

**Planning Board Minutes
September 21, 2023**

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

Others Present, Kimberly Rayburn (Building & Zoning Officer), Christel Daggett (Secretary) Bill Hardy & Marcelle Barber (Local Farmers and members of the community)

Lester opened the meeting at 7:31 pm

I. Discussion on redefining definitions of code for agricultural tourism County comments for temporary and permanent farm stands.

Lester asked if anything had changed since the last time the Board had met? He informed the Board that Linda Phillips from Ontario County answered the question about the proposed regulations needing to be reviewed before being adopted per 25AA of Ag & Markets Law. Phillips stated they do not, a farm could request a review from Ag n Markets if they felt the codes were too restrictive. Rayburn stated that there was one addition that she added to the bottom that could be reviewed at site plan or it could be added to the actual code for *When a nonagricultural related use occurs on a farm in a residential district additional criteria such as buffering for noise and glare will be reviewed on a case-by-case-basis based on the existing natural features of the parcel.* They may or may not already have buffering. It would be up to the Boad if they wanted to add it but it's pretty much part of the site plan anyways.

Woodruff stated that he doesn't see anything more than what they had talked about or addressed. They answered the County Planning Board comments. A brief discussion was held on redefining the definitions and code a little more clearly per the County's request. Rayburn stated they added the definition for Farm Stand because when you look in the code it says "Farm Stand refer to Roadside Stand" so, leaving the definition of Roadside Stand for the sale of produce in front of your house and then using a new Farm Stand definition for what Ag & Markets calls a Commercial Farm. Duvall asked if the size of the display can be as big as they want it to be? Rayburn stated yes, for the farm stand per what Ag & Markets says.

Pellett arrived at 7:40

Duvall stated she had a few issues. Currently there is a stand that is out of compliance. Is there a reason why it is not being enforced upon right now with the current code? Rayburn stated they did try to bring that farm stand into compliance last year a couple of times. Duvall stated no, I'm talking right now it is out of compliance. Is there a reason why the current code is not being enforced? Duvall stated that it seems we are changing code, but code is not being enforced currently on this one stand.

Compton asked Duvall which stand she was referring to. Duvall stated Blue Barn Acres. They were told by Rayburn several times last year and the Board that they were out of compliance. It is out of compliance with display size and still are according to current code. Now we are going to change the code to give them more leniency when they are the only ones that are essentially going to benefit from this code change. They have never followed code from day one. Why are we changing code for one person who is breaking the rules?

Lester stated thinking back to the long process the proposed code changes are based more on Ag & markets interpretation, guidance of what we can and cannot enforce. Duvall stated she agrees with that but, also though some of the things in the current proposal are going to affect her.

She is invested in this legally and has legal counsel that will review this, and when it goes to the Town Board Duvall is afraid there are a lot of things she can't do. She believes it is a waste of the Boards' time. Woodruff stated that the pumpkins at the Blue Barn just started back up again last week. Duvall stated that, no it didn't It's been out of code for months. There were other things that were excessive there before the pumpkins. She stated she has been keeping track of it because it is something that is not only affecting her but for the other markets, other farmers. She feels like they are putting a lot of effort into one situation. The point being, you have families who have invested their entire livelihoods into these permanent markets and stands and farms who have always followed the rules but you're putting more rules on them and removing all the rules for one person.

Woodruff stated he doesn't believe they are putting more rules on them in fact, the definitions that they have worked on benefit Duvall because they are dealing with the fact that she is having concerts, wine tastings and beer tasting etc. They are making changes to that based on what Ag & Markets told them to do so, that is a benefit for you and for everyone else because they are adding things that currently are not in the code. Duvall stated she is restricted to the size of her building, her building is x square feet, she has x square feet where she can build a building. There is no size regulations on the Farm stand. Woodruff stated the farm Stand cannot be bigger than 500 sq. ft. Duvall asked where was that stated? Compton read from the **New Definition for Farm Stand B Stands of a non-permanent nature (movable and temporary)**

- (1) The stand shall not exceed 500 square feet of floor area and shall be set back not less than 30 feet from the edge of the pavement of the highway and outside the highway Right-of-way.*
- (2) Sufficient land area shall be provided to accommodate off-street parking for not less than eight vehicles on site.*

