

TOWN OF SARATOGA
PLANNING BOARD DRAFT MEETING MINUTES*
April 26, 2023

Chairman Ian Murray called the meeting to order at 7:00 p.m.

Planning Clerk Linda McCabe called the roll: Chairman Ian Murray – present, Laurie Griffen – absent, Joseph Lewandowski – absent, Christopher Koval - present, George Olsen - absent, Walter Borisenok – present, Patrick Hanehan – absent, Robert McConnell – present.

Due to the absence of several Board members, Alternate Walter Borisenok was elevated to full voting status.

Also attending: Attorney Jackie White, Kevin Harrington, Craig Dempsey, Attorney Jesse Schwartz, Hubert Miller, Maribeth Macica, Russell & Lauren Kirkwood, Paul & Jan Murphy, Maxine Lautenberg, Jeff Mancini, Tom Yannios, Wendy Liberatore, Attorney Libby Coreno, Tonya Yasenchak, Nathan Hover, Larry Farrelly, John McSwieney, Attorney Jerry Meehan, Erin Sisk, Remy Engerran, Alicia & Louis Farone. (Sign-in sheet is on file in the Clerk's office)

A motion was made by Chris Koval, seconded by Robert McConnell, to accept the meeting minutes of March 22, 2023 as written. Chairman Ian Murray – aye, Walter Borisenok – aye, Robert McConnell – aye, Christopher Koval – aye, Laurie Griffen – absent, George Olsen – absent, Joseph Lewandowski – absent, Patrick Hanehan – absent.

Carried 4 - 0

Approved

Chairman Ian Murray stated tonight is the third and final public hearing on the proposed Cedar Bluff Subdivision application.

Board Member Walter Borisenok recused himself from this application.

Public Hearing No. 3 for Cedar Bluff Subdivision

John Witt, Witt Construction #15-05

Cedar Bluff Subdivision

563 N. Broadway

Saratoga Springs, NY 12866

S/B/L 193.-1-17, 18,193.18-1-55 Lake District, Rural District II, Rural District

Location: Cedar Bluff Rd. (Co. Rd. 71)

Representative: Attorney Libby Coreno

480 Broadway Suite 250

Saratoga Springs, NY 12866

Returning Applicant seeks a 32 lot major subdivision.

Attorney Libby Coreno appeared before the Board, along with Jeff Mancini, to review the revisions of the subdivision plan and to answer any questions the Board may have. She stated she was before the Board to provide a brief update before the public hearing tonight. She said she wanted to advise the Board a revised plan, based upon the preliminary subdivision approval has been submitted and Jeff Mancini will review the changes. Since the preliminary approval there has been a Town Board approval that occurred several weeks ago at the Town Board meeting; they gave the allocation of the open space, pursuant to Lot 32, the condition that will need to be satisfied prior to final are deed covenants that need to be approved by the Town Attorney prior to sign off of the final approval. Additionally, SWPPP has been submitted for review and they're awaiting final comments on that as well as the county sewer district plans

have been submitted and discussions are ongoing, and they expect final comments fairly soon. She then asked Jeff Mancini to speak with the Board.

Jeff Mancini reviewed the changes of the cul de sac with the Board; they removed 400' and made it smaller. He pointed out on Map 1 the private drive that accesses Lots 10, 11 and 12 and pointed out the private road that accesses Lots 16 – 20, (Attorney Libby Coreno stated Lot 16 is optional) and the stormwater down lower. Those are really the only changes. He then reviewed Map 2, the orange lines are where the surveyor is working on final plats, showed all the easements that go with the subdivision private road, the walking trail, private road for 16 – 20, the stormwater easement area, the sanitary easement along Cedar Bluff Rd., sanitary easement to Rt. 9P, stormwater is being worked on, comments from the County should be forthcoming, comments from the highway should be coming fairly soon. He pointed out the zones of steep slopes that they'd previously talked about. Those lines will adjust by minute feet when the surveyor goes out. Those lines were based on contour lines of zones A, B and C. Depending on how big the trees are, will determine where the line falls when it is surveyed and that survey has been scheduled. Center line of road will be staked out, he'll get with code enforcement for tree delineation.

Attorney Libby Coreno asked if there were any questions.

Chairman Ian Murray asked what the turn-around was for on Lot 19.

Jeff Mancini responded it's the 500' pull-off required by Town Code and then at the end there's the hammerhead turn-around.

Chairman Ian Murray asked Jeff Mancini to increase the size a bit of that hammerhead, make it a bit larger. He then said on the lot statistics – the lot sizes were updated, but not the frontage of those lots; please adjust those as well.

Jeff Mancini responded they'll get those minor adjustments done. He then added the frontage for Lot 11 is on Hill Rd. with no driveway from that road.

