

APPROVED

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
SEPTEMBER 15, 2010
PLANNING BOARD MINUTES**

Board members present:

Robert Mastrantoni – Chairperson, Patricia Dow, Patty Kirkpatrick, Ed Kokalas (alternate), Chuck Luke.

Absent: Dan Brown (architectural consultant to the Board)

Others present:

Carol Sullivan (Secretary), Doug Frost (Enforcement Officer), Attorney Mark Schachner, Jerry LaBarr, Dan Elkins, John Carr, Russ Girgior, Attorney John Wright

Robert Mastrantoni opened the meeting at 7 PM.

TAX MAP: 264.06-1-1.2

APPLICANT/OWNER: JERRY LABARR FOR JOE CANNATELLA

2 ½ PROSPECT ST.

ZONE: RESIDENTIAL

SITE PLAN APPLICATION: #1059

- Applicant/owner is adding a 12' x 12' addition to the south end of the current single family residential home. Addition will include closets, a full bathroom and an entry/exit door.
- Jerry LaBarr explained the construction to the Board members. Once the construction is finished the house will be resided with cedar vinyl. The addition will have a crawl space.
- The 3 sided foundation will be poured concrete.
- The addition will go over the lateral pipe for the septic box.
- The distance from septic tank to the addition. The required distance from the tank to the house is at least 10 feet. The builder believes the design meets this requirement, however, if it does not the plans will be adjusted.
- Pointing to the plans, there will be a access (pointing to the plans) to the new part so the roof can be accessed if necessary for fire. There will be an attic access, fire hatch 22 x 30. There will be a roof vent.
- The roof will have the same pitch. Metal roof.

MOTION: Patricia Dow made a motion to approve the submitted design for the addition to the existing residence at 2 ½ Prospect St. as depicted in the drawings with the questions that were answered about the ventilation that were not depicted in the drawings but are in the minutes to be included, the various space through to the house and ventilation and that sort of thing with the idea that the addition is not closer than 10 feet to the septic tank and it will be shortened if is within 10 feet. The siding will be replaced on the whole structure with the cedar vinyl siding.

2ND MOTION: Ed Kokalas

Robert Mastrantoni	Patricia Dow	Patty Kirkpatrick	Ed Kokalas	Chuck Luke
Aye	Aye	Aye	Aye	Aye

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TAX MAP: 264.06-2-40

APPLICANT/OWNER: JOHN CARR

33 CANADA ST.

ADIRONDACK PUB & BREWERY

ZONE: CMU

SITE (SKETCH) PLAN APPLICATION: #1060

- Applicant/owner is adding a grain bin to the west side of the building.
- John Carr provided the board with pictures and specifications of grain bins. He explained the size varies; wider bins are shorter, narrow bins higher. He is looking for the board's input on what is preferred. John is looking at bins that are 9 feet in diameter or 12 feet in diameter. The 9 foot bin would be about 24 feet high. The 12 foot bin is about 17.6 feet high.
- Robert asked about the relationship of the bin height to the building where it will be placed. Pointing to a picture John explained the height of the building; the ridge behind the blue dumpster is about 14 feet high, again pointing to the picture John indicated where 17 and 24 feet high would be. The 17' bin would be approximately 3 feet higher than the roof line. The top of the 17' bin can be accessed from the roof.
- John indicated he would defer to the board as to what size can be used in that particular area. He prefers the 9' x 24' bin. He is willing to enclose it.
- The bin will be on a cement slab and the specifications for the slab are provided by the bin manufacturer.
- John would like to place the bin right up against the building in the area where the dumpster is located and to paint it the same color as the building.
- Currently they receive between 3,000 and 4,000 pounds of grain per delivery. This has to be hand carried inside. A bin would be more efficient and economical.
- Robert asked if there is an alternative site for the bin location. John indicated the placement next to the building is the best site; there is already an enclosed area in this location and the bin positioned close to the building is not fully noticeable from all angles and is not in the middle of the parking lot.
- Chuck asked if this should be considered an accessory structure and if so then it can't be closer than 10 feet to the primary building. After some review Doug indicated the bin should be classified as an accessory structure because it has footings, is on a cement foundation and is more permanent than a dumpster or other piece of equipment which restaurants may have outside. Doug mentioned it is a structure and if attached to the building it is more permanent in nature, however, John indicated it would not be permanently attached to the building. A discussion ensued regarding what type of structure the bin is. Since Attorney Mark Schachner is joining the board later in the evening, Doug suggested this item be tabled until he confers with Mark and the board agreed.
- If classified as an accessory structure John will need to seek a variance in order to place the bin closer than 10 feet to the building.
- Tabling the approval will provide the board with time to go on premise and see exactly where the bin will be located and the height in relationship to the building.
- John provided the board with some height of neighboring properties to help the board visualize the size of the bin. The house next door to the north on Canada St. is 32 feet high. The large pitched area in the front of the brew pub is 28 feet high. The bin probably will not be visible from Canada St. At the corner some of the boats that are stored at Shoreline Boat Sales are approximately 20 feet high. The fence at the brew pub is 10 feet high.
- Robert made John aware of the comments made by the Warren County Planning Board.

