

TOWN OF WAYNE PLANNING BOARD

February 14, 2022

The regular meeting of the Planning Board was called to order at 7:00 pm.

In attendance: Rhett & Theresa Nelson, Shona & Tom Freeman, Kerry Simmons, Lula Martin, Brandon Larson, David Wilkins, George and Deb Lawson, Jennette Wilkins, Trish Gorman, Kim Middaugh attn. for R. Nelson, Gary A Beers, Marko Radivoyevitch, James Duncan, Jennifer Duncan, Eric R. mIller Robert and Jo Ann Cole, Brittany, Melany Leile, Craig Aurgah Nelson, Jeff Sobkowski, Lori Foster, Dave Harmon, Roberta and Phil Harris.

	Present	Absent	Late
Roll Call			
Stan Witkowski	X	—	—
Nancy Gabel	X	—	—
Donna Sue Kerrick	X	—	—
Chris Mooney	X	—	—
Shonna Freeman	X	—	—
Scott Hendershott	X	—	—
Don Robbins, alt	X	—	—

MINUTES:

Mr. Mooney made a motion to accept the minutes of January 10, 2021 meeting. Ms. Kerrick seconded the motion. Motion approved.

AGENDA REVIEW

No changes to agenda

NEW BUSINESS:

Site review of Tom and Shona Freeman's proposed lot development to create a farm winery and cheese shop. This is an allowed use in the Corridor District. Steuben County has reviewed the site plan and approved with a comment: Ensure all DOT permissions and procedures are followed. Make sure they sign off on any ingress/egress from the site onto routes 230 & 54. Hunt Engineering conducted the traffic study and NYDOT has approved the driveway location off 230.

Public Comments Opened:

Mr. Wilkins asked if there would be access from St. Rt. 54? No, DOT approved driveway access from 230 bypass.

Many neighbors expressed concern about traffic flow, turning, and increased car traffic being generated by a business in that location. Mr. Witkowski pointed out that both roads are NY State roadways and NYDOT has jurisdiction over these roads, not the Town of Wayne. NYDOT had issued permits for the driveway on 230.

Mr. Lawson expressed concern over the proposed 30 parking spaces, turning safety, and traffic flow being impeded and affecting business further up 230 in the Town of Wayne.

Mr. Hendershot asked if the NYDOT was aware of the proposed use for the land when they issued the permit. Mr. Witkowski reiterated, there is a valid permit issued. Mr. Freeman commented that it took 8 months to obtain permit. Hunt Engineering did the traffic study and it was approved.

Ms. Gorman expressed concern about the whole area with the development of the distillery and the cheese shop.

Public Comments were closed.

Mr. Witkowski stated this was a Type II action SEQR will be waived. Board Discussion began. Ms. Kerrick suggested tabling the project until the Planning Board is satisfied DOT knew of business use when issuing the permit. Mr. Witkowski asked is it fair to hold the project up another month if the applicant can provide proof of DOT approval for business quickly. Mr. Hendershott indicated he felt the Planning Board needed this information as a matter of due diligence. Ms Kerrick suggested conditional approval based on a satisfactory response from DOT.

Mr. Hendershott made a motion to approve the site plan with conditions that evidence is provided that DOT was aware of the proposed use for the lot at the time they issued the driveway permit. Ms. Gable seconded the motion. Motion approved unanimously.

Site Plan Review Marko Radivoyevitch Plan calls for building a home and agricultural building on a 14 acre parcel that is currently an active vineyard. The site abuts the Town of Urbana, Steuben County reviewed the application and did not express any concerns.

Public Comment Opened.

James Dunkin, a neighbor inquired about building placement. He reviewed the drawings at the meeting and was satisfied.

Public Comments Closed.

The Board continued deliberation:

- No viewshed issues
- Type II, no SEQR
- No traffic issues,
- Application is complete
- Agricultural use will continue

Mr. Witkowski made a motion to approve the site plan as presented. Ms. Kerrick seconded the motions. Motion was unanimously approved.

Site Plan Review Rhett Nelson Continued review of the tiny home/RV, project. Kim Middaugh, Nelson's attorney was representing Mr. Nelson. Mr. Witkowski reminded the board that the project was started and built without permits and this illegal action allows the planning board greater latitude when considering the project. NY DOT also has concerns and violation letters are on file. The project was sent to Steuben County as it abuts a state road and the county has also expressed concerns:

County review has revealed significant inter-community or county-wide issues. These considerations include: Building on a steep slope without a permit. Dirt obstructing the DOT ROW on Route 54 Therefore, it is recommended that: The proposal be **approved**, subject to the following **modification(s) or condition(s)**:

1. a steep slope permit must be obtained by the applicant
2. the applicant must remove any obstruction to the ROW immediately

As the Board has had this case for quite some time, Public Comments were opened immediately.

Trish Gorman ask a question as to what is this structure and the issues? The project was explained.

Ms. Middaugh confirmed that the board received the materials sent including an engineering report that indicated no erosion concerns in the opinion of Mr. Nelson's engineer.

Ms. Middaugh presented a new survey that marks the boundary for St RT. 54 in a different location than previous maps supplied with the project.

Mr. Hendershott asked for topographic information on the site. Mr. Nelson produced a map it did not provide the needed information.

Mr. Witkowski read the county review response and brought up the NY DOT violations letters. Mr. Nelson said he had the DOT letters and thought he could handle the issues on the phone.

Public Comments Closed.

Board deliberation commenced. The concerns identified are:

- Construction on a steep slope
- Construction without permits
- Is structure/RV in buildable portion of the lot?
- Construction without site plan review before which could have prevented many issues.
- Therefore the board is at a disadvantage as now the project has been presented to the board as a fait accompli to force approval.

Mr. Nelson acknowledge he built without permits and that he had just planned to pay any fines.

Mr. Witkowski stated that the deck is clearly in the ravine as are supports for the trailer base. A steep slope permit is needed. He read the guidance for NY State on steep slope development. **(need citation of what was read)**

Mr. Witkowski also expressed concerns about future erosion and flooding in the ravine.

Mr. Nelson refuted any concerns about high water in the ravine.

Ms. Middaugh asked for more time to respond to the planning board's concerns. Mr. Witkowski directed her to work closely with Mr. Harrop, Town Code Officer, to see if there are any issues that can be resolved.

Mr. Hendershott asked about the 2nd RV on the Lot – only one RV is allowed on a parcel. The board was assured the old RV would be removed.

Ms. Gable made a motion to table the matter. Mr. Witkowski seconded. The motion passed unanimously.

Old Business

Discussion

Several town residents brought up seeking to create a noise ordinance for the Town of Wayne. Currently none exists. Mr. Witkowski indicated that the Planning board has advocated for noise ordinance for 15 years. He went on to explain the process for crafting and adopting ordinances in the town. He directed the concerned citizens to research other noise laws in the area. Enforceability is always a concern. This would be a town law. Ms. Freeman will move the issue to the attention of the town board. The Planning Board will then be directed to make a recommendation to the Town Board.

Ms. Gabel made a motion to adjourn. Mr. Mooney seconded and the meeting adjourned at 9:05 PM.

Respectfully Submitted,

Amy Gush
Board Secretary