
Planning Board Minutes
May 4, 2023

Planning Board Members Present, Steve Lester, Julie Pellett, Daniel Compton, Matt Rogers, Daniel Morley, Michael Woodruff, Kimberly Duvall, Michelle Rhoda

Others Present, Kimberly Rayburn (Building & Zoning Officer), Christel Daggett (Secretary), Anthony Iacovangelo (Town Attorney), Aric Lesperance (Applicant), Peter Tuttobene (Applicant), Colin Ferguson (Owner Collage Cellars), Emma Oakes (Project manager & Architect for Costich Engineering), Bill & Marcie Hardy (Local Farmers and members of the community)

Lester opened the meeting at 7:30 pm.

I. Area Variance, TV2-23 Owner Aric Lesperance 7600 Route 5&20 Tax Map # 67.00-1-60.100 Side setback variance of 15.5 ft. requesting 34.5 ft. at the closest corner where 50 ft. is required. Request to build in the same location as previously torn down Single-Family home slightly different footprint.

The previous house was torn down due to extensive foundation damage. It also didn't have a garage due to the layout of the hill and where the driveway was. The new house will include a garage, pushing it a little closer to the east property line. It will be around the same footprint, but a garage will make the new setback 5 to 10 feet closer to the line than the prior home. The property drops off behind the house which is the reason for needing to keep in the flag.

Rogers motioned Pellett seconded to forward to the ZBA Area variance TV2-23 Owner Aric Lesperance 7600 Route 5&20 Tax Map # 67.00-1-60.100 Side setback variance of 15.5 ft. requesting 34.5 ft. at the closest corner where 50 ft. is required. Request to build in the same location as previously torn down Single-Family home with a slightly different footprint.

Record of Vote:

Lester Aye **Pellett** Aye **Compton** Aye **Morley** Aye **Woodruff** Aye **Rogers** Aye **Duvall** Aye
Rhoda Abstained

Vote was carried.

II. Site Plan, SPLM2-23 Owner Richard Spurr 2231 Creekside Airport Drive Tax Map # 68.00-1-72.112
Site plan for accessory structure/ hanger to be in the front line of proposed single-family home.

The hanger will be in front of the house, closer to the strip. Rayburn stated it was the same thing they did for Moore's residence. Morley stated it was unique. Lester stated the front setback is in reference to County Rd 30 which makes the hangar in front of the home..

Lester declared SEQR Type II with no further action required.

Woodruff motioned Pellett seconded to approve the site plan, SPLM2-23 Owner Richard Spurr 2231 Creekside Airport Drive Tax Map # 68.00-1-72.11 Site plan for accessory structure/ hanger to be in the front line of proposed single-family home.

Record of Vote:

Lester Aye **Pellett** Aye **Compton** Aye **Morley** Aye **Woodruff** Aye **Rogers** Aye **Duvall** Aye
Rhoda Abstained

Vote was carried.

III. Lot Line Adjustment, PLA4-23 Owner Peter Tuttobene 3321 County Rd. 40 Annex 11.503 +/- acres Tax Map # 93.00-3-30.200 back into Parent parcel Tax Map # 93.00-3-30.100 leaving 13.390+/- acres of Lot 2.

Tuttobene stated one buyer backed out of purchasing the previously subdivided lot. The remaining buyers requested parcel line adjustment to make the lot smaller. Part of Lot 2 will go back into Lot 1.

Lester declared SEQR a type II with no further action required.

Rogers motioned Morley seconded to accept maps for a parcel lot line adjustment. Owner Peter Tuttobene 3321 County Rd. 40 Annex 11.503 +/- acres Tax Map # 93.00-3-30.200 back into Parent parcel Tax Map # 93.00-3-30.100 leaving 13.390+/- acres of Lot 2.

Record of Vote:

Lester Aye **Pellett** Aye **Compton** Aye **Morley** Aye **Woodruff** Aye **Rogers** Aye **Duvall** Abstained
Rhoda Abstained
Vote was carried.

IV. Site Plan, SPL1-23 Owner Colin Ferguson, Collage Cellars/ Costich Engineering Tax Map #80.00-1-78.200 has applied for a Site Plan for a Brewery and Tasting Room property located at West Park Drive. The submittal has been accompanied by a proposed site plan, an Environmental Assessment Form, Engineers Report, and other submittals, and SEQR.to declare The Planning Board as Lead Agency.