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- The board discussed the size of the bin. Robert indicated he preferred a shorter and wider bin that can be hidden from view as much as possible.

MOTION: Patricia Dow made a motion to table the application for the grain bin until we've had a chance to review it further in terms of height and whether it's an accessory structure or not.

2ND MOTION: Patty Kirkpatrick

Robert Mastrantoni	Patricia Dow	Patty Kirkpatrick	Ed Kokalas	Chuck Luke
Aye	Aye	Aye	Aye	Aye

TAX MAP: 251.14-2-2

APPLICANT/OWNER: JOHN CARR

327-339 CANADA ST

LAUNDROMAT AND BOTTLING FACILITY/STORAGE AREA AT THE REAR OF PROPERTY

ZONE: CMU

SITE PLAN APPLICATION: #1061

- Applicant/owner is reopening the laundromat at the rear of the property. This laundromat has not been open for approximately 24 months. The size of the laundromat will be reduced and a bottling facility and storage area will be constructed in the remaining floor space. An additional doorway will be added to accommodate these changes.
- Applicant has been advised that Warren County will need stamped engineered plans for this project as it is commercial space. Applicant has not provided said plans to the Village office.
- John provided the board with an aerial view of the building so they would be able to get an idea of where the building is located in relation to other public facilities, such as restaurants, etc.
- John expressed the need for two laundries in the Village of Lake George, however, he believes two big laundries are not needed. His laundry would support his tenants and some foot traffic. The laundry facility will be 500 square feet in order to meet Lake George Village code requirement that businesses have a minimum square footage of 500 feet.
- Next to the laundry, in the same building, John is proposing a small bottling facility where he can bottle and package the beer and root beer that is made at his Adirondack Brew Pub. The area would be used for bottling and for storage of all the materials and packaging that is needed for bottling.
- The laundry exhaust fans will be located on the far side (back wall) of the building away from neighboring properties. Also the use intensity will be much less than previous operators. Hours 8 AM to 10 PM. In the wintertime it may be limited to John's tenants.
- In order for the bottling facility to be called retail John would have to sell from this spot as well. He doesn't feel this practical because the building is located in the back of The Moose Tooth Grill in an area where there is not a lot of foot traffic. This can be classified as light industry.
- Doug pointed out that in our code only allows for light industry in the Commercial Resort zone. It seems that a better fit would be to allow light industry in the Commercial Mixed Use zone and not allow it in a zone that is dedicated to hotels, motels, restaurants and other resort-type facilities. The board agreed. Doug also mentioned the zoning office believes it should be allowed in the CMU zone, however, by Special Use Permit (SP). A SP would ensure the types of industries that are the best fit in the CMU zone would be allowed. Carol and Doug will make this recommendation to the Village Board of Trustees.
- John mentioned he will not be using the bottling space as a high intensity work effort. Right now he bottles once a month.

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- John mentioned the application also includes a shed roof which is being required by the DOH. He has two coolers outside and the DOH feels they should be protected from the elements.

MOTION: Patty Kirkpatrick made a motion to approve the laundromat as shown by John Carr Construction LLC at 327 Canada St. with the addition of the Health Department's required roof over the coolers. The dryer vents will be behind the units and on the corner.

