

REGULAR MEETING MINUTES
TOWN OF LLOYD PLANNING BOARD

Thursday, April 27, 2023

CALL TO ORDER TIME: 7:00pm

PLEDGE OF ALLEGIANCE

ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.

OFFICIALLY OPEN THE MEETING

Attendance: Board Members: Scott McCarthy, Charly Long, Carl DiLorenzo, Franco Zani, Sal Cuciti, Gerry Marion, Bill Meltzer, Lambros Violaris (Alternate), and Lenny Auchmoody; Board Staff: Dave Barton, Paul Van Cott (via Zoom), Andy Learn, and Sarah Van Nostrand

Minutes to Approve at April 27, 2023 meeting

March 16, 2023 & March 23, 2023

Scott asked for a motion to approve the minutes.

Motion made by Franco, 2nd by Sal.

Bill abstained for March 23, Carl abstained for March 16.

Motion passed to approve the minutes.

Public Hearings: Scheduled for April 27th

Delta Contracting Enterprises: Site Plan: 219 Upper North Rd.: SBL #87.8-1-10.100

Applicant is seeking site plan approval to construct a 2226 square foot storage building on a 1.13-acre parcel located on the westerly side of North Rd.

Review Status: Public hearing has been scheduled for April 27th. Ulster County Planning Board comments received and sent to the board.

Potential Action: Open public hearing

Scott asked for a motion to open the public hearing.

Motion made by Franco, 2nd by Bill.

All ayes, motion passed to open the public hearing.

Patti (Applicant's agent) said that she made revisions based on comments from the Ulster County Planning Board and discussions that the board had last week. She said she wanted to make sure

that she addressed all the Ulster County Planning Board comments to the greatest extent possible, many of them have been addressed and submitted to the board. A note was added to clarify that there would be no outdoor storage of equipment or material was to take place on site. They did add a note as was suggested that any change of use would require site plan approval in accordance with the zoning code of the town. She did add a tree planting detail and she added to the signage note the maximum square footage in the LI zone, you are allowed to have 1 square foot per 3 linear feet of the building frontage, so they are limited to a 12 square foot sign. The one comment she was not able to address was sustainability and she guesses it is addressed to the extent that they don't electrical vehicle charging stations, since nobody will be on-site, it's just a drop off and pick up location. They don't need to have passive solar or geothermal since it is just a storage building, with no heat or water.

Andy said that all the comments in his March letter have been addressed.

Franco said that in the previous renderings that showed a secondary access door in the front next to the overhead door, and the board had asked for a secondary access door towards the rear of the building.

Patti said that the applicants are hoping not to have to put that secondary rear door in. She thought that it had been discussed that the building department to make sure that everything in compliance. Instead of putting the doorway on the side, if they are required to have a pass door, they can put a pass door, in the interior of the overhead door.

Franco asked Dave if there was a fire in the front of the building, how would everyone get out.

Dave said it would be limited occupancy, so it's not going to trip through any of the requirements for sprinklers or emergency access. For egress the route is so short that it almost doesn't even trip into the building code. If there is a fire in the front of the building, it would be limited in size and people will be able to get out that way. It is a 12-foot-wide door, and he cannot imagine that it would be completely blocked with flammable equipment. His take would be that there would be no special fire protection for this building required in the fire code.

Franco said if there was a piece of equipment that was being moved into the building and something happened because it has fuel in it and there was a fire that was blocking the entrance, how would the people inside the building get out.

Patti said at that point they are not expecting any people to be inside the building. The purpose of this building is to store equipment that gets moved, in there for storage purposes, then they back the trucks in, hook up the equipment and bring it to construction sites. It is not an active warehouse where people are moving in and out of it on a regular basis. You wouldn't necessarily have two crews there, one in the back of the building and one in the front of the building.

Franco said because this is going to be filled with equipment, usually there is someone helping back the other person in because of limited site distances. He is worried about if something happens in the front and he is in the rear, how does that guy get out.

Patti said that she cannot speak to that issue.

Scott said when they come back there isn't going to be any maintenance, repairing or fixing the equipment.

Patti replied that is correct.

Carl asked if the change the board talked about last week is on the plan.

Patti showed him where it was on the plan.

Charly said that he would like to see a second door.

Franco asked is it physically that hard to put a second door in.

