the Site Plan and a restrictive covenant into the deed and on to the Site Plan stating that any future owner would have to reduce the amount of impervious coverage down to 10%. If it is bought in conjunction with the old state campus across the street, Mr. Houston stated he thought there were provisions to increase the maximum allowed impervious coverage up to 25 percent. It's an unknown quantity at this time. Buildings have to come down, roadways have to come out. That campus will never look that way again.

Ms. Peek noted that regardless of whether the Applicant puts a note on the Site Plan or a restrictive covenant on the deed, the Planning Board is not empowered to create a non-conforming lot. You would need to go to the ZBA in order for them to authorize you to move forward with it.

Planning Board Attorney, David Everett stated the other option as Ms. Mangarillo mentioned is to change the lot lines, to make the lot conforming. Ms. Peek asked if that was possible. Brian Houston replied that to get the acreage, they would need to remove/adjust the existing driveway to that other lot. That site is very steep. There used to be a 5 lot subdivision in the front, which Mr. Shope combined with another lot. This is the really only main access, you'll never get up this hill. Mr. Houston said he didn't know if you would be able to pick up enough land to add to non-conforming lot to reduce the impervious coverage. David Everett added that the Planning Board does not have the power to vary the zoning requirements. Only the ZBA does. The argument the applicant is making is a valid argument, but

he has to present it to the ZBA. An option the Planning Board could consider is giving conditional approval upon applicant getting a variance from the ZBA. The variance would need to be given to Planning Board before the Site Plans are stamped and sign the plans and before they can be filed with the County Clerk's Office.

Pete Clair asked how many acres it would take to make it conforming. Mr. Houston said it would be complicated to figure out and he couldn't answer right now. Nathan Roy asked how many acres is the lot that would be non-conforming. Mr. Houston answered the lot is 70 acres, not a small lot. Mr. Roy asked how much more he would need to be conforming, another 5%, Mr. Houston answered 6%. Mr. Roy stated that it's not really that much, if you shift the line over those kinds of distances. It's pretty easy to gain 5 or 6 %. Mr. Houston said that will be better answered sitting down at a computer, seeing that and presenting that to Mr. Shope as an option. David Everett added because it is a Type II SEQRA it is exempt from environmental review, he doesn't need to worry about updating an EAF form or submitting one because it's not needed.

Ms. Mangarillo asked about a non-conforming sidewalk presented in a previous Site Plan. The sidewalk setback appeared to be is only 28ft which is non-conforming. Though the Applicant is not moving lot lines to affect that, and the proposed changes would not make the non-conforming setback worse. Ms. Mangarillo suggested that if they decide to go to ZBA anyway, they may want to include the setbacks. Ms. Houston noted that sidewalk was a piece of road that's no longer there. It came off an older map that's why he took it out. That roadway is no longer there.

Ms. Peek requested that Mr. Houston go back to his client and see how he would like to proceed: Redraw the lot line or seek conditional approval from the Planning Board and then go to the ZBA. Mr. Houston asked if they could talk about the MCO district and other issues in Ms. Mangarillo's review memo. Mr. Houston's letter indicated many of the existing buildings were used for residences. All of the buildings were used for residences at one time, although (A) a good portion of them have to come down and (B) you can never tell they were residences inside because the interiors have been stripped of anything of value. These places were looted for every plumbing fixture, all interior apparatus was stripped. So although there are provisions in the MCO district with respect to how many residences, it is the Applicant's feeling that when a development proposal is submitted, residential density calculations would be presented at that time. Ms. Peek said she tended to agree with that and Tony Robustelli and Pete Clair said that those buildings would probably be knocked down; they are past point of repair. Ms. Peek said that there is a limit of overall number of residential use you can have on the site in the MCO District should this property be redeveloped in the future. Mr. Houston agreed and said that would be handled with a site plan in the future. Ms. Mangarillo noted that the Lot Line change and the creating of a smaller parcel would further restrict the development potential in the future. Mr. Houston asked the board their opinion on the requirement for a conservation analysis, which in his opinion wasn't needed for a lot line change. Ms. Peek noted that presumably when someone comes in the future with a development plan for one of those lots, they would be required to complete a conservation analysis. The Planning Board agreed.

