

TOWN OF EAST BLOOMFIELD

Planning Board Minutes

August 8, 2014

Planning Board Members Present: Brad Bennett, Gene Rogers, Julie Pellett, Daniel Compton, Karl W. Smith and Kip Jugle.

Absent: Brud Hedges

Others Present: Andy Hall (CEO), Kim Rayburn (Secretary) Jim Spellman (Agent), Dianne Crowley (supervisor) Art, Babcock (Agent) Howie Jacobson (Agent), Aaron Curtis (Daily Messenger), Jamie & Jeff Day, Jay Finkelstein, Todd Sampson, Kathy Rothfuss, Joyce Newvine, Harvey Toomey, Louie Petix.

Bennett opened the meeting at 7:30 pm.

I. 7:30 pm #TS6-14Waiver of subdivision no new lots being created. **Jim Spellman (Agent) Estate of Helen Jordan (owner)** Lands located at 6684 Rice Rd Bloomfield, NY 14469 tax map # 54.00-1-6.000 parent parcel 60.30 ± acres annexing 5.953 acres into 6580 Rice Rd tax map # 54.00-1-73.000 leaving 54.347 ± acres of parent parcel.

The Board reviewed the maps and they are satisfied with them for a waiver of subdivision.

Bennett asked Spellman to give a brief overview of the project. Spellman stated that he had talked with Helen Jordan about purchasing some of the property before she passed but they never got around to the sale. Spellman stated that due to the position of his house he looks out into her pasture area, so now he would like to incorporate the acreage listed into his existing lot to protect his view and to keep the property forever wild.

Bennett asked for any further comments, Rogers asked if the property with Spellman's house was separate from his Business, Spellman stated it is. Bennett asked about the driveway for the house, Spellman stated he has an easement from Rice Rd with a separate driveway to his house east of the shop.

Jugle made a motion and Bennett seconded the motion that SEQR would not be required for a waiver of subdivision/Land transfer. All Board members present voted aye.

Planning Board Decision:

Smith made the motion and Rogers seconded the motion to approve #TS6-14 Waiver of subdivision with no new lots being created. **Jim Spellman (Agent) Estate of Helen Jordan (owner)** Lands located at 6684 Rice Rd Bloomfield, NY 14469 tax map # 54.00-1-6.000 parent parcel 60.30 ± acres annexing 5.953 acres into 6580 Rice Rd tax map # 54.00-1-73.000 leaving 54.347 ± acres of parent parcel.

Whereas:

1. Land Transfer Only

Record of Vote:

Brad Bennett Aye
Gene Rogers Aye
Julie Pellett Aye
Dan Compton Aye
Kip Jugle Aye

All Board members present voted Aye, Vote carried unanimously.

II. # TS7-14 Sketch Plan Review, 1 lot subdivision. The Ski Company (owner), Art Babcock (Agent)

Lands located at 3036 Rt 64 Bloomfield, NY 14469 tax map # 81.00-1-93.100 parent parcel is 14.8 ± acres creating parcel B of 4 acres, leaving 10.804 ± acres of parent parcel.

Bennett asked Babcock (Agent for The Ski Co / V.C Bayou) to explain the proposal, Babcock stated that Nate and Josie Holden had previously purchased four (4) acres from The Ski Co. to build Nedloh Brewery. The owners would also like to purchase another four (acres) south of their existing parcel under a separate Holding Company. They do not wish to combine the two parcels. Babcock stated that The Ski Co. does not want to supply an easement to the parcel off of Rt. 64 as they may have future plans for development; therefore there will be an easement from the Brewery parcel on St Rt 5&20 back to the parcel. The principal use of the parcel will be a crop field for growing hops at this time. The Ski Co. property owners are allowing them to use this parcel as overflow parking for the HopFest event to be held Friday through Sunday August 8-10th. The proposed easement access is centered on the existing access road for the brewery and would go up and around the building on the West entering the new parcel at the top West side. A discussion was held on the placement of the easement. The current plan shows the easement going under the vestibule and Hall stated the handicap parking is located there as well. Jugle stated that he thought the easement should use the existing front portion of the driveway and then go around the East side of the Brewery to gain access to the back parcel rather than going up the driveway and having an easement in the middle of the property. Babcock stated that the mechanicals are on the East side of the building, Hall stated he believes there is enough room for a sixty (60) foot easement going around the septic and the mechanicals on the East side of the property and if Nedloh ever wanted to erect a restaurant on the back parcel the easement on the East side of the property makes more sense. The Board reviewed the as-built drawings and agreed. Howie Jacobson (Agent for Nedloh Brewery) stated they did not have an issue with changing the location of the easement. Babcock stated that there is no intent to install the driveway with the present ownership; Compton stated that if the driveway ever needed to be installed they need to make sure it can be installed. Smith commented that if the Brewery were to ever sell the two parcels should be joined at that time and the easement would go away. Jacobson stated that if they were to ever sell, the two parcels would be sold together and that would not be an issue.