Emma Oakes, project manager & Architect for Costich engineering spoke on behalf of Collage Cellars to give a brief overview and brought a site plan map to display for the development of a Brewery and tasting room located at West Park Drive.

West Park Drive has many vacant parcels, and the Brewery will be closest to Terphane on the northern side. The Main building in the middle will be the main brewing facility and will house most of the brewery production. The remaining area will house a small tasting area for the public. The tasting area would be open to an outdoor patio area on the northeast corner of the property creating a beer garden style with landscaping, tables, and seating. Collage Cellars like to grow and utilize their own edible plants and will have an orchard with a couple varieties of fruit trees on the west side of the property. There will be a small shed to store equipment for the orchard, and a small greenhouse to harvest plants year-round on the southwest side of the property.

There will be parking on the east side and a loading dock on the Southern portion of the site. There is a future expansion area for the parking lot on the west corner for future parking if needed. The Storm Water Management facility and Bio Retention area and a pond is on the Northern part of the site.

Duvall asked if there would be food. Ferguson stated yes, there will be a small kitchen area. Rhoda asked about the lighting. Oakes stated there will be lower lighting. They have not proposed any tall lights around the patio area and some of the lighting should be blocked by the trees they have proposed. Oakes stated that in the lighting plan that they provided it shows there are foot candles that tell how far the light throws. Woodruff asked if that meant that all lighting would be Dark sky compliant, Oakes stated they would. The Morley asked about the size of the building Oakes stated that the ceilings are 16 ft. high. Rayburn stated we packets for review by the other agencies will be sent out on Monday the 8th. The Board must wait 20 days for them to review the packet and SEQR. The public hearing will need to wait until at least June 1st we can

meet and talk about it again on May 18th if the Board wishes. Woodruff stated that we need to declare ourselves lead agency for SEQR.

Compton mentioned it shows an 8-inch water main. Oakes stated they are working on some of the engineering. Compton stated that 8 inches seems quite large for one facility brewery. Woodruff asked if it was an 8 inch from the road. He then stated it shows that the current site is served by an 8-inch water main located on the east side of West Park Drive. Rayburn stated she would like a another set of plans for the Department of Water Works so Brian Rayburn would be able to review them. Woodruff stated there had been discussion on water discharge and sewer discharge. Woodruff asked if they had been working on that with the Village Sewer Department. Oakes stated that they had not, but they had sized the sanitary to meet the needs of the brewery use. Woodruff stated there must be some concern about the amount of discharge as well. He stated that Oakes may want to look into how much discharge there is daily seeing how it goes to the Village sewer and that there is not a capacity issue that needs to be addressed. It states in the report that the daily flow is 2,500 gallons per day. They will need to have a discussion with the Town Engineer and have the Village look at it too.

Lester waived the reading of the Resolution. Rogers motioned Pellett seconded the Resolution to declare themselves lead agency for SEQR.

Record of Vote:

Lester Aye **Pellett** Aye **Compton** Aye **Morley** Aye **Woodruff** Aye **Rogers** Aye **Duvall** Aye
Rhoda Abstained
Vote was carried.

V. Discussion:

A brief discussion about Ag & Markets Tourism – Lester stated that Rayburn, Woodruff, and himself had a meeting on Tuesday May 2nd to discuss proposed code changes, Ag & Markets comments, and definitions.

Ag & Markets described a commercial farm as a farm that gained a lively hood from their operation. They discussed how to bring clarity and define it so they added the definition of Farm Enterprise. Anyone who is qualifying for an Ag Exemption is what we would call a farm enterprise or as Ag & Markets like to call it a “Commercial Farm.”

Farm Enterprise: Any parcel containing at least 7 acres of land which is used for agricultural or farming activities which contribute to the production, preparation, and marketing of crops, livestock, and livestock products. Such an enterprise may consist of one or more parcels of owned or rented land. Parcels may be contiguous or noncontiguous to each other with an Ag exemption. It includes necessary farm structures and the storage of equipment used.