2ND MOTION: Ed Kokalas

Robert Mastrantoni	Patricia Dow	Patty Kirkpatrick	Ed Kokalas	Chuck Luke
Aye	Aye	Aye	Aye	Aye

MOTION: Patty Kirkpatrick made a motion to approve the bottling and storage at 327 Canada St. with the contingent that the Board of Trustees either adds Commercial Mixed Use as an approved usage under Light Industry or that Mr. Carr gets approval from zoning to have a variance to allow this usage at 327 Canada St.

2ND MOTION: Robert Mastrantoni

Robert Mastrantoni	Patricia Dow	Patty Kirkpatrick	Ed Kokalas	Chuck Luke
Aye	Aye	Aye	Aye	Aye

TAX MAP: 251.14-3-9 – BELLA'S DELICATESSEN

APPLICANT: KELLY NAJDEK/DAN ELKINS

OWNER: NIA CHOLAKIS/MAYFLOWER REALTY

ZONE: CMU

SITE PLAN APPLICATION: #1063

SIGN APPLICATION: #1064

- Applicant is moving across the street into the Cholakis building next the Lake George Baking Company. For the summer season, 2010, the applicant was located in what was Boca Viva. The business located in the Cholakis building will be exactly the same as the current business located in what was Boca Viva. The sign will be made smaller.
- Robert pointed out the colors of the signs should coincide with the colors of the building.
- The building Dan is moving into is grey.
- Dan offered to change the wood background to a grey color to blend with the building. Ed, Patty and Chuck liked the sign as presented with the wood background. Robert mentioned when the building was designed there was an agreement to keep the colors of the signs coordinated with the colors of the buildings and he would like to see that idea continued. Patricia suggested coming up with a background for the sign that is similar to the building but Dan pointed out the building is grey with white trim. Patricia suggested light reddish to coincide with the other buildings.
- Robert mentioned he would like to see what the sign would look like with a reddish background. The board agreed Dan could drop a rendition off at the office and the Board members could review the color scheme before the sign is constructed.

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MOTION: Chuck Luke made a motion to approve the Site Plan for Bella's Deli move into the vacant storefront (Cholakis Building) across the street, as presented.

2ND MOTION: Patty Kirkpatrick

Robert Mastrantoni	Patricia Dow	Patty Kirkpatrick	Ed Kokalas	Chuck Luke
Aye	Aye	Aye	Aye	Aye

MOTION: Patricia Dow made a motion that we can approve the sign based at Carol's desk with the background colors and the colors on the sign matching or blending in with the tonal qualities to the surrounding colors to this particular storefront; it would be at Carol's desk and we could conditionally come by and see it and vote on it in that way. The design remains the same but the background should reflect shades already in use.

Additional discussion: Chuck Luke asked if it would contrast, like the red of the other store? Patricia explained the colors used should blend in with the colors and shades that are already in use on the building.

2ND MOTION: Ed Kokalas

Robert Mastrantoni	Patricia Dow	Patty Kirkpatrick	Ed Kokalas	Chuck Luke
Aye	Aye	Aye	Aye	Aye

RE-REVIEW

TAX MAP: 251.14 -2 -1 LAKE GEORGE TRADING COMPANY – 325 CANADA ST.

APPLICANT: RUSS GIROIR (STORE OPERATOR)

ZONE: CMU

- Applicant has added a fast food service restaurant to an existing retail shop which was approved at the April 21, 2010 Planning Board meeting.
- Attorney Mark Schachner joined the board meeting for this discussion.
- Robert asked if an attorney/client privilege meeting would be appropriate at this time.
- Mark counseled the board that an attorney/client privilege meeting could take place regarding the law of a material misrepresentation, however, an attorney/client privilege meeting could not include a discussion regarding this particular application.
- Robert indicated he was in favor of any attorney/client privilege closed meeting. The board agreed. Doug asked the remaining public audience to leave the room.

MOTION: Robert made a motion to temporarily close the meeting and to resume the meeting after the attorney/client privilege session.