Patti said that she cannot answer that question.

Scott said he agrees with both of them, it's just more of a safety thing because of the length of the building and what may be in there.

Dave said it is just a tin building, so it should be easy to frame out a door.

Franco this equipment is going to have fuel in it, it's a steel building and with humidity, you have no ventilation in the building.

Lambros said that he would be comfortable with a rear exit of some kind.

Gerry said with all the equipment in there who is say that the door won't be blocked by it.

Scott said just the door and maybe something states no maintenance because right now it says only storage.

Patti said it's not a problem to add that note.

Scott said that will leave the public hearing open until they get the rest of the paperwork they need.

Patti said if the only thing the board is asking for is that one extra note and she will discuss with the applicant about the door. Is there any reason that she cannot have a motion for approval this evening.

Scott said that the board could.

Paul said that the board could close the public hearing and he could draft a resolution for the next meeting.

Patti said that puts them at the end May and that is another month lost of construction.

Scott said that they don't have a resolution.

Carl asked if they could have a condition for the back door.

Scott said absolutely.

Paul said if the board wanted to approve it tonight what kind of conditions does the board want to attach to it.

Scott said to make sure the door is in the back of it for sure and no maintenance in the building.

Franco said no maintenance of equipment.

Paul said that they can do a resolution that would require those conditions, the additional condition of payment of all fees which is standard and then direct staff to provide that to you for ratification at the next meeting.

Scott said so he could ask the board to approve the conditional draft resolution.

Paul said that they can approve it and say that you can sign the site plans upon those conditions and then just have a formal resolution at the next meeting.

Dave said as part of that resolution they will reference Patti's most recent map.

Bill asked will that give Patti approval tonight.

Scott said yes.

Dave said conditional approval.

Patti said this way he can order the building and make sure it has the door.

Scott asked for a motion to close the public hearing.

Motion made by Franco, 2nd by Carl.

All ayes, motion passed to close the public hearing.

Paul asked where is the project in terms of SEQRA.

Dave said it is probably going to be a type II.

Paul asked if it is under 4,000 square feet.

Dave said yes, it's 2200.

Paul said it is a type II action, he will reference that in the resolution. What about any kind of referral to the county.

Dave said that was done. They will need a super majority override of the sustainability piece.

Paul said they can incorporate that into the resolution. Then the conditions that the board is talking about are what.

Dave said the addition of a man door at the rear of the building and a note on the map designating no maintenance to be performed within the building and payment of fees.

Scott asked for a motion to approve the resolution.
Motion made by Carl, 2nd by Sal.
All ayes, motion passed to approve the resolution.

180 South Street LLC: Commercial Site Plan: 180 South St. SBL: #87.3-5-14.

The applicant proposes to construct a 24,196 sq. ft. building addition keyed onto the west, south and east axis of the existing structure along with a loading area containing 4 loading docks at 180 South Street. The proposed use is allowed in the A zone and requires site plan approval and a special use permit. The applicant is proposing to rehabilitate the structure, construct a building addition with site appurtenances and increase roof height to increase distribution center operation productivity. No changes to the remaining principal access points are proposed. No new water or sewer services are proposed.

Review Status: Public hearing has been scheduled for April 27th. Ulster County Planning Board comments received and sent to the board.

Potential Action: Open public hearing

Brian (Applicant's agent) briefly explained the project. He said that the building is proposed to be sprinkled there is no municipal water service. From a stormwater perspective this is a redevelopment project, so they are incorporating some stormwater management. As a result of the project they are disturbing more than an acre, so they are subject to a NYS SPDES Permit. Parking on the site is being improved, they are providing the necessary parking spots. In general in traffic they are estimating there being potentially 39 peak vehicles in am and estimated 42 peak vehicles in pm that includes the existing use. They expect it to be about 2,000 cars per day increase on South St. They have added pole and building mounted lighting that is dark sky complaint and was submitted and reviewed by the board and staff. The parcel obtained an area variance for lot coverage.

Andy said that they have a number of comments regarding stormwater that he has discussed with the applicant offline. One of the primary comments he has is regarding the flood plain, the proximity of the building to it and the development in the flood plain, a flood plain permit will be required from the town, there will be some building requirements and restrictions associated with that. Any existing structures that are in the flood plain need to be flood proofed. The light

levels should be reduced at the boundaries. They are looking for truck turning movements for fire trucks for the site. Their other comments are regarding grading, ADA access, signage the rest is related to the SWPPP.