A discussion was held on drainage, Jugle asked if there is any issue with the easement going into the drainage area, Smith stated it could be handled with culverts if it ever was to be put in. Babcock stated that the Brewery should have a storm water management plan for the front retention pond, and they would be responsible for post construction storm water management. Hall said the easement would not affect the pond, but if it ever became paved there is room to handle the run off. Babcock also stated that grade wise everything above The Ski Companies pond would run off into that pond and it was sized to be able to handle it. It can handle any additional development on the original Ski Company site which these parcels were a part off. If the new parcel is ever developed a new storm water prevention plan will have to be done.

Smith made a motion and Jugle seconded the motion to approve the amended # TS7-14 Sketch Plan Review, 1 lot subdivision. The Ski Company (owner), Art Babcock (Agent)Lands located at 3036 Rt 64 Bloomfield, NY 14469 tax map # 81.00-1-93.100 parent parcel is 14.8 ± acres creating parcel B of 4 acres, leaving 10.804 ± acres of parent parcel.

Whereas:

1. The Final maps will show the entrance and exit from 5&20 using the existing driveway & curb cut
2. The easement will be shown to continue on the East side of the property back to the new parcel
3. The easement will not affect the mechanicals, the existing storm water pond, or septic

Record of Vote:

Brad Bennett Aye
Gene Rogers Aye
Julie Pellett Aye
Dan Compton Aye
Karl W. Smith Aye
Kip Jugle Aye

All Board members present voted aye, Vote was carried unanimously.

III. Discussion on Noise Ordinance:

Bennett stated that they had received a letter from the Town Board requesting them to review the possibility of a noise ordinance in the Town due to an issue that was brought to the Town Boards attention on July 28th at the Town board meeting by residents from Eddy Road, County Rd 39 and Rabbit Run who are in attendance tonight.

Bennett explained that this is a process; they will look at all the aspects, hear from the residents, review other Town ordinances and then give the Town Board their recommendation. This type of ordinance does not happen quickly. The Village of Victor and the Town of Gorham regulations are being looked at. He acknowledged the issue and let the residents know they will work with them to figure out how to deal with it. Bennett commented that the letter stated the Sheriff's office has been involved; Kathy Rothfuss stated that both the Sheriff's office and the New York State Troopers have been called several times. Bennett stated that he personally feels there should have been some relief from that avenue, and this is an unusual situation to have the public come to them on a topic such as this.

Bennett asked the residents for their input on what they feel should happen and then the Board can keep that in mind while they are reviewing the other Town ordinances. Jeff Day from Rabbit Run stated that it is unfortunate that they have to approach the Board on such an issue, they like living in a Town where there are not a lot of ordinances to govern them, where they can have a dog off a leash in their front yard and not have the dog catcher called on them. He stated that in this case they have a resident in their area that is grievously abusing the lack of an ordinance on noise, times can range from ten (10) pm to four (4) am and everything in-between. He stated that his home is approximately 1/10th of a mile from the location and with the windows closed and the air conditioning on they can hear the music and feel the base enough to wake them from their sleep. He also stated that their children have come into their room scared and asked us if there was a thunder storm outside. He has called the sheriff's office himself, a couple of years ago when he had a very important test the following day but could not sleep at two (2) am because of the music. The local Law Enforcement has really not had an effect on the issue, even when they are called the noise reoccurs shortly after they have come out. They have been called back out in a single night, and still no effect. Day wanted to state that there are a number of musicians within the Town, and some of them hold events the residents enjoy, they would suggest the Town make provisions for them, or they obtain the proper permitting if an ordinance was to be put in place. He ended with saying they have a severe chronic issue in their area that they need help with.

Supervisor Crowley stated that from what she understands the residents have been told that the sheriffs have no teeth to uphold a noise ordinance since the Town does not have one in place. Crowley stated she had called Sherriff Povero last week and explained the situation to him, she asked if there was any relief the Town could give the residents. She stated that along with the noise there are obscenities being shouted into the microphone. Povero told Crowley to have the residents continue to call the sheriff's office and let them know every time this is going on. Povero is working with the District Attorney at this point to further look into the matter as there have been five (5) calls on the issue where Law Enforcement have been dispatched to the residence since February.

Compton stated that the sheriff's office can charge the resident with disturbing the peace or disorderly conduct and does not understand why they have not. Compton stated that they are breaking a State law and therefore they should be ticketed by the Sheriff's Office or the NYS Troopers. Compton stated that a noise ordinance may not fix the issue, and may cause other issues. There are different ways to measure noise and you have to be able to measure that level accurately and impartially. Additional equipment may need to be purchased such as a decibel meter that Hall would have to use and go to the property hold up the meter and find out where this noise level falls on the meter, and then go through the process that any other violation requires before a citation and appearance ticket into Town Court can be given. The process can be lengthy and costly and may not achieve the immediate relief that the residents are seeking. He feels the criminal aspect of the act is going to give the best results if the Sheriff's office would just uphold the law.

