

**TOWN OF BEEKMAN PLANNING BOARD**  
**Minutes of July 18, 2019**

The Town of Beekman Planning Board met for their regular scheduled meeting on Thursday, July 18, 2019 at the Beekman Town Hall.

The following members were present: Sean Johnston, William Magee, Peter Poltrack, Doug Florance and Rob Lopane. Dave Anderson and Michael Gallina were absent. Also present Dan Koehler - Town Engineer, John Horan - Town Attorney and Selene Haile - Secretary.

Sean led the Pledge of Allegiance and noted the emergency exits.

Sean made a motion to approve the May Minutes. Seconded by Bill. All in favor. Motion carried.

Review Minutes: May 2019

**PUBLIC HEARING:**

1. Furnia Court – Contractor Yard  
Route 55  
Grid # 6858-00-002921  
Zone C-2

Notice of Publication and Proof of Mailings were provided.

Joe Berger - Engineer and applicant Shane Furnia approached the Board.

Mr. Berger stated this is a 4000 Square foot Contractor's Building Yard on the East side of Route 55. The parking and access will be in the rear. This will have well and septic.

This has received conceptual approval by the Health Department. This is currently before the DOT for review.

Mr. Berger stated the disturbance is slightly under one acre.

Dan stated he sent an email to Mr. Berger and to the Board about a few discrepancies in the Storm Water Report. He stated he wants to look at the DOT comments because this may push the threshold of disturbance over the one acre which would require other things.

Sean made a motion to open the Public Hearing. Seconded by Rob. All in favor. Motion carried. Marge Fernbach stated she her property abuts this and she would like to know if there are plans for the other land. Mr. Berger stated they are using less than one acre.

She asked about what will be store there and expressed concerns about taxing on the wells in the area.

Mr. Berger stated that this is a small contractor yard and storage and not a supply yard. This will have a bathroom which is why they will have a well and septic.

Dan noted that there will be no outdoor storage and that will be added to the map.

Andrew DeNapi said he was concerned about auto repair. It was stated there would be no repairs done at this location, it is for storage. He stated he is also concerned about noise and the traffic on Route 55. He stated there have been many accidents on Gardner Hollow and Route 55 and this is right there.

Mr. Berger stated that DOT is reviewing this. He also stated that the trucks will be off peak.

Dan stated there is an issue granting a Negative Declaration if there are changes due to DOT comments changing the disturbance over one acre.

The Public Hearing will be left open due to the issue of the DOT.

Sean made a motion to adjourn until the next meeting - August 15th. Seconded by Peter. All in favor. Motion carried.

### **DISCUSSION:**

1. Little Wolf Properties, LLC – Lot line Realignment  
Duncan Rd.  
Grid # 6759-00-112874, 6759-00-114938  
Zone R-90

Brian stated he was before the Board with this years ago for an 8 lot subdivision but the infrastructure was to expensive.

The applicant is asking for waivers.

Last month there was a discussion about a deed discrepancy with the neighbor. The applicant will make the deed match the neighbors deed which is on the town line.

The Ag data statement was sent out and the application was revised.

There is no development on the site so the waivers are okay.

Dan stated that this is a Type II SEQRA and he has no issues granting Sketch Plan and the waivers requested. Mr. Horan agreed.

Dan said the issue with granting Negative Declaration is that if comments from the DOT come back there could be changes made to the plan.

The waivers that are being requested are the following:

- 130-12(E)
- 130-12(H)
- 130-12(J)
- 130-12(K)
- 130-12(L)
- 130-18(D)
- 130-18(F)(6)
- 130-18(F)(9)
- 130-18(F)(13)
- 130-20(A)(2)
- 130-20(A)(4)
- 130-20(A)(6)

Sean made a motion to grant the waivers as stated. Seconded by Peter. All in favor. Motion carried.

Sean made a motion to grant Sketch Plan. Seconded by Bill. All in favor. Motion carried.

Sean made a motion to allow the applicant to hold a Public Hearing. Seconded by Rob. All in favor. Motion carried.

2. The Station Grille – Amended Site Plan  
2578 Route 55  
Grid # 6759-04-685204  
Zone C-2

Bill Magee recused himself from this application.

Bill stated that he is in contract with Kevin Kihlmeyer to purchase Ramblers Rest on Route 55. Kevin Kihlmeyer approached the Board.

Bill stated he has been before the Board three or four times. He purchased this restaurant from Leo Doyle, who came in front of the Planning Board and with the Town's acquiesce he had the site plan waived.

He stated the building is the same now as it was then and the site plan waiver goes with the building.