Dave said that he spoke with Brian about when they go to pull the flood plain permit, the town will bring Andy in to review their engineering. Most of the building the code requires 2-foot freeboard, which is 2-feet above the highest flood elevation, most of the building will be in the back, it's an elevated floor in the back, slab floor.

Franco asked about the hours of operation.

Brian said that they plan on having a single shift.

Franco said like 7-3.

Brian said yes.

Franco said so there will be no trucks through a residential area.

Brian said he would like to come back and confirm exactly what they want to do. Part of this move is to make some operations more efficient, this is a move to try to move people onto one shift if they are using two shifts right now, but he doesn't think it is two full shifts. He would like to confirm with the operator what they propose to do.

Scott asked are they operating out of the building now.

Brian said they are operating out of the building. He doesn't think that they are going to change it, if anything he thinks they want to reduce it. The delay was that they were waiting for revised plans and catch basins needed to be cleaned out.

Andy said based on the discussion he feels that all the issues could be resolved.

Franco said right now they are operating on two shifts and thinking of going to one, but as business increases is it possible that this warehouse could function 24 hours a day. His concern would be back up alarms, equipment moving in a residential neighborhood.

Brian said that the applicant might be able to join Zoom, but would the board be willing to condition the approval based on hours of deliveries.

Scott said sure.

Sal asked if on the use table a warehouse is allowed.

Dave said yes.

Sal asked with the flood plain mapping, he knows it is pretty flat, but wants to know if the board and staff should study it some more regarding flooding neighboring properties.

Andy said there is guidance in terms of fill in flood plains, he looked for it when he received the letter, but he couldn't find it. He wants to say that there is guidance that says flood plain can be filled without impacting the flood elevation, but he couldn't find that documentation.

Dave said the stormwater managers have a calculation that is based on the fill impacting properties downstream, so if they had a good sense of how many yards different this was than the other one because at this location the plain is actually quite wide, because the creek is a little higher in this location at the back of this property. If they have a good sense from Brian on what the change was maybe Andy would have an idea if it would have negative impacts downstream or will it not. That will be calculated as part of the flood plain permit and Andy will have to make an engineering determination that no adverse conditions would result.

Brian said that most of you are aware that some of the improvements are in the flood plain. Their proposed finished floor elevation is greater than 2-feet above the BFE in this area. Approximately 2,500-yards of fill are going to be place in there to deal with the stormwater management that they are implementing, so they are able to function outside of a flood, so they will have to raise that up as well. They need to provide the information and a letter stating if there are going to be any downstream effects. The NFIP and FEMA guidelines do allow fill in the flood plain and the requirements are much stricter in the flood way which they are not proposing any development.

Carl asked what flood plains is that DEC or federal.

Dave said it was FEMA.

Brian said that they always knew a flood plain certificate was required for this project.

Franco asked if there would be no outside storage.

Brian said that is correct. The hours of operations will be 7am-6pm. Currently they are working as late as midnight because everything takes much longer.

Scott said it won't extend any further than that.

Brian said that is what he is being told, but if the board wanted to condition the hours of operations if the owner wanted to exceed that they would have to go through the necessary channels.

Dave said that Paul and him have had this discussion before and it is super important that they get baked into the map as that is the piece he would use to enforce. If it is one shift great, if it is more than one shift that trips into nighttime into the midnight period, lights from trucks that might be departing or arriving would be an issue in the neighborhood in a residential area. That

would be something to push the applicant into limiting the hours of operation to not have that additional impact.

Scott said trucks would be coming in what time of day, mainly in the morning.

Brian said yes, he doesn't think that they would be allowed to sit idle when they couldn't accept the delivery.

Scott said that could be up to 6:00.

Brian said he thinks every business in the world has a truck that shows up at 5:30 and has to be offloaded late, he doesn't think it's going to be an issue.

Dave said it is not the outlier that is the issue, it's the regularity of it.

Scott asked for a motion to open the public hearing.

Motion made by Franco, 2nd by Bill.

All ayes, motion passed to open the public hearing.