Woodruff stated he and Rayburn had a meeting with Ag & Markets and their attorney. They defined a Commercial farm as anyone who farmed more than 7 acres, derived more than 10,000 dollars’ worth of income from that farm and lies within the agricultural district and has the same criteria as an Ag exemption. That is what Ag & Markets 3 criteria is for what they classify as a commercial farm. Any commercial farm that raised any produce or anything to sell has a legitimate right to sell it at a farm stand without any controls from the Town. There are certain things we can and cannot do. Anybody who has that kind of income or farming situation is how we come up with some of the regulations. It all relates to what Ag & Markets has stated. Rayburn sent the proposed rules to Ag & Markets to review as they asked but, have not received comments back from them yet. Some are controlled by Ag & Markets, but they told us our rules

currently are too restrictive. Duvall stated there are 6 other towns within 20 miles from Bloomfield that are way more restrictive than we are. Compton stated he is not concerned with what other towns are doing.

Duvall wanted clarification on a temporary vs permanent structure, when you say temporary structure, is that a farm stand?

Woodruff stated that there are two different ways they wrote the proposed regulations. There is a temporary road stand of no more than 500 square feet, if a farmer derives income or produces it, according to the farm enterprise definition they will not have a display area restriction. Then they left the definition alone dealing with non-Farm Enterprise which would be someone selling their extra produce out at the road. Duvall stated by looking at the information provided to them, it looks like there are more restrictions on a permanent structure than a temporary structure, there's no limitation to floor space for a temporary structure. Duvall stated it says nothing about display space for temporary structures but does for roadside stands. Woodruff stated that is why they had a discussion with Ag & Markets for display space for roadside stands. Duvall stated that is up to the Town to decide, not Ag & Markets, the Town makes the code.

Rayburn stated that everyone got the same information the first time when Ag & Markets answered back in great detail with multiple attachments. They stated in there that we should not be limiting the display area. Duvall stated she thinks this is fine as long as temporary structures have limitations on their display area. If that's the case, then what is the motive for someone to build a permanent structure or business here and bring revenue & taxes into the Town if they can just put up a 500 square foot building and do whatever they want.

Woodruff stated that Ag & Markets told them if a farmer meets the criteria of a farm enterprise that we could not control the display area. Duvall stated this would be hurtful to the permanent farm businesses. Woodruff stated this country is built on capitalism. Duvall stated that as a Board, this is where we have the authority to say let's take care of the people in the community. We have 15- 18 farm stands in the Town that follow the code and 1 who doesn't. What's the purpose of changing code for the 1 person who doesn't follow the code. Woodruff stated that's the reason we are here because of complaints about 1 person. Duvall stated the problem is enforcement. Why don't we enforce the current code? Rayburn stated, "Let's look at this another way," Let's ask ourselves if we want to put more restrictions on a farm enterprise that does have an Ag Exemption and has more than 7 acres? Why should they be forced to build a large ag mercantile where people can walk inside? why are we putting that restriction on them it should be a choice whether you want to build a building or do you just want to have a stand?

Duvall questioned Operating permits. Will she have to get an operating permit for every event she puts on If so, she would have to get a permit every week. Woodruff stated that the only thing she would have to get an operating permit for is whatever Ag & Markets told us is not covered under the umbrella of AG like bounce pillows and other events such as easter egg hunts. Duvall stated she does not think this is fair to permanent markets in the area. She felt that by not putting restrictions on stands opens the door for safety concerns. Duvall stated there have been accidents by George Duvall's stand and letting it get bigger is dangerous.

Lester stated we are waiting to hear back from Ag& Markets in reflection to this, the interpretation we have has been taken from Ag& Markets definition of a commercial farm which we called a farm enterprise. We are defining that as someone who has 7 acres or more and has an AG Exemption. We are trying to define the difference between a permanent or temporary structure for a farm enterprise. If it's permanent, there's the limitation of size just like there is for temporary so square footage has already been defined. Ag & Markets is saying we are not able to put a display limitation whether it's permanent or temporary if it is a farm enterprise. That is what he understood from Ag & Markets and that is what we are waiting for, confirmation on from Ag & Markets.

Duvall stated she has not seen any other towns doing this. They don't have a separate section for temporary structures. She has looked at 8 or 9 no one has that. They have a permanent or a roadside those were your options. & Duvall stated once you put this grey area in there it's going to open pandoras box to buildings 30 ft off of 5 & 20. What if she wanted to put one of these buildings upon 5 & 20? She thinks it would be dangerous. Rayburn stated you can't put it up 30 ft off of 5 & 20. Duvall asked why not? Rayburn stated the code says and out of the highway right of way. Duvall stated she owns the right of way. Now what? Because she owns it. Woodruff stated she didn't buy all

of it. Duvall stated she bought where she would put the stand. Rayburn stated then yes, it would be 30 ft off the highway. Duvall stated right now after this code is written she could do that. Don't you think that would be dangerous to have a code written like this. Am I going to do this? No, I'm not because I wouldn't do that and put someone in danger, but someone could.