Mr. Houston asked if the board would entertain or consider a conditional approval of (A) changing the lot lines or (B) getting a variance. Ms. Peek replied those are your two options. Mr. Houston said he would like some comfort level knowing if they worked out the issue, the Planning Board would give approval. Ms. Peek replied they couldn't tell him if they would approve it, but she was confident that if

he pursued one of the two choices, the Planning Board would be likely that the board would either give you conditional approval pending ZBA or a straight out approval if your lot is conforming. John Fenton spoke up and said it was a self-created hardship, which it is; the odds of getting a variance would be slim to none. Mr. Houston asked even with the infrastructure that is absolutely deteriorating? David Everett noted that the rationale made need to be brought to the ZBA. Ms. Peek asked Mr. Houston to let the Planning Board know what they were going to do.

Four Brothers Drive-In Route 22 Amenia NY

Escrow is in good standing and a complete application has been received. John Stefanopoulos introduced himself and the proposed site plan for the drive-in. Brandee Nelson & Amy Haight from Crawford & Associates presented the Site Plan proposal. The field behind the existing Four Brothers Restaurant is proposed site. The area is clear now, and they are not proposing any additional clearing of property. The entrance to the drive-in would be through the existing driveways into Four Brothers (on Route 22 and on Route 44/343). People would continue through parking lot to a ticket sale & projection booth all in one structure. The existing traffic patterns would continue into the lot where there would be a 120 space parking area located within the driveway perimeter. The parking spaces would be 20 feet long and 9 feet wide, with 16 foot aisles in between. The Applicant is proposing a 40 foot high screen and screen would be 50 feet wide. It is not a permanent structure. The only permanent part is the two poles that support it. The screen would be retractable. The only structure proposed is the ticket/projection booth. They explained a retractable screen operates by pulleys attached to two steel poles. Screen can be raised and lowered. The screen would be up when in use and lowered when stormy or when not in use. The Project Site is currently one parcel consisting of 15.3 acres, no subdivision of parcel is proposed. Operation would be seasonal, Memorial Day through September. No winter showings and no inclement weather showings. Movies would start at sundown - roughly about 8:30PM and will have double features – ending around midnight. The proposed sign would be located along Route 22 and is a free standing 4x4 foot wooden structure, double sided exterior illuminated by lights facing down. An additional sign would be located where the existing parking lot meets the proposed entrance into drive in theater with an archway that would span over. The archway sign would be a permanent structure.

Ms. Peek asked whether there was an existing site plan approval. There is not one as the restaurant was there since the 1970's. Four Brothers had asked their attorney's if there were any old plans or maps and they were not able to find any. Nothing was found with the county.

John Fenton asked Ms. Haight if she had looked at the maximum sign area. She said she saw you couldn't exceed 16 square feet. Ms. Haight said based on linear square foot of frontage that there is a maximum of 100 sq. feet. John said that was correct. Ms. Haight noted that because there is plenty of frontage, the proposed signage does not exceed the maximum allowed per site. The existing Four Brother's sign is 8x4 ft., roughly 32 sq feet, plus another 16sf and the sign on the burger stand is about 8x2sf. Ms. Peek requested that the Applicant do the math and make sure they were under the maximum square footage. Nathan Roy questioned the height of the archway sign. John Fenton said the height maximum on a free standing sign is 10 feet. Ms. Nelson said that would be a problem because they want to have a 12 foot clearance so motor homes can go in the drive in area. The desire is to create something with some character. John said a banner could be used but there would be restrictions on the

dimensions. Ms. Peek said that all the signs on the one lot have a maximum square footage, including a banner or the archway. It was agreed a banner wouldn't look right.