Chuck Andola (Neighbor) said that he has pictures where the back of the building is not what you want in a flood plain, there are pallets which float. What bothers him is that what's going on there today that's not right and now they want to add to the building, he is wondering how they will handle themselves after it's built if they cannot handle the building now. As for trucks coming in they are coming in at all hours, they are not supposed to be, but they are. It's not something that can be planned. When they first moved in he spoke with Ruben (owner) and they had an understanding and now they don't even want to talk to him. He owns the property that their septic system is on. At night they come up there and sit up there and look down at his neighbor. The neighbor is upset about that. They have to be 15-feet from his line and they have in their plans that he has to sign something that gives them the right to rip up his property. That stormwater drain that comes across the street underneath drains Apple Greens, so if there is a flood plain that's going to be violated Apple Greens is going to have the same problem.

Andy asked him to point out the culvert as he wasn't aware of it.

Chuck pointed out approximately where the culvert is.

Franco said it is on the south side of the building.

Carl asked since this is a FEMA flood plain is there no restrictions at all.

Andy said there are restrictions. The town has a code for flood plain development, that they still have to comply with.

Chuck said that he has used his money to keep his part of the stream open. When it gets to them it is not open.

Scott asked would the pallets be considered storage outside.

Andy said that is not his call, but he would say yes.

Dave said if the pallets are directly behind the building, they would be outside the flood plain. The pallets are in the space that is currently open, where the electrical equipment is. The black line on the map is the flood plain that is map via FEMA. Typically they wouldn't allow anything in the flood plain that could float away and therefore impede the flow downstream.

Scott said that is more of an enforcement piece not within the purview of the board.

Dave said they don't typically drive behind the building, they inspect the building once a year.

Scott said he hopes the applicant will understand the neighbors concerns and will be good neighbors and make sure that everything is cleaned up and doesn't float downstream.

Franco said that they could add no outdoor storage as a condition.

Dave usually how that plays out for a commercial property is that someone would have to call as they don't do regularly drive by.

Brian said that the applicant and he himself have met with the neighbor at the facility a couple of times. They were approached to only buy what he has to sell and because there could be no agreement on that the applicant decided to stop talking to the neighbor. He wants to point out to the board that if there is a culvert there that wasn't picked up by the surveyor, he would like to ask the board what is their proposed developments would affect on it on, they are draining anything across the street. They will ask the surveyor to find the culvert.

Franco said he would like to know if they do find the culvert, then maybe give the board an idea of the condition it is in and how full it is, how is it flowing or what might be going on there.

Brian said that they will look into it, because if it drains on the roadside, the county will want some kind of maintenance easement over it.

Scott said the other issue is the picture of the pallets, the board would like to see some of that cleaned up and straightened up before it is a final project.

Dave asked if Brian had a good sense of the comments, the hours of operation, limiting light impacts from trucks across property lines, the flood plain piece.

Brian said he believes that he has a full understanding of the comments, some of these items aren't new from the last time. He asked if the board would be willing to conditional approve the project.

Scott said that there are a lot of issues with this project, so they would not handle it the same as the previous project.

Paul said that he would be willing to start to draft a resolution for the board's approval, but subject to getting all the information if the board wants that. Otherwise, they can wait to see how they are when they come back in May.

Scott said let's have them come back in May and see where they are.

The board agrees.

Dave said that hours of operation needs to be put on the map.

Brain asked if the board wanted the flood plain issued before they can get approval.

Dave said if the board grants approval, they will go to him for a building permit and as part of that building permit before he can issue it, the flood plain permit will need to clear in order to make sure that the building permit doesn't cause any impacts for flood plain. It wouldn't be a piece for the board to manage unless the board thought now that it would cause significant environmental impacts.

Carl asked if someone could explain a flood plain permit.

Dave said it is a permit for flood plains.

Carl asked to allow build in the plain. He is unfamiliar with FEMA. If there is a flood plain with no restrictions.

Dave said no there are a lot of restrictions.

Carl asked can you build within that flood plain.

Dave said you can.

Carl asked depending on what.