Chairman Ian Murray stated the Board established the no build line at an elevation of 390, and questioned if they've corrected that on the map as they previously had 380.

Jeff Mancini responded yes, it's been changed.

Chairman Ian Murray and Town Engineer Ken Martin with the gradient plan couldn't follow the grading and how the draining is going to work around the cul de sac. Please show the drainage on it.

Chairman Ian Murray then spoke on the easements for the shared driveways; language is needed for those.

Attorney Libby Coreno stated she'll run that by Counsel, as well as the Chairman prior to approval.

Chairman Ian Murray asked if there were further questions; there were none at this time.

Proof of Notice having been furnished by newspaper on April 16, 2023, Chairman Ian Murray opened the Public Hearing at 7:15 p.m., asking those wishing to speak to the Board to please stand at the podium, state their name and address. The following persons addressed the Board with their comments and/or concerns of the proposed subdivision before the Board:

Lauren Kirkwood spoke in opposition of the subdivision and her water concerns.

Paul Murphy questioned hours of operation and was told there are Town regulations for sound decibels.

Hubert Miller submitted handouts to Board members and spoke of his opposition of this subdivision, although he appreciates what the Board has done, especially with water and preserving the cul de sac. He disagrees with Board interpretation of Town law and added members of the public have not had opportunity to comment on plan uses that have been defined for the first time.

Chairman Ian Murray responded they see it differently. First of all, it's not a Town law. He thanked him for his comments and stated this has been ongoing for 8 – 9 years. He said Mr. Miller had time and there have been many times, that he commented on the tree clearing, tree removal, etcetera. This hasn't been sprung upon anyone, it wasn't sprung upon this Board at preliminary plat. The Board has dealt with this tree clearing issue for years.

Hubert Miller disagreed.

Chairman Ian Murray stated he respectfully disagrees with him as well. He added the Board has vetted this numerous times; the Board has vetted everything. Someone stated the applicant wanted to clear cut this, which wasn't the case at all. But it stands for something that the people Mr. Miller is associated with, they don't want anything at all. The Planning Board had to work on this and come up with a plan. The Board came up with a sustainable forestry plan where there's no disturbance of the soil or anything else in there. There is no erosion. If you go back to NYS DEC and look at the SPEDES Permit concerning disturbance and construction activity, it explains it right in there. You walk in with a chainsaw, do a bit of clearing, some thinning, it's all spelled out, and you walk back out with the chainsaw. There's no soil removal, no stump removal, no equipment or anything else. No disturbance.

Marybeth Macica spoke in opposition of this subdivision and is concerned with traffic and questioned how will people get from Co. Rt. 71 to their homes. She also said she opposes an agri-business/agri-tourism being on the forever wild area.

Teri Korb spoke in opposition of the walking path.

Jeff Mancini and Chairman Ian Murray showed her and Tom Yannios the footpath; it's a 20' wide easement with a 5' footpath within that easement.

She then wanted it confirmed there will be no construction vehicles on Hill Rd. for this subdivision.

Chairman Ian Murray responded that is correct, it's a footpath.

Jan Murphy questioned if the footpath and road would belong to the Town.

Chairman Ian Murray responded yes. The right-of-way is from the center line of the road and the easement is 20' wide, with a 5' footpath inside that 20'.

Jan Murphy questioned if there will be vehicles on that - any snowplows or motorized vehicles?

Chairman Ian Murray responded it is a footpath, a walking path; no vehicles or snowplows allowed.

Tom Yannios spoke against this subdivision and his concerns of steep slopes zones on the map, tree canopies and Lots 9 – 11 and said he assumes there's a steep slope clearing plan.

Chairman Ian Murray replied yes, it's in the preliminary approval; it was read into the resolution for the preliminary plat approval.

Tom Yannios went through the plan and said that's considered no disturbance; he then walked away, came back and slammed down a 50 lb bag of dirt on the new floor of the Schuyler Room, went through what he believes will occur over the next ten years, saying it counts as disturbance in his mind.

Chairman Ian Murray responded Mr. Yannios, you can take that up in court. The plan is what the Board came up with and if he looked up construction activity under NYS DEC SPEDES guidelines, there is no disturbance because there's no activity there and it doesn't have to be calculated in stormwater.

Tom Yannios then yelled it counts as disturbance.

Chairman Ian Murray said there was an article in the Times Union on 3/12/2023, he held up a photo of 41 Hill Rd., and asked Mr. Yannios if there was any erosion on that property? None of you mentioned this to the Board. Or is erosion only happening on the new Cedar Bluff proposed subdivision? He then asked about the Saratoga Lake Association (SLA) Board member, shown in a photo with Mr. Miller and other members, about the erosion of her property and asked is there no erosion there? SLA has been updating the lake residents about erosion control on the Cedar Bluff proposed subdivision for quite a while, but we haven't heard anything about the erosion of 41 Hill Rd. and we aren't to say anything about the erosion and violations or other areas around the lake?