Rhoda asked, "so, the 500 sq ft. is not changing?" Woodruff stated that was the old code also and is the same for new temporary stand code for a farm not just out in front of your house. Compton stated once it gets enacted he will have to provide enough parking so that all the parking on the premises will be out of the public way. Duvall claimed that the driveway was never approved by Trost so, it is illegal and that is just another thing he is getting away with so now we are rewarding him with changing code. Pellett stated we are changing code because Ag & Markets is saying we are too restrictive. Duvall stated Ag & Markets didn't come to us, we pursued them as you should know Ag & Markets works for the farmers not for the Town. They work for and protect the farmers. Woodruff stated that is why we had the meeting with Ag & Markets. They looked at our code and said this code is too restrictive for any person that raises pumpkins, corn, or anything else on their farm that has an Ag exemption they consider a commercial farm. George Duvall raises pumpkins and corn on his farm. He has an Ag exemption, he meets the acreage requirements So, Ag & Markets told us that we cannot control the amount of area he wants to display their stuff on.

Duvall asked if that's going to be the same for her market, is she not limited? Can she go up and down the road? Rayburn stated she has never been limited. Duvall stated she can go wherever she wants in the Right-of-way? Rayburn stated no, she will still need to stay outside of the right-of -way. Rhoda asked about the code for setbacks with the right-of way. Woodruff stated it depends on what the Right-of-Way is then it's no closer than 30 ft to the pavement and has to be out of the ROW.

Lester acknowledged the Hardys' in the back of the room raising their hands and told them the Board is having a discussion of the code, any public comments will be for when it gets to the Town Board for the public hearing. Barber said she thought the agenda said for public hearing. The agenda said **Discussion on redefining definitions of code for agricultural tourism County comments for temporary and permanent farm stands.** This was a misunderstanding on their part.

A brief discussion was held about enforcement not being done. Duvall asked Rayburn to go to George Duvall's stand when she has the time. Rayburn stated she hasn't been down there yet, but she will go down there. Duvall stated other farmers and herself feel that the lack of enforcement is costing them a substantial amount of money being lost financially.

Lester stated that our next step is the crafting of the code, which is done, then to the Town Attorney to make sure it is legal, and then to the Town Board for Adoption and Public Hearing.

A brief discussion was held on parking. We have no authority if someone parks on the road. This would be a public safety issue handled by the sheriff's office not the Town. Rhoda asked how a business determines how much parking is required. Compton stated it is done by a formula. Woodruff explained the formula is in our code, in the zoning book it breaks it down different businesses have different square footages.

Lester motioned to forward to the Town Board and Town Attorney for consideration Woodruff seconded the motion. All Board members present voted Aye.

II. Discussions:

Rhoda asked if the definition of the Farm Stand is 7 acres of land for an Ag exemption, is that on one parcel or can you have additional parcels that total up to 7 acres? Woodruff stated that it is the total of all parcels.

A brief discussion was held on proper steps of enforcement procedures. Woodruff stated there is a process that you have to follow first, you give them a warning, then you have to put it in writing giving them a length of time to come into compliance before starting the violation. This is all so that it will hold up when you go into court. By following these procedures, after everything is done correctly you write them an appearance ticket to come into court. The fines can be a \$250.00 fine a day or up to 6 months in jail.

A brief discussion about the sale of meat on a roadside stand was held. There have been rumors about a roadside stand selling meat. Rayburn stated she would have to talk to Ag& Markets and to the Town Attorney to see if that is allowed. It had been brought to her attention just this afternoon.

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.

III. Minutes

Minutes July 6, 2023

Woodruff motioned **Lester** seconded to approve the minutes of 7/6/2023. **Absent: Morley, Rhoda**
All board members present voted aye; vote was carried.

Minutes July 20, 2023

Lester motioned **Rhoda** seconded to approve the minutes of 7/20/2023. **Absent: Woodruff, Morley, Duvall**
All board members present voted aye; vote was carried.

Minutes August 17, 2023

Lester motioned **Pellett seconded** to approve the minutes of 8/17/2023. **Absent: Rogers, Rhoda**
All board members present voted aye; vote was carried.

Minutes September 7, 2023

Woodruff motioned **Pellett** seconded to approve the minutes of 5/4/2023. **Absent: Lester**
All board members present voted aye; vote was carried. **Lester Abstained.**

Record of Vote:

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

IV. Meeting Adjourned

Woodruff motioned **Rhoda** seconded to adjourn @ 8:50 pm.
All Board members present voted Aye; Vote was carried.

Respectfully submitted,

Christel Daggett
Planning & Zoning Board Secretary