Dave said there is a whole section in the Town of Lloyd Ordinance labeled Flood Plain Development. His department issues a permit after the applicant comes in because they want to build in a designated flood plain. What they do is, they have the applicant come to them with an engineer plan, showing base flood elevation and New York State Code and the town code requires 2-foot free board, so wherever that highest elevation is the finished floor of whatever they want to build there has to be 2-foot above that. In addition there are things like break away barriers, so if there was a basement that was in a flood plain which is unfinished the code would want them to have water in and water out equal quantities, so they would have windows that would sort of break away and allow water to flow through because they know water is going to go in, but they don't want it to hydrostatically charge the building and basically push the foundation out, so they want the water to leave as well. This building is entirely slab and it is elevated, he doesn't know if it appropriately elevated, but Brian will do that and give it to him,

he will make sure Andy is good with the numbers that Brian gives them and then the flood plain permit can be issued, then he could issue the building permit if they were comfortable with the architectural part.

Andy said that the town is required to have this code by FEMA in order for any flood insurance to be issued in the town. Other things that have to be elevated above the flood plain are critical equipment.

Brian said that he isn't sure if the culvert is even there as they have walked the site and he doesn't think that it would be any further south as the septic system is there. Even if it is there they are not changing the drop inlets or drainage to it, if it is eroded it would be another problem with the county infrastructure.

Franco said if it is a county drain then there should be a filed easement somewhere.

Brian said that flood plain information came up quite a bit, truck turning radius. If he has to make changes for the fire trucks, it would just be moving the pavement out and that would only have to make sure that it is captured in the SWPPP correctly.

Franco said that it was agreed upon a FDC connection and the building being sprinkled.

Brian replied that is correct.

Bill asked you resolved the hours of operation.

Brian said that they would make a note of that on the plan, he wants to know how the board wants it worded.

Scott said they could put that on the plans just like they mentioned.

Franco said if they want it changed then they would have to come back.

Scott said it was also no outside storage.

Carl said being it's in a residential area he doesn't think it could be changed 7-6 should be it.

Andy asked is it just Monday-Friday or does it include weekends.

Brian said he will come back and give the board some clarification.

Scott said that maybe there should be some kind of restriction about the people hanging out on the other piece of property.

Dave suggested maybe having a designated area for that.

Scott said that is a good idea, have a designated area for people to sit and have lunch.

Dave asked about the color of the building.

Brian said that he will come back with some samples.

Ruiz, Giuliana: Water Bluff Overlay District: 17 Cross Creek Run: SBL# 80.3-2-27.140

Applicant is seeking to demolish the brick patio, modify the fence to sit on property line, and installation of an inground pool, pool patio, pool deck, pool barrier and wall all within the water bluff overlay.

SEQRA Status: Type II

Review Status: Public hearing has been scheduled for April 27th.

Potential Action: Open public hearing, close public hearing and approval resolution

Mickey (applicant's agent) said that they did everything with the design to minimize the impact to the Water Bluff district. Minimize the slope disturbance by making portions of the pool at grade. He believes that the board was appreciative of that and looked kindly upon that and they didn't require the SASS report and there were no changes to the plan.

Dave said just a reminder that not requiring the SASS report was due to the fact that this is accessory to a structure and the impact is small.

Scott asked for a motion to open the public hearing.

Motion made by Carl, 2nd by Franco.

All ayes, motion passed to open the public hearing.

No Public comment

Scott asked for a motion to close the public hearing.

Motion made by Gerry, 2nd by Carl.

All ayes, motion passed to close the public hearing.

Resolution was read.

Scott asked for a motion to approved the resolution.

Motion made by Bill, 2nd by Franco.

All ayes, motion passed to approve the resolution.

Trapani, Dorothy: Special Use Permit: 1 Prospero Drive, SBL:88.17-4-21

Applicant is seeking a special use permit to legalize an accessory apartment.

Review Status: Public hearing has been scheduled for April 27th.

Potential Action: Open public hearing, close public hearing and approval resolution

Dorothy Trapani (applicant) she is here to legalize an accessory apartment.

Scott asked for a motion to open the public hearing.

Motion made by Franco, 2nd by Bill.

All ayes, motion passed to open the public hearing.

Lisa (Future First LLC) said that she would like to know why she is requesting for this permission and if this is and how it will affect their property.

Dorothy said that it will not affect you whatsoever. It is an apartment that is attached to her home.

Lisa said that it sounds like it is an existing apartment.

Scott said yes they are looking to legalize it.