Mr. Yannios said that's a bogus argument.

Maxine Lautenberg said she heard that the National Parks did a 12 year nationwide study on imminent destruction of National Parks' forests. Major things in that study were deer and invasive species. The thing about the deer and reforestation of the canopy, was all about the canopy and the saplings being the most important. She knows there are certain guidelines which she hasn't read, as to tree size and all that, so she thinks the study is relevant here, especially if you want those trees and vegetation to continue to replenish itself, especially with that periodic thinning, etcetera. And again, with the enforcement of the codes and policing of it, she believes this is very important and she knows that she's said things like this before but she thinks the study is apropos with this.

Chairman Ian Murray responded absolutely and he totally understands. He said he's had a little bit of experience with this in his business and when you open –

Maxine Lautenberg interrupted with raised voice, said I know you do, I know you do Ian and you do not need to give me that attitude.

Chairman Ian Murray responded I didn't, I'm just trying –

Again, she interrupted him, yelled No, you just said you have a little experience in this. I'm so sick and tired of people telling me, when I offer something, that they have experience and they've got it under control.

Chairman Ian Murray responded all he was trying to say is that when you open that up, the understory comes alive. There will be plenty of plant material that will be growing and thriving –

Again, she interrupted him, saying as long as other things haven't been cut the smaller trees have a chance.

Chairman Ian Murray replied if you look at the plan, it's all about the trees and -

Again, she interrupted saying she knows, she prefaced that saying she hadn't looked at the plan in the last 48 hours.

Chairman Ian Murray continued saying the Board took that into consideration and -

She interrupted him by saying I know you did Ian, she hit the podium saying oh my God and walked away.

Chairman Ian Murray asked if anyone further wished to speak; seeing none, **Chairman Ian Murray closed the Public Hearing at 7:46 p.m.** He asked if any Board member had any questions; there were none. He then thanked everyone for their comments. The Board heard all who wished to be heard.

Returning

Public Hearing for Special Use Permit

Nathan Hover #23-01	Representative: Tonya Yasenchak, Engineering America Co.
NLH Properties Management Services	76 Washington St.
250 Excelsior Ave.	Saratoga Springs, NY 12866
Saratoga Springs, NY 12866	
Location: 677 Rt. 29 Rural Residential	
Saratoga Springs, NY 12866	
S/B/L 154.-1-14.1 Rural Residential	

Returning Applicant seeks a Special Use Permit for Mixed Uses for 677 Rt. 29. The property has two existing residences and he'd also like a professional office, workshop and horse farm.

Tonya Yasenchak, Engineering America Co., appeared before the Board on behalf of the Applicant and reviewed all they went over at the last meeting. They want to keep all driveways and they understand the concerns of the wells which will be addressed.

Chairman Ian Murray stated he and Board member Walt Borisenok walked the property last Friday and spoke of different ideas with the Applicant. He had Walt take the lead as he knows what's needed for horses.

Walt Borisenok stated on the map it shows the 'driveway' loops toward the shed. That's not really a driveway. It's more a sidewalk; that doesn't connect it to the other driveway. So, if you take a look at the elevation of this property, for lack of a better description, it's like looking at an open basement. The front is level and the property dramatically slopes down behind. Basically, the only way to load and unload horses in a safe manner, would be to use that center loop (which

he believes it was designed for) which passes in front of the open end of the horse barn; then the trailer goes right back out. There's no way to access the horse barn safely due to the elevations, with a truck and trailer from down below. Meaning, if you wanted to come in from that eastern driveway, come around to the back, you just can't do it. So, he supports leaving that front loop that crosses in front of that driveway. The other driveway primarily cuts to the back of the property. It's hard to tell the elevations by the map.

Tonya Yasenchak said they're willing to have ingress on the east driveway.

Chairman Ian Murray stated he knows they talked about having a gate put there, but he doesn't want one there for safety reasons, especially in order to have access and clearance off of Rt. 29, if you needed to get off or out quickly. He'd like that kept open with no gate. He said they also looked at the location of the barn and the parking that was proposed. They had discussions on that and they had information from one of the neighbors with questions and concerns, prior to the public hearing, after the last meeting. They had a discussion with Nate about that and talked about possibly flipping the barn and parking over to the property line so that noise, light and everything else was deflected away toward the east instead of the west and the Applicant seemed in favor of that.

Tonya Yasenchak said yes, they had a discussion about that and whatever he wants is fine. It works with their setbacks and they are able to keep it away from the stream. Even though it's not on a map as a DEC stream, there's a stream. Although regulations say to stay away 50' from the stream, they will stay away 100'. Same thing when they go to build and move the workshop over, they will keep required distance of wells.