Tony Robustelli commented that the screen would be big in the middle of a hamlet district and he expressed concern for traffic and emergencies, within a very tight area. Mr. Robustelli asked whether the screen would be visible by passers-by and expressed concern for the traffic flow on the weekend, which is prime time for traffic. Ms. Nelson said the position of the existing building interrupts the site line from the roadway. The field is flat with a slight downward slope downward. Pete Clair said that where the screen would be located is really quick a distance from the red light so it would probably look smaller. Perhaps some screening could be put in. Ms. Nelson said that the way the tree line runs there is not a lot of visible area to see from the road.

Ms. Peek noted that the Planning Board requested the Applicant prepare a traffic study, visual impact and noise analysis when they came to the Board a month ago. The concern is traffic impact on Friday nights when there are far more cars traveling through and heading north. Traffic can back up pretty far in both directions on Friday nights. Concerns regarding maintenance and protection of traffic flow. The Applicant noted that perhaps local police would direct traffic to/from the sites on Friday and Sunday nights. The Planning Board needs to know how the Applicant plans to mitigate the traffic flow. Ms. Nelson said that when previous traffic studies were done, peaks were at about 5:00 PM during the week and 11:30 to 12:30 on a weekend. Ms. Peek said they need to see it relative to this project to determine what the impact will be when you are accepting 125 cars into the drive in, in the span of 20 to 25 minutes. Ms. Robustelli asked about parking capacity of Four Brothers parking lot currently, and Mr. Stefanopolous noted that it was about 90 cars. The volume of traffic coming through that intersection could be affected by restaurant traffic, movie traffic, and train traffic coming north. Ms. Peek said it would be hard to get an adequate count given the time of year (off season). Ms. Nelson said that Mr. Stefanopolus wants to open in June, and if it going to be not possible they would probably need to withdraw the application now and pursue it later. Ms. Nelson said they had contacted the DOT two times to see if they had any concerns and that they had not received a response. The only concern that they did mention was if there was going to be any cueing because of turning movements and they've talked to Mr. Stefanopolus about a couple of ways to avoid any cueing issues. One way may be to have people pull directly into the slots for the cars and have someone go around after they're parked and collect money, eliminating the cueing issue.

Jim Walsh asked about the location for emergency access/egress. Ms. Nelson said the gravel driveway would serve as this access but that they hadn't gotten a letter from the fire department, but that they had been contacted. Mr. Walsh asked about plan to direct traffic in and out of the Site. Mr. Stefanopolus said they could have people with signs directing people to Route 44 traffic one way and to Route 22 another way for exiting or perhaps a police officer could do it. John said they have no problem having people there to do it and mentioned the recent auction and the large amount of traffic, which caused no major problems. It was mentioned that the field held up well with all the vehicle and foot traffic too.

Ms. Peek noted that this is unlisted action, and would be a coordinated review. The Planning Board requested that Dave Everett prepare the Notice of Intent however noted that the Applicant's SEQRA review would include traffic, noise and the visual impact. Ms. Nelson said they are looking into doing restroom trailers, which are completely self-contained, fully functioning with a holding tank. The Applicant will provide copy of contract of service provider so there is a degree of assurance annually.

The restrooms are rented on seasonal basis, have 1000 gallon tanks. As part of the service contract, they are cleaned and pumped regularly.