Lisa said that she just wanted to make sure that it wasn't going to create more traffic in and out of Prospero Rd.

Scott asked for a motion to close the public hearing.

Motion made by Franco, 2nd by Bill.

All ayes motion passed to close the public hearing.

Resolution was read.

Scott asked for a motion to approve the resolution.

Motion made by Charly, 2nd by Bill.

All ayes, motion passed to approve the resolution.

Boyd, Frank: Special Use Permit: 73 Hurds Rd. SBL #94.2-2-27

Applicant is seeking a special use permit to legalize an accessory apartment above the garage.

Review Status: Public hearing has been scheduled for April 27th.

Potential Action: Open public hearing, close public hearing and approval resolution

Frank (Applicant) said that it is a studio apartment above the garage which is not attached to the house. It is a 625 square foot loft of open rooms, it has its own septic which was just serviced.

Sal asked if the septic was ever approved by the county.

Frank said it is existing.

Scott asked has it been an apartment awhile.

Frank said the previous owners built this in the mid-90s and they used it as an office and had a long term rental thing going on. They were in the process of getting approval for short-term rentals when they were notified that it wasn't legal yet.

Scott asked there is a primary use downstairs for the primary residence.

Frank said the primary residence is separate, this is above the garage.

Scott said you are using the lower part of the garage for you.

Frank said they are.

Scott asked for a motion to open the public hearing.

Motion made by Franco, 2nd by Sal.

All ayes, motion passed to open the public hearing.

No public comment

Scott asked for a motion to close the public hearing.

Motion made by Sal, 2nd by Bill.

All ayes, motion passed to close the public hearing.

Resolution was read.

Scott asked for motion to approve the resolution.

Motion made by Sal, 2nd by Bill.

All ayes motion passed to approve the resolution.

New Short-Term Rentals (Public Hearings)

Frank Boyd: 73 Hurds Rd: SBL #94.2-2-27

Review Status: Public hearing opened on 4/20/23

Potential Action: Close the public hearing, approval resolution.

Rob (4 Tina Drive) asked what a short-term rental is is that like an Airbnb.

Dave said a short-term rental the way they track it is if it is advertised in a residential area, in a residential home, one or two-family home, if it is a rental for a limited period of time, typically advertised on things like Airbnb, Vrbo, etc. that is a short-term rental.

Scott asked for a motion to close the public hearing.

Motion made by Franco, 2nd by Sal.

6-eyes, 1-abstian (Carl), motion passed to close the public hearing.

Carl asked if the accessory apartment was separate from the short-term rental.

Scott said that they are the same. What probably happened was that they applied for the short-term rental and found out that the apartment was not legal and then they had to comply with the law and they had to make it a legal accessory apartment. Since they had done that and already had the application in for the short-term rental now the board is going through that part.

Resolution was read.

Scott asked for a motion to approve the resolution.

Motion made by Sal, 2nd by Bill.

6-ayes, 1-abstain (Carl), motion passed to approve the resolution.

Micah Straight: 14 Tina Drive: SBL #87.3-3-19

Review Status: Public hearing opened on 4/20/23

Potential Action: TBD

Micah (applicant) said that it is a single-family home at 14 Tina Dr, it is a 3-bedroom house, it has been active as a short-term rental, and have gone through the process of all the inspections.

Bill asked if this was an existing short-term rental or a new short-term rental. His understanding is that based on when they got their Ulster County approval that this is a new application. He is wondering then if the board can consider the character of the neighborhood as an impact. He thought at the last meeting that it could not be because it was an existing application. The board did hear from 8 or 9 of the neighbors and was concerned that they were not listening to them.

Paul said that is correct based on the facts that were represented the board has a new short-term rental in front of the board. His perspective also shared by Dave is that basically the board is still looking at this as a new use, the board is looking at a residential use that someone is renting out periodically and the core concern is that the town has expressed through its local law is how you exercise that use. Are you doing it within the regulations that the town has prescribed and if you are then you can continue to have a permit. If it is an authorized use in the district that is allowed, then it is presumptuously consistent with the community character of that area. The question that comes forward after issuance of any special use permit for the use is whether they can comply with the regulations that are applied by the STR ordinance.