Chairman Ian Murray said they discussed the trailer, about it being replaced with a new trailer and in relation to that, are the wells and sanitary. Both for the house and trailer. Nate has no idea where that's located on the property, so per multiple use law, you are allowed two residences on the property. He can do it, but he has to meet setback requirements, new sanitary, new well, to make anything work. Ideally, it'd be better suited off the roadway, in the back part of the property.

Tonya Yasenchak responded sure, they can just show that being removed and they understand even under NYS building code anything new must meet code.

Chairman Ian Murray stated that's all he had.

Walt Borisenok said they have the well, turning the building around, new septic, basically the driveway situation is resolved along with parking, he thinks that's it.

Chairman Ian Murray asked if there were any Board questions; there were none.

Proof of Notice having been furnished by newspaper on April 16, 2023, Chairman Ian Murray opened the Public Hearing at 7:58 p.m., asking those wishing to speak to the Board to please stand at the podium, state their name and address. The following persons addressed the Board with their comments and/or concerns:

Larry Farrelly has concerns with ground water protection, other than that, he supports this.

Rita Connolly questioned the Applicant's type of business and has concerns of semitrucks going in and out from Rt. 29. She's always hearing the loud braking of those trucks going down 29 and doesn't want it across the road from her.

Chairman Ian Murray stated it's a property maintenance company that works off-site. He sends employees out to maintain others properties. No large deliveries to the site and cars and pick-up trucks come in; larger trucks will bring in feed etcetera, but that's all. There will be 4 office workers, no retail on site, just vehicles of staff.

Chairman Ian Murray asked if anyone further would like to speak; seeing none, **Chairman Ian Murray closed the Public Hearing at 8:03 p.m.** He asked if Board members had any further questions; there were none. He then stated the Board will vote next month on this, once the requested updates have been received.

Returning

Special Use Permit Pre-submission Conference

Kevin Harrington #23-03
165 Co. Rt. 64
Cambridge, NY 12816
S/B/L 183.-1-9.13 Rural
Location: 111 Haas Rd.

Owner: Thomas & Allison Gullo
16 Kempton Place
Saratoga Springs, NY 12866

Applicant seeks a second residence on their property for in-laws.

Kevin Harrington, KW Builders, appeared on behalf of the Applicants. He stated the Applicants purchased 111 Haas Rd. and would like to build a 26' x 50' two bedroom in-law apartment on the property.

Chairman Ian Murray asked the Applicant to show him the preferred location on the submittal, which he did. Chairman Ian Murray and Town Engineer Ken Martin reviewed this, stated setbacks can be achieved and told him be sure to meet the septic and sanitary distances as well as front and side setbacks for the building. Chairman Ian Murray then stated we'll publish for a public hearing for next month as long as the Applicant submits all required of him.

Applicant Kevin Harrington questioned if he need do anything more and Chairman Ian Murray responded he'd have to send out Neighbor Notifications and to contact the Clerk to get the list of names and directions to send those out, adding they must be certified letters.

Returning

Craig & Corey Dempsey #23-04
727 Rt. 29
Saratoga Springs, NY 12866
S/B/L 155.-1-63.2 Rural Residential

Applicant seeks guidance on opening a restaurant in addition to events as currently permitted in previous case #16-12.

Applicant Craig Dempsey appeared before the Board, submitted photos to the Board members and stated the business is for his family and he has complied with the original permit that was issued for that property. He believes he and his family have done their due diligence. Prior to purchase he questioned the Zoning Officer if his business was allowable and was told yes, as long as he stayed within the parameters of the original permit of 80 persons. The prior owner drove the need for the permit, as it was to help her off-set finances for what she wanted to do, hosting weddings May – October. Looking at those minutes, her parking and number of

attendees was far beyond the permit which created this issue with the neighbors. The business model she had did not work for her, but does work for them. He said their original vision was to have a café and/or restaurant and tasting room for brews. He then asked for clarification from the Board on what is farm-to-table, it sounds ambiguous. Restaurant in the town code states ‘A building, or portion thereof, where food and beverages, whether or not alcoholic, are sold to the public for consumption on the premises.’ If they change the notice of action to operate a restaurant, they’d be happy to work within those limits. Impacts would be the same as 2016, essentially, they’d operate as such. They’ll have food prepared off-site and brought in to serve the public. Sweet Lou’s is similar to what they’d like. His son works there; they’d need permit that would allow that. He said they’re putting an addition on the barn for the bathrooms and would have a small kitchen, get a NYSDOH license and a catering license. They’ll have guest chefs to come on-site as well. Ambiguity seems to be no definition for what they were doing.

Chairman Ian Murray questioned how many times a week they’d be open.

Mr. Dempsey responded 3