Bennett stated that a guideline of the level of noise allowed would need to be established to put an ordinance in place; the residents asked if a time frame would work better than a noise level. Compton stated that the criminal aspect of the act is going to give the best results if the Sheriff's office would just uphold the law as it would not matter what time it was happening. Pellett stated that she lives on Co Rd 39 and she can hear music on the weekends, Jugle stated he can hear it on Co Rd 40 also. Day stated that the goal is to stop the problem and if a noise ordinance will not stop the problem then they are not looking to add more regulations or ordinances on the Town residents, he again stated that they have been told that Law Enforcement has no teeth to do anything because there is no Town ordinance against noise, but if that's not correct and they are just not willing to do anything about it then the residents will keep pushing them until they do. Supervisor Crowley again stated that Sheriff Povero instructed her to tell the residents to keep calling and she believes they will do something about it. Rothfuss stated that last Friday the Troopers were called out and then were dispatched out again for the same issue within a very short period of time. They were told to shut down the music but no action was taken. Jugle stated that the Board will continue to look into a noise ordinance, the Victor code is more reasonable than a decibel meter as they discuss hours of noise, and give exemptions to farmers, legal use of guns, business hours ect. Since we are a rural area we need to be careful and mindful of everyone. A further discussion was held on what is a normal expected level of noise, such as a leaf blower or keeping the noise on your own property.

Bennett asked the residents present what time of day they felt was reasonable to set for a noise ordinance. Some of them said whenever it gets dark out, some said between nine (9) pm and eleven (11) pm. Bennett then asked about the morning hours, six (6) am to eight (8) am was suggested as reasonable. Rayburn stated that she had a few calls today that expressed their concerns of a noise ordinance as they did not want it to affect their business in the Town as they are operating now. Jugle stated these reasons are why putting an ordinance in place will take time; they do not want to put something in place that is too restrictive putting unnecessary burden on everyone and having residents call in complaints about their neighbor mowing his lawn. Compton stated again that a ordinance will have to be a blanket ordinance that will work for everyone and due to that it may not have the teeth the residents are looking for to take care of this issue.

Day stated that if a noise ordinance was put in place and it gave the Law Enforcement no more tools than they have now, or do not help to enforce the laws that they may already have now but are not enforcing then this is not the avenue to pursue. The residents did not want to restrict these businesses or from someone mowing their lawn, the noise they are trying to stop is very loud music with a lot of base that is similar to a rock band in the middle of the night. Jugle stated that the Supervisor should work with the Town Attorney and continue working with Povero to understand what the position of the Sheriff's office is on this. Day stated that when he read some of the other Towns ordinances it stated that fines and penalties could be given which would give the Town and Law Enforcement tools to enforce the issue. Jugle stated that there is a process to enforcement of all of our Town regulations/ordinances and it would not be feasible to have Hall get called out at four (4)am to go take care of a noise complaint. He feels that is a Law Enforcement issue. Hall stated that even with our dog law, it is not enforced by the Code Officer it's enforced by Ontario County.

Jugle stated that if a noise ordinance is written it must pass through our Town Attorney and the questions will be asked, what does this enable the Town and Law Enforcement to do? And are these ordinances the right thing to do. The Board has the concern of a local noise ordinance giving Law Enforcement the tools they need to enforce what possible laws that already exist in New York State.

Harvey Toomey stated that he truly believes that if a citation was written by Law Enforcement and they had to appear in front of our Town Justice's it would be taken care of. Jay Finkelstein who lives almost ½ mile from the source stated that he has been told by Law Enforcement that they have no problem responding to a call, but the Town does not have a noise ordinance so there's not much they can do.

Supervisor Crowley would like the residents to keep calling both the Sherriff's office and the NYS Troopers and asked them to keep the Town updated on the issue while she gets in contact with the Town Attorney and back in touch with Povero.

IV. Discussion:

Bennett asked the Board their thoughts on a noise ordinance, Compton asked that if the issue on Eddy Rd was not brought to the Boards attention would they be reviewing a noise ordinance, Smith stated that he agrees with Jeff Days comments that if it will not give Law Enforcement any more teeth for enforcement that the residents do not want more regulations on when they can mow their lawns etc. The Board will look more into this at their next Planning Board meeting.

Jugle and Bennett stated that the Board will still look into the noise ordinance and review some of the other Towns regulations as well.

Bennett asked Smith for an update on the Comprehensive Plan; Smith stated that the mapping is still in the hands of Ontario County mapping, once it is returned to John Steinmetz they can proceed.

Hall updated the Board on the Singer case; he was fined \$500.00 and given thirty (30) days to remove the building or appeal.

IV. Minutes of July 17, 2014

**Jugle made a motion and Compton seconded the motion to approve the minutes of July 17, 2014
All board members present voted Aye, with the exception of Smith who was absent at the July 17th meeting.
Vote was carried.**

V. Meeting Adjourned

**Smith made a motion and Pellett seconded the motion to close the meeting @ 9:00 pm.
All Board members present voted Aye, Vote was carried unanimously.**

Respectfully submitted,

Kimberly Rayburn
Planning & Zoning Board Secretary