Ms. Nelson said they had done research about drive-in movie noise; which is a little hard to judge. Sound is now tuned into your car radio, not speakers like years ago, They spoke to code enforcement officials in Hyde Park and Poughkeepsie because they have drive-ins and they have had no complaints. Being in your car keeps the noise inside. Ms. Peek requested that the Applicant provide some documentation regarding noise because there residences in the area of proposed site. Due diligence must be done for both noise and visual impact. Ms. Nelson said perhaps they could do an aerial photo to show distance between drive-in and residences. Ms. Peek asked they take photos from where screen will be to the street and public areas and vice versa. David Everett asked if they expected any noise issues with cars running their engines for air conditioning on a really hot night, not just the cars idling but air emission issues. John Stefanopolus said he thought cars would only have their windows down, perhaps running the air conditioning occasionally. Ms. Nelson said that signs could be posted for no engines running/idling. Mr. Everett asked about maintenance of the grass and roadway. Ms. Nelson noted that here wouldn't be any movies on rainy days, which would help eliminate the grass and roadway from being dug up because of mud. The grass will be mowed weekly around the perimeter, and there is no intention of blacktopping the site. . The desire is to keep it natural. If needed cones could be placed where there may be temporary soft areas. Parking will be marked by temporary bollards (poles) at the end of each parking row and there will be parking attendants. There will be an 80 foot space between the front row and the screen. John Stefanopolus said a lot of people bring their pets (dogs) to the drive-in so they are proposing a fenced in dog area, which will keep the field from being used by the animals. The concessions will be out of the existing ice cream stand. Mr. Stefanopolus said they are considering delivering concessions to the vehicles. There will be designated lawn space in the front for pedestrian traffic to sit to see the movie. They will have to bring a radio or head phones to listen. Patio space in the back is also proposed. David Everett asked the Applicant to contact the fire department to give them the information and they said they would meet with them and get letter from them. There will be solar path lighting, but no lighting on the field. Ms. Nelson said she assumes this needs to be circulated to County planning and DOT. David Everett will prepare the notice for our next meeting.

Gasland

Route 22

Amenia NY

John Fenton said there is a low balance in the escrow account - Escrow requirement is \$2500.00, which the Applicant's attorney John Adams said is absurd for a sign application with all due respect. John Fenton explained where escrow monies have been spent: litigation for non-compliance, and review by attorney used the previous escrow.

If the Applicant agrees to post balance due for escrow, we can proceed tonight. The Applicant refused to post the balance due for escrow, noting that he felt the amount we excessive. Ms. Peek noted that if the Applicant would like relief from the escrow requirement, per the Zoning Code, they are free to make sure a request to the Town Board. They have been submitting and withdrawing their applications from various Boards, and refusing to bring the site into compliance. When application is submitted, the Town staff and consultants spend the time and effort to review the application materials for completeness and conformance with applicable regulations, and post the required notices in the paper and notify neighbors. In the case of this application, the review occurs, escrow funds are allowed to pay for this review - and then the Applicant withdraws the application at the very last minutes. The Applicant's

decision to withdraw their materials from consideration at the last minute does not obviate the Applicant from their financial responsibility to pay for the Town's time and effort, which has already been spent. Therefore, they (as is the case with all Applicants) are required to post the complete escrow before any further consideration of their application materials.

John Fenton spoke again regarding issues on the project site, including a non-compliant sign. The Applicant's attorney noted that they are here to present an application for new compliant sign. With respect to the violations, Mr. Fenton said he is working with the tenant and slowly going in the right direction, though they are not where we need to be yet. The existing violations include: excessive window signage, the guardrail, the canopy signs and the free standing signs. The Tenant maintains that the landlord is responsible for the deteriorating guard rail. John Adams said a new issue has arisen since application was submitted. A new law requires gas stations to post all gas prices. The County now says that any sign that shows the prices must now have both cash and credit price if they are different, not just above the pumps, but any sign that the public can see. The Commissioner of Health regulates and enforces. The County is giving 6 months to come into compliance. So based on this new law, Mr. Adams said the sign he proposed may not even be correct now and he not t sure what the sign will now look like with this new legislation. There has not been an interpretation if posting the higher credit price will be sufficient or if all prices cash/credit must be displayed. Jim Walsh spoke about his concern of how the Zoning Board gave a number of variances and the Planning Board issued a conditional Site Plan approval to the Applicant - to expand the store 8 years ago but they still did as they wanted and put themselves in this position. John Adams said he can't ask the Planning Board to review this application because the sign won't work. At this time it bounces back to John Fenton to continue the litigation for non-conformity. Planning Board does not want to see the violations continue, they need to be resolved one way or another. John Fenton said as of this meeting the escrow balance is 00 (zero).