There was a brief discussion on safety concerns with surrounding area roads and the speeds of how dangerous putting a stand too close to the road is.

Duvall stated she didn't think we should have a temporary structure in another section, it only confuses people. Rayburn stated maybe we shouldn't be putting tighter restrictions on farm enterprise's that they are only allowed to put up an Ag mercantile. She felt that there was only one person that felt they needed a larger display area who doesn't follow rules, why change code for one person, why reward him? Rayburn stated if a farmer meets all the criteria, which he does, why should he be penalized? Duvall stated she doesn't think he should be penalized but, she felt that the current way he's running his business is not safe as neighbors have complained about. Compton asked Duvall to define what wasn't safe? Duvall said he has pumpkins in the road and that there have been accidents there. Pellett asked if there had been any accidents there when the stand wasn't in operation? Duvall stated not to her knowledge. Rayburn stated he has plenty of off-road parking. Compton stated this seems like it should be a traffic safety thing by the County sheriff.

There was a brief discussion on the definitions of Agri tourism to be looked at. Woodruff stated that they needed to look into what would determine the need for a site plan, or just an operating permit when it came to Duvall's farm. The events that she is planning come with certain things that she needs to let code enforcement know about, for building code example: Exits, tents, Port-a-potties. There is no fee for an operating permit, it is more for safety reasons. Anything that is not Agricultural Code Enforcement would need to review it. It may need a Planning Board site plan or maybe just an operating Permit, but Rayburn needs to know what's going on in the event that something could go wrong. Iacovangelo stated there could be a time when you have an event and it goes viral and you have masses of people, it needs to be controlled, without Rayburn knowing what's going on how do you prepare for it? Then it gets out of control and that's where problems come in for the safety of people.

Pellett stated maybe they could do a seasonal operating permit where Duvall could have a list of events that she knows is going on instead of having to get an operating permit every week. Rayburn stated she would have no problem with that as long as she is informed ahead of time. There could be safety issues, and she would be prepared for.

A brief discussion was held about Agritainment. Rayburn stated that we don't have agritainment code in place. Some of the items that Duvall has done may have been overlooked because we want Duvall Farms to grow and grow your customer base until we can get our code in place. Iacovangelo stated Duvall is talking about doing more hosting events and having this become a destination as opposed to the original intent of this being an AG Market operation. Duvall stated it was always going to be The Pumpkin Palace from day one. It was going to be exactly what it is, an event place. Compton stated Duvall's building was built with an AG Exemption. With that Ag Exemption you are not subject to a whole bunch of reviews that a commercial building is. You didn't have to go through a site plan review, a storm water prevention program you didn't have to go through all of what a commercial building must, you dodged all that oversight. Duvall said she did have to a site plan, but it did not have to be reviewed. Compton stated so with that, you have some restrictions on the buildings use. The building has some restrictions that you can't use for certain commercial activities. It seems like what you want to do now is have some activities. The Board is trying to broaden the definition by using Ag & Markets so, Duvall and other businesses around can use their buildings for agritourism. There has to be some sort of review and oversight by the Town so that all these events are safe. Compton stated that we need to put something in place that protects everyone.

Topics for review 2023

1. Continued review of the Comprehensive Plan's suggested updates for zoning districts changes.
2. 5 G placement of antenna's
3. Battery Storage

4. More research and code considerations for cannabis in the future
5. Look into code for event centers vs current code that allows for a SUP for each event on 50 acres or more.
6. Look at the schedules for any items that need to be updated or clarified.
7. Ag & Markets-Agritourism & Roadside stands.

III. Minutes of April 20, 2023

April 20, 2023 minutes need to be amended due to Morley was Absent but the minutes stated Morley was Present. Daggett stated she will fix. Woodruff Motioned Lester seconded.

**Lester motioned Rogers seconded to approve the minutes of 4/20/2023.
All board members present voted; vote was carried.**

IV. Meeting Adjourned

**Pellett motioned Lester seconded to adjourn @ 9:00 pm.
All Board members present voted Aye; Vote was carried.**

Respectfully submitted,

Christel Daggett
Planning & Zoning Board Secretary