2ND MOTION: Patricia Dow

Robert Mastrantoni	Patricia Dow	Patty Kirkpatrick	Ed Kokalas	Chuck Luke
Aye	Aye	Aye	Aye	Aye

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- Robert reopened the meeting.
- Patty asked if there were any pictures of the front of the store as it exists today. Carol provided a picture that she had asked Russ to provide when there was some question regarding the number of seats available; whether or not the picnic tables would seat 24 people as required by our law.
- Robert asked if the name of the place is Fat Willies or Lake George Trading company. Russ indicated the name of the store is Lake George Trading Company, the sign was recently approved and it hangs above the doorway. Fat Willie's sign is a brand. He indicated they have Fat Willie's ice cream; it has its own box. Nothing in the windows was approved and doesn't need to be approved.
- Chuck asked about the seating and whether or not a different arrangement was approved. Russ indicated that is how the seating was approved with fencing in front of the tables and that's why they put the fence on the table in the front. There was an issue with the flower boxes because they were put at the opposite end of the table; the end closest to the column. Russ indicated they were advised that the flower boxes were suppose to be at the front and could not encumber the sidewalk and if the tables were made smaller to accommodate flower boxes the tables would still need to seat 6 people. He indicated they removed a couple of sticks from the table fencing and did put another flower pot between the railings. The tables were not cut.
- Patty questioned whether or not you can walk through the store and the eating area. Russ indicated there is an isle connecting the two areas and there is also a bathroom in that area. The idea was to move some of the candy over to new food area so people who were not buying anything but food did not have to stand in the retail line.
- Robert – you indicate you were only going to have a couple of deep-fryers. Now it seems like there is a full menu. Russ – we have french fries, fried Snickers, Fried Oreos, fried Twinkies, we do a burger now and we fry a hot dog. That is the menu I gave you except for the hamburger which was added in later.
- Patty – so your intention was to always use that doorway. Russ – yes, it was actually in the plans.
- Patricia – referring back to the April minutes pointed out it appeared they were moving the current food section to the new section. Russ mentioned the intent was to have some of the candy in the food section to alleviate the lines. He also has other packaged candy. Russ' attorney John Wright indicated there would be no way to move 16 feet of candy over to two 3 foot cases. Russ mentioned some of it has been moved. John Wright pointed out that a review of the applications and minutes it did not look like the location of the candy was the focus of the application of the board's decision.
- John Wright – internal signage was never discussed. It wasn't discussed and Russ had no reason to believe he had to describe the interior signage to the board.
- Patty feels it looks like a separate business, a brand new business and not part of the original business.
- Patricia pointed out that her intention was that the outside area should look like a sidewalk café with a defined area not with a piece of fencing in front of each table. Russ pointed out because of the two doorways only two tables could be fenced in order to leave an opening for the doorways. He interpreted the "some sort of railing" to be on the tables and could have never agreed to putting a railing around all the tables. John Wright pointed out with regard to a material misrepresentation "some sort of railing" has been installed and while there were 3 or 4 discussions regarding the area there was no firm decision made as shown in the motion.

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- Patricia asked Mark for his comments; is there is a material misrepresentation or just a misunderstanding. Mark indicated he has not heard anything this evening that indicates there is a material misrepresentation. After hearing the discussion this evening Mark indicated he has not seen anything where the applicant said he was going to A and did B. It appears the applicant did do what he said he was going to do but it didn't turn out as the board expected and that's a misunderstanding.
- Mark counseled the board that no action is necessary unless they are going to revoke the original application and if so, a motion should be made specifically stating the material misrepresentation on which the motion to revoke is being made.
- John Carr asked if the board was going to take public comment, pointing out he felt there was misrepresentation made to the public in the available public information leading up to the Site Plan. There were notes with Carol and the applicant which clearly talk about – John reading from an e-mail Russ sent to Carol – all I want is a fryer, we are not attempting to open a separate store, we are not substantially changing the business. John – in removing the counter he included photographs of what he was moving. John – for the public it appeared it was going to be a shift of the business from one part of the building to another. John – in fact that's not quite what happened and I think the public was misled and if so I would ask that the board would consider opening a public hearing under the Special Use Permit. Carol – for the record, that discussion regarding the fryer was a discussion that took place and this is part of what the Zoning office does, Doug and I, is a discussion that took place when Russ first had the idea in his head. We kept questioning and questioning before the application had been submitted. The application had not been submitted from what John is reading from. Those are e-mails between Russ and I about exactly what is it you're trying to do. Mark Schachner – so that's pre-application. Doug – that is what we do before the board sees the applicant. Carol – John mentioned the Special Use Permit, which we did follow the procedures for the Special Use Permit, notification was sent to neighboring property owners within 250 feet and I believe if you listen to the minutes Robert does address opening the public hearing but there was no one from the public present. Mark – and no written comments. Carol – yes, no written comments.
- Mark – as the board's counsel, if you find to rescind based on material misrepresentation, I believe you will be on shaky ground. The motion says approve the addition of fast food, not desserts only, not candy only. Mark added that he does not agree that the board has the legal authority to start choosing what type of fast food. He believes that micro-managing to a degree that the planning board does not have the authority to do so.
- The board agreed this was a learning lesson and that motions need to be more specific and precise. The board agreed there was no need for a motion regarding a material misrepresentation.