Dave said that is his interpretation based on the 3rd circuit's decision about residential uses are residential uses, even though in that case the town didn't have definitions for residential use. This town does and they have a short-term rental law that allows this use in one and two-family dwellings. In his opinion the board needs to apply that section of the law to this allowed use. He thinks the board can take character of the community as part of the board's deliberation with the piece in mind, you have to see this as even though it is a rental use that it is still an allowed use and it is a single-family dwelling, so whatever restrictions or remediations the board puts on it,

relative to conditions for its use. Keep in mind that the board is regulating a single-family dwelling, even though it is a rental use.

Paul said so long as what is proposed complies with regulations that the town has established. Again that is presumptuously consistent with the community plans for short-term rentals.

Bill said his concern was that it seems that the board isn't taking into consideration the use of the neighborhood at all at that point. Basically, if it is a residential approved use the board doesn't even care about it at that point, it's a residential use and the character of the neighborhood is no longer their issue.

Paul said that the answer to that is baked into the legislative determination by the Town Board, that this use is allowable in this district, so long as it meets the regulatory requirements of that use, so there is no indication that this proposal will not meet those regulatory requirements, which would allow for the issuance of a special use permit by the Planning Board, that would then be subject to two year reviews by the code officer. At the end of the day if the people are not operating a use that's going to work, then there is potential that the authorization could be revoked.

Dave said at any time.

Carl asked if there was any way the board could modify the STR regulations because it is optional if it is owner or non-owner occupied, he thinks if the owner was there while it is being rented out there may be less of a chance for things to go haywire. He is wondering if that could be considered, maybe not for this applicant, but further applications.

Paul said that the board has the authority to impose reasonable regulations, related to the use. The question would be whether talking about the ownership of it, or who is managing it, is relevant to that, but it is a tougher question. There may be some case law that may effect that as well, when it comes down to it you have a use that is allowed in this area, there is a determination in that it will be consistent with the neighborhood and then what is under the requirements around that use that will help to insure that it is consistent with the neighborhood. He is not sure if ownership or who is coming down to manage it beyond what is already required by the regulations will help that.

Carl agrees with Bill regarding the character of the neighborhood.

Franco agrees as well, there are places for these things and there are places where these things don't belong and the way he looks at it is, they have a pretty close knit community up there since they are secluded and kind of private, in his opinion they are changing the character of the neighborhood.

Sal said that the board all sort of feels the same way about it, but if they do anything about it they are sort of changing the law.

Carl said that it is a special use permit and there is leeway for the board.

Dave said that is correct. Special use permits can in theory be conditioned to death it is very difficult to do that because the conditions need to be reasonable, and the court would apply the reasonable man doctrine to whatever the board decides. He asked the board what conditions would you impose?

Carl suggested that it be owner occupied.

Dave said that would be illegal. According to the 5th circuit that's illegal it infringes on the dormant commerce clause of the constitution, therefore in that region of the United States as it has not been challenged in case law in New York State. They are unable to impose owner occupation on anything because what that does is it restricts people who might own a property and live out of state from doing commerce in this state and the Federal Government has authority over interstate commerce.

Paul said you already have a legislative determination by the Town Board, what regulations are appropriate, generally to these uses, if you are going to go beyond what the Town Board has suggested, this use is allowed in this zoning district, so that presumptuously means that its consistent with the character of the neighborhood, so long as it complies with the regulations that have been established by the Town Board, so if there is something that a neighbor suggested that is beyond those conditions then he thinks that would provide potentially a basis for some additional condition that the Planning Board could mandate, but to go back and kind of challenge what the Town Board has said in terms of this being an allowed use here, you would need a good basis for that. Like there is something specific that's different about this area that would not make allowing a short-term rental appropriate. He said that the board has to go above and beyond if they want to do that here.

Carl said his only argument was making it owner occupied and that's not going to be the case.

Scott said that the board has to give the thought about what the law is, personal feelings aside.

Sal said if the Town Board said it doesn't have to be owner occupied and then the Planning Board says it does, they are in conflict with the Town Board.

Bill said his other question was is there any block or street that shouldn't have it. The answer was no, if it is residential zoned its zoned. The board cannot do it on a case-by-case basis is what he is looking at.

Rob (neighbor) said is this area zoned residential.

Dave said that some of it zoned R-1 and some of it is zoned agriculture.