The town came to him in 2014 and asked him to put together a site plan. He told them it was waived but that he would go in front of the Board. He came to the Planning Board. David Sears was the Town Attorney at the time and he recognized that the site plan was waived. There were a couple of conditions - one being a Sketch drawing - which he did. Another condition was to show DOT approval. The agreement was then signed off by David Sears - Town Attorney and his own attorney.

He is in the process of selling it now and the Town is requesting a site plan again. He said there are no changes to the building so it shouldn't be required by the new owner.

Kevin Kihlmeyer came with plans that he gave to the Town. He met with the Town and it was brought to his attention that the site plan is null and void at this time In order to get a CO he will need a new site plan.

Today he was informed that the Town looked for the CO and it is not there. He was also told no building permit were issued for building. He is here tonight trying to find out where he stands. He stated it will cost \$100,000 to go thru this process. He is hoping something else can be worked out. He proposed moving in and then he would do some changes down the road but if this is going to be an upfront cost he can't do that. If he has to change the drainage, parking lot and curbing which would need to go to the DOT approval. He wasn't expecting all of this.

He stated he will need a CO to get a liquor license.

Sean said here was a meeting between the applicant and the Town and he asked Dan to explain what happened at the meeting.

Dan said there was a municipal search and it was discovered there was no CO on file. The Town has gone thru the paper file and there is not an active CO. This raised an issue with him being able can't obtain funding or a liquor license without.

Dan said the the other problem is when they met for pre conference meeting a month ago they were talking about doing some changes and that requires an amended site plan. He stated anytime a site is changed it requires an amended site plan even if the site plan was waived.

The building inspector met with Mr. Kihlmeyer and he needs to be able to submit a building permit application to satisfy him.

Our code requires a Building Permit cannot be issued without conformance to site plan review section for any use of a building.

Dan said those are the reasons why he was asked about an amended site plan. He came in with a plan from 2011 which shows curbing and other things that were proposed. They talked about some issues such as safer access for fire department, pedestrian travel ways that are safe and the fire department. There is also the issues of the off site parking at Key Bank and pedestrians getting there safely.

Sean said this is here for an amended site plan, but if there are no changes it would't be an amended site plan. The use is the same.

Dan stated they need to get a Building Permit and that necessitates a site plan.

Sean asked if he submits the site plan as is without improvements.

Dan stated the site has limitations that are potential safety issues - mainly traffic and pedestrian issues. He stated that for the safety of patrons and people in Town and the people who are passing thru town.

The Building Inspector has to go in and check the building to issue a building permit.

Sean asked why can't they have it inspected and then he could get his permit.

Bill said that was one of the conditions of David Sears (Town Attorney) and that was done.

Sean said there are no records or files.

Dan said the most recent record was a site plan application dated May 5, 2014 that resulted from several violations at the time -

- issue of LP gas tank
- handicap access
- outdoor seating that had been added without approvals.

Sean said he signed off on that based on the Board approving site plan.

Dan said he recollected it had to do with outdoor seating issues.

Bill said he eliminated outdoor seating and built around the LP gas tank.

Rob said he remembered the issue with outdoor seating.

Dan and Bill disagreed about whether David Sears was the engineer during 2014 and when the issue occurred.

Sean said the applicant in front of the Board is looking to bring business to our Town. He said he thinks this would be desirable to our town as opposed to an empty building. There are incentives for companies to get tax benefits. As far as welcoming someone to town, this is not very welcoming to our Town

Sean stated he thinks there could be waivers and he would like to work with the applicant. He said whatever happened in the past it is done. The building is there - The applicant has a long standing restaurant in Poughkeepsie with a very good track record and would like to bring business to our Town. He feels they should be giving waivers and looking hard at how to move ahead. He stated he feels this could be a liability. This was approved before - if new owner backs out could be a liability for the Town. He said this should have a Public Hearing and bring up issues.

Mr. Magee said the tanks were taken care and he did away with outside seating.

Mr. Horan (Town Attorney ) said with respect to the building itself, this Board cannot waive a Building Permit and/or a CO That is a State issue. That is an issue apart from site plan. He said they have no authority to waive a Building Permit after 1983 and no authority to waive a Co . He stated these issues have to be resolved for the lender and a liquor license. The town needs to have a record. He said there needs to be a CO before any member of the Public goes in the building. It would be a huge liability for the Town.

Sean said he understands that but he would like to stream line it to get it there.

Mr. Horan stated there are a lot of requirements for places the Public meets and they need to be met. There are a lot of inspections that need to be done on an annual basis.