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OTHER DISCUSSIONS

GRAIN BIN

Robert suggested going back to the review of John Carr's grain bin and include Mark in on the discussion regarding accessory structure. The board agreed. Doug mentioned he had already spoken to Mark on whether or not the grain bin is an accessory structure or part of the permanent building. Doug has said he believes the bin to be an accessory structure unless John can show that the bin is actually a part of the building then he believes it is an accessory structure. Doug pointed out John can approach the ZBA for an interpretation of the Code or he can apply to the ZBA for a variance on the 10 foot setback requirement. John mentioned his feeling is that the bin is better closer to the building and asked the board for their opinion. Patty feels the bin is better closer to the building. John asked the board for their opinion regarding the size. Robert suggested the lower bin (17 foot) so that it doesn't tower over other structures in the area.

LAKE GEORGE TRADING COMPANY

Patricia mentioned that the original reason she brought up the Lake George Trading company in the July meeting was as an example of what does the board do when "the thing" doesn't turn out as expected? Make the motion extremely specific so that it pictures what was discussed. This issue of sidebar conversations was discussed again and Patricia pointed out it's difficult to pursue the line of inquiry. Often another discussion starts without the previous inquiry or discussion being completed and the train of thought gets lost. Robert should be more proactive with the applicants and the board and not allow interruptions before the planning board member has completed their inquiry; often applicants will interrupt too.

Carol added that it's very difficult to transcribe some of the motions. There are interruptions, someone stops their train of thought and someone else picks it up and the context of the motion is lost. If there needs to be more discussion the motion should be stopped and the additional discussion should take place. Then determine as a group what the motion should be. Notes should be taken as to specific points that should be made in the motion. One person should make the motion based on the discussion and notes without any further interruption and if there is further interruption the motion should be stopped and discussed again.

Mark pointed out motions should be a little more formal than the discussion and as such should be presented more formally. Writing down specific points is a great idea because it's difficult to make a motion of the top of your head especially when there has been a lot of discussion regarding the application.

ARTICLE IN THE MIRROR – MAYOR BELIEVES VILLAGE OFFICIALS HAVE DONE EVERYTHING THEY CAN TO ENHANCE LAKE GEORGE VILLAGE.

Patty ask the board if anyone had seen the article in the Mirror that the Mayor believes that the Village officials have done everything they can to enhance the Village and the responsibility for the condition of the Village is on the merchants. Patty added, she thinks that is a poor reflection on the planning board because the planning board approves the businesses, the signage. Patricia indicated she did not believe the article was a reflection on the planning board but she would like to get back to Luisa's suggestion regarding certain palettes for signs and fine tuning what is working and what isn't. Patricia added she felt the article was regarding landlords who may or may not be involved in the store or even live in the village.

OBSCENITY LAWS

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Patty asked what happened with the information she provided to Carol regarding obscenity laws. Carol indicated she had provided the information to the Mayor.

Robert asked if there were any other matters to be discussed. Robert advised there will be extended board meetings to address issues. The board will start addressing one topic and when completed move to the next topic.

Robert made a motion to adjourn the meeting, seconded by Patty and unanimously carried.
Aye – 5 Nay - 0 Motion carried.

Respectfully submitted.
September 29, 2010
Carol Sullivan