Rob said that what the board is allowing is a person to put a commercial enterprise, that he is using to make a profit. He doesn't care if the money is to pay for the property, he is there to make profit. You are allowing now a business to be put in the middle of a residential area a short-term Airbnb. He wants to know how the board would feel if every weekend someone new

was in the house next door to you. This changes the entire character of the neighborhood and the board is allowing a commercial and what he would do if he wanted to, if that's going to be allowed, that he wants to do something commercial in the neighborhood and don't tell me he cannot through the law, because if you let this person buy a house to make money. He doesn't care if it is to pay the mortgage or not.

Scott asked are there any rental homes up there.

Dave said he has no idea as they don't track that.

Rob said there are none. He said that years ago someone wanted to a mother-in-law apartment and the neighborhood protested it and they were not allowed to put the apartment in. Now strangers are allowed to be there every weekend or every night.

Paul said it is really challenging because essentially what happens with short-term rentals is you have an existing residential use and people are coming in and they are making a residential use of that same property, but they are not the owners and they are doing on a short-term basis, so the challenge that so many municipalities are dealing with is how to regulate this in a reasonable way, that allows for property owners to be able to rent out their properties if they want to for a short-term basis and often times this is for really good reasons, its for people trying to pay their property taxes, they may not be able to do that. What municipalities across New York State are trying to deal with it, are like okay how do we regulate them how do they make sure that they stay pretty much like a normal residential use and that is what Lloyd has done is put regulations in place that will try to do that. What this board does is they look at, is it an allowed use in the district, is there any specific reason that they should do anything different than they would do for any other short-term rental in this district, beyond what the regulations already require, but then authorize it, give it a permit and say okay we are going to let you do this and if you fail then it is subject to ramification. It is more on the back end that it is going to be tested, on whether or not the people can maintain it as a residential use that they are just renting out for short-term purpose.

Rob said the way he looks at it is, he bought a house in a residential area and now he has an individual who is in the business of Airbnb's because he indicated to him that he had more than one, so he is in a business. Its not he is leaving his house and cannot sell it, so he wants to rent it out for 6-8 months to someone so he doesn't lose it. This is motel 6 without the sign and it's a higher end and that is what you are going to get. He is not worried about himself, he worried about the kids up and down the street. The people who come in from wherever and don't know the rules, he has already seen where they had an outdoor fire, will they know the rules if they are out of state. Will they know not to go 45 miles-per-hour on the road, or know that there are kids that live on the street.

Paul said you could have neighbors like that.

Rob said that he knows and calls the cops when that happens.

Dave said you would do the same for this. He thinks that the question that is being asked is for the Town Board. The Planning Board has the power to review the law and apply it not change it.

David Lombardo: 8 Sheep Lane: SBL #95.2-3-7.100

Review Status: Public hearing opened on 4/20/23
Potential Action: Close the public hearing, approval resolution.

No public comments

Scott asked for a motion to close the public hearing.
Motion made by Franco, 2nd by Bill.
All ayes, motion passed to close the public hearing.

Resolution was read.

Scott asked for a motion to approve the resolution.
Motion made by Franco, 2nd by Bill.
All ayes, motion passed to approve the resolution.

Michelle & Steven Yu: 17 Deller Rd: SBL #95.16-1-20

Review Status: Public hearing opened on 4/20/23
Potential Action: TBD

No public comment

Scott asked for a motion to close the public hearing.
Motion made by Franco, 2nd by Bill.
All ayes, motion passed to close the public hearing.

Resolution was read.

Scott asked for a motion to approve the resolution.
Motion made by Gerry, 2nd by Sal.
All ayes, motion passed to approve the resolution.

Continued Short-Term Rentals

Lindsay Allison: 148 Bellevue Rd: SBL #88.1-3-24.115

Review Status: Public hearing closed on 3/23/23.
Potential Action: Approval resolution

Resolution was read.

Scott asked for a motion to approve the resolution.
Motion made by Sal, 2nd by Bill.
6-eyes, 1-abstain (Carl), motion passed to approve the resolution.

Administrative Business:

Silver Gardens

Applicant is requesting a 1-year extension for site plan approval and a 90-day extension for subdivision approval.

Potential Action: Read resolutions

Resolutions were read.

Other Discussions

Board discussed short-term rentals.

Motion to Adjourn.