Cozy Corner Route 343 Amenia NY

Escrow is set. The Planning Board had an informal discussion on how to proceed with the former Green Leaf property. The project site is an existing three-story building located in the HM zone within the HPO. The ground floor is a restaurant, formerly the Cozy Corner restaurant, an antique shop and bicycle shop. The antique shop was merged into the restaurant, operating as Green Leaf for 2 years. The proposal is to make what had been bike shop into a pub in conjunction with the restaurant now called Cozy Corner. When Green Leaf was redone as a restaurant, the footprint was expanded to 1,976 square feet from 1,147 square feet by combining the original restaurant, bike shop and storage area. No outside changes proposed. The proposal would add a 20 seat pub to existing 30 seat restaurant. The facility has its own sewer treatment facility in the ground. No construction proposed. The proposed pub is 516 square feet including a bathroom.

Ms. Peek asked if this is a change of use or major site plan. Brian Houston said he was dealing with the restaurant (Cozy Corner) with the pub as an add-on. Ms. Peek said if they were expanding a non-conforming use by less than 50%, the Planning Board could entertain a Site Plan/Special Permit Application. If the expansion exceeds 50 percent – the Applicant would need to go the ZBA for a variance. Mr. Houston noted that the expansion does not exceed 50 percent. John Fenton said that the permitted use would remain the same; the Applicant is just expanding the square footage. The threshold would be 1000 square feet, but the expansion was approximately 829 square keeps and this is therefore a minor project, special use permit. David Everett said that sounded correct. Neither Ms. Mangarillo nor

Dave Everett has had a chance to look at yet since the formal application isn't in yet. Mr. Houston said that was correct and they were there to make sure it was a minor project. Dave Everett said the proposed Application is a Type II under SEQRA regulation because it's less than 4000 square feet. Apartments upstairs have been continuously occupied. Ms. Peek asked whether the freezer on the wood deck in the back was located within the wetland buffer. Bill Flood replied there is an existing concrete foundation there that it sits on. DEC has been there, he has every known and needed permit.

The Planning Board discussed the off-street parking requirement. There are 3 existing off-street parking spots currently used by the upstairs tenants, which does not meet the requirement. There is on-street parking on 343 on both sides of the street back from the no parking sign-west. Tony Robustelli spoke and said the Town Board needs to figure out something for the parking situation on Main St. It will get worse and worse. Mr. Houston said they had already obtained a letter from Judge Manning to use parking. Ms. Peek said that since precedent had been set allowing other Main Street businesses to satisfy their off-street parking requirement by obtaining permission from adjacent landowners allocating their off-street parking to the businesses, as long as Cozy Corner can obtain permission in writing from a private property owner, within walking distance of the café for use for parking, that would be okay. The Applicant needs to fill out full land use application, which will then be provided to Ms. Mangarillo for her review. The Planning Board will discuss at the next meeting. Mr. Houston said they would submit complete application based on minor site plan, special use permit. Mr. Houston also proposes portable tables (put out and taken down daily), Ms. Peek said just to put them on the site plan.

MOTION TO ADJOURN THE MEETING was made by James Walsh, seconded by Tony Robustelli.

Respectfully submitted,

Mary C. Maillet
Planning Board Secretary-Alternate

The foregoing represents unapproved minutes of the Town of Amenia Planning Board from a meeting held on April 4th, 2013 and are not to be construed as the final official minutes until so approved.

_____X_____ Approved as Read 5-2-13

_____ Approved with: deletions, corrections and additions