Bill said at some point there was a stop work order so there had to be a building permit. The Town wouldn't have allowed them to open if there wasn't a CO, so there must be a CO.

Kevin Killmeyer stated if this had a liquor license they had to have had a CO.

Rob said it is very possible the Town lost the documents. This is not the first time that we are sitting here talking about where are the documents. He believes there is a CO.

Mr. Horan said the lender and Liquor Board will want to see a copy of it.

Rob asked what happens when the Town loses documents.

Bill asked if the Town could try to get a copy from the other attorney (David Sears)

Kevin said that when meeting with the Town, they stated they are going to look at Arnoff and that could take weeks. He said that he doesn't know how long his lender will wait. Rob asked if there was still stuff to do from that site plan. Bill said he did what was asked.

Peter said that the propane tank doesn't have enough posts (Ballard's) to protect it. He said his understanding is that part of site plan approval recommends of DOT be met.

Bill said the DOT said no issues unless he disturbs the right of way.

Dan said it wasn't actually an approval it was a letter and it went on to say we understand you are looking to work with us in the future and we do want you to pursue highway work permit.

Sean said there are concerns from the fire department the DOT, Health Department. He asked Mr. Kihlmeyer if he had any plans to remedy them. He stated the Health department already had it looked at and they will have trees removed for septic and he is pulling permits to have work done. He said as far as DOT and correcting the issues, he has no problem down the road if given a certain timeframe. He stated he would take care of it. He has been in business a long time.

Sean said in regard to the parking lot. He said there is a letter floating around saying if not doing anything you don't need a permit. If that is the case then that isn't an issue now.

Mr. Kihlmeyer said he was told that if he did anything with parking lot he would have to go to the DOT, including blacktop.

Sean asked him if he approached Key Bank to use parking. Mr. Kihlmeyer said they will permit his customers to park when bank is not open and he is going to get a letter from them.

He stated that Partytime said they have no issues as long as customers are under control.

Sean asked their hours of operation.

Mr. Kihlmeyer said they will be closed by 12 or 1 AM. They will serve lunch possibly on Thursday, Friday, Saturday, Sunday. He said if they will have entertainment that it will end by midnight.

Sean said it seems you have parking addressed.

Sean said there is an issue with gas but around no issue with that - it is a simple fix.

Sean asked him what his wish list would be. He stated he would like to get open and to clean up the place and get operating. He has had hundreds of customers begging him to get something out here.

He said he has a good product for a fair price and he would like to just get open and address some of these issues. He said he needs to get cash flow and will revisit these issues.

Sean asked him if he purchasing or leasing. He stated he is purchasing. Sean said that is good he won't be transit and he will be vested.

Doug said he has reservations. He agrees they should work with Town to get in business. This would be an asset in town. He has a problem that the whole building didn't follow any rules and it keeps going on. They never did a site plan or did improvements to the site. He said he is willing to say they need to bring in money before they do a site improvement. He would like to know they are willing to work with applicant to do site plan in future. The right way is to do a site plan even though this was approved as is. He would like to see something done with the site. He said the site was never adequately addressed. It needs to be inspected to make sure the building is in good shape and that is up to the Building Inspector. He feels it has been operating as is, but in the future he needs to come back for site plan.

Rob said he agrees. He said the building is vacant and he would like to see a restaurant going again. He said it would be good for the town to have something in there. He said the Board all agrees that a CO is not in Board's jurisdiction - that is for the Code Enforcement Officer. He said this Board is in charge of site plan not CO. He said the Board could work with him on a site plan.

Bill said there was a building there before.

Mr. Horan asked about the building that was demolished. Bill said what he understands from the previous owner was they were supposed to leave the walls up and gut the building. It was taken down and rebuilt.

The building that was demolished was built prior to 1970 and predated the site plan requirement. He said someone may have made the determination that to put the building up on the existing footprint didn't require a site plan.

Bill said it came in front of the Board in 2010 or 2011 and it was waived.

Mr. Horan said over the years something like handicap parking changes and there needs to be strips and that throws off a site plan. The question is does that trigger an amended site plan or not. He said things change like fire lane , fire codes and you don't grandfathered in. That may trigger an amended site plan.

Bill said he was re-approved in 2014.

Sean said he doesn't think the applicant has any problem doing these things once he gets in.

Mr. Horan said he has to do these things before he gets in there.

Mr. Horan said the question is about a Building Permit. Bill said he has a copy of that.

Mr. Horan said if he paves the parking lot that will trigger a site plan amendment.

Mr. Horan said he needs to have the Building Inspector and Fire Inspector inspect the premises.

Sean said if he isn't making any changes then why is here now. He will do things down road and he agrees with Doug that there needs to be a time frame. He said they don't have a CO but he isn't do anything to trigger anything. He is getting permits and working with the Health Department.

Mr. Horan said as long as there is no change in use or physical configuration of the property it probably doesn't trigger site plan requirement.

Peter said he understands in order to meet parking requirements there has to be parking offsite. He said the applicant is making an agreement with Key Bank. He said he is concerned that people are crossing Palmer Circle. They will be walking on the side of the road in snow to enter the restaurant.

Sean said you could paint a path from the driveway to Key Bank. Sean said you park in Shoprite and walk down the road.

Dan said there is no sidewalk along Palmer - there is no safe pedestrian way vehicular and pedestrian movement on this site are poor to say the least. There are safety issues.

Peter agreed there are safety issues. There is parking shown at the end of Palmer Circle and cars backing out into traffic route 55. He said he is concerned about safety and meeting requirements DOT wants for access He said he trusts Kevin will get stuff done. However, if you look at Hot Ass Wood the Board was lenient on that to encourage business in area and it didn't work. He stated he knows there was an issue with the site plan.

Sean said it was waived and he signed it. Peter said it must be somewhere.

Dan said he has that resolution. Sean asked if it was approved. Dan said he would have to read it.

Rob asked if it was from May 15, 2014.

Doug said if there is an approved site plan and the CO gets certified the it is not our concern until he does some and he will have to come back for an amended site plan.

Sean stated that is correct.

Rob stated he can't make any changes.

Dan said the site plan was specific to the January 2014 violation issued by Building Inspector for the outdoor seating. He said the Building Department told him there was not a building permit issued and as a result of this site plan amendment resolution and therefore no CO.

Sean said it was approved and then they had to come in for the outdoor seating.

Rob said we are going around and around and he thinks the Board should get a determination from the Attorney. If this is an approved site plan and they are not going to make any changes then they don't need to be before the Board.

Doug asked if they don't have a CO doesn't it automatically trigger a site plan.

Sean said the issue is the CO is not within reach. He stated there is a CO.

Mr. Horan said as far as site plan approval - if the applicant is going to pave the parking lot then it would be appropriate for him to come back for amended site plan. He said as far as the building itself, there are a host of other agencies that are involved such as the Health Department and State Liquor authority. He said we have to play the hand we have. He said the bigger issue is finding the CO and to have the Building Inspector make sure it meets the fire code.

The applicant has already had the fire system inspected and he will be getting an estimate for any work that needs to be done.

Sean said in order for the applicant to get into his restaurant he will need to find the CO. If he gets a CO he doesn't need to be in front of the Board unless he is making changes.

Mr. Horan said that is correct.

It was stated that there had to be a CO to get a liquor license. The Town needs to find the CO. It was suggested that the Liquor authority should have a copy of the CO.

Sean said it is his understanding that the applicant does not need to be in front of the Board.

Mr. Horan said there is sign issue. Doug said they need to go to the ARB. The applicant said he will use the existing sign and he will clean it up. He will change the lights. Dan stated the sign is in the right of way and he should talk to the DOT about a work permit. Dan stated there is also a sign on the building.

Sean asked if any of those things will trigger a site plan. Mr. Horan said no.

Doug said he should submit a plan for the sign and follow the code.

Sean said as long as he doesn't make any changes he doesn't have to come back.

Rob asked if he was going to do anything in the building. The applicant said the building is in great shape. He will have the work done on the fire suppression system.

Sean asked if he planned to do anything with the parking lot. The applicant said yes and he knows that triggers a site plan. He stated he will do it as soon as it is financially feasible.

Sean asked if there is any action for the Board to take. Mr. Horan said there is no action to take. He needs to withdraw application at this time.

John Garito came forward and stated he knows this is not a Public Hearing but there is an assumption the applicant has parking spaces that he does not own. He stated he is the property owner of Key Bank. He said Key Bank is preparing an agreement. He said he wants to see him open the business but he owns the majority of the parking spaces and he is not going to hurt his business. If his tenant (Key Bank) says they don't want him there he is going to immediately revoke that agreement. He said he has to speak with the tenant. He is not going to lose his business.

Mr. Horan said that building built prior to zoning - the occupancy level is not driven by parking. As long as there is clear spaces for access and fire exits that is how the occupancy is determined. That is something the Fire Inspector will look at. He stated you can't limit the occupancy by the number of parking spaces.

Peter asked why is it in our code. Mr Horan said it is for new construction, not existing construction.

Bill Magee said you can park on Route 55 & Palmer Circle.

Sean told the applicant that he doesn't have to be here. Doug said that you have an existing approved site plan if not altered, doesn't need to be here. He said when you do come back try to make sure everything is done right and at the same time.

Sean asked if he will improve local people. The applicant stated he has already had applications.

Dan said for the record he would like to say this is not economic development corporation - this is a Planning Board. He agrees we want business here. There is not a single person in this room that does not want this business to be open including himself. He said he has significant concerns in regard to safety, pedestrians and vehicles for all the people who will be using this and he hopes the applicant will follow thru with an appropriate site plan to clean these issues up. He stated it is not okay the way it is.

#### **EXTENSION REQUESTS:**

1. Cecelia Loira-Marrero  
Accessory Apartment  
75 Martin Road  
Grid # 6659-00-608008  
Zone R-90

Sean made a motion to grant an extension to a date 90 days from today - November 7, 2019. Seconded by Peter. All in favor.  
Motion carried.

2. **Beekman Self Storage Expansion**  
2796 Route 55  
Grid # 6758-00-941778  
Zone C-2

Sean made a motion to grant an extension to November 5, 2019. Seconded by Bill. All in favor. Motion carried.

3. **31 Pleasant Ridge Road Subdivision**  
31 Pleasant Ridge Road  
Grid # 6858-00-105685  
Zone R-45

Sean made a motion to grant an extension to October 13, 2019. Seconded by Bill. All in favor. Motion carried.

4. **Tree Top Adventures (Barton Orchards)**  
Special Use Permit  
Beekman Poughquag Road  
6758-00-329577, 6758-00-365610, 6758-00-438672  
Zone R-45

Sean made a motion to grant an extension to November 16, 2019. Seconded by Bill. All in favor. Motion carried.

#### **ZONING:**

Proposed amendment to Ch 155 - Definition of Kennel

Dan stated the Town Board has asked the Planning Board to look at the definition of a kennel.

The existing definition of a kennel is:

A commercial operation that provides food and shelter and care of animals for purposes not primarily related to medical care or farming, for which compensation is provided.

The proposed definition would be:

Structures, runs, storage areas or other customary appurtenant and accessory buildings, structures or facilities used for the keeping of four or more dogs or three or more cats over five months of age for commercial or noncommercial purposes.

Bill said he disagrees with this. He said if you want five dogs you should be about to have them, it is your business. He said some farmers have dogs to manage their fields and it would be unfair to them.

Bill asked if you have 5 cats over 5 months in your house - what does that mean. Dan said i think that would be considered a kennel.

Bill said he is totally against that and you won't get his vote on that.

It was asked why this is happening. Dan stated the legislative intent as part of town board document ion is this local law is determined to be to protect the Public health safety and welfare of its residents After reviewing the definition of kennel The tb believes it is reasonable and appropriate and to amend the Town Code definition of kennel

Bill said if you have more than 5 dogs or cats are we going to issue them a summons or a ticket.

Sean said he doesn't know if that is the spirit of what it means. Is this if you are using it as a kennel or is this considering it a kennel.

Mr. Horan said that if you kept all your dogs in the house and didn't have any outdoor space for your dogs, you could have 100 dogs.

Bill said I think that needs to be defined better. He said if he is a hunter and he loves to hunt, he might have 7 hunting dogs and now he can't have them.

Mr. Horan said the other troubling thing is it has commercial and no commercial. The prior definition had just commercial.

Bill said if it is commercial only that is okay.

Mr. Horan asked if it changed where it is permitted. Dan said it isn't included in this.

Dan said it sounds like if you have them in your primary structure that would be okay.

Bill said what about a dog breeder who has a puppies for 6 months. How long do you keep a puppy. This limits to 5 months. People have hunting dogs and some he knows alpaca farmers who use dogs to round up animals.

It was asked if there an exemption for farmers. Mr. Horan said the prior definition had an exemption for farms.

C2 and C3 are the only places you can have kennels. Rob said if you are in another zone and you have 5 dogs now you are classified as a kennel.

Rob said he is against it.

Bill is against it.

Sean is against - he said it needs to be tweaked.

Rob said he thinks it is in violation of farm laws.

Dan said there is a section of the code - Keeping of animals

Mr.Horan said this is in conflict with keeping of animals 155.34.

The Board asked for a letter to be sent to Town Board.

Sean made a motion to close the meeting. Seconded by Rob. All in favor. Motion carried.

**Meeting Adjourned**

**Respectfully submitted**

**Selene Haile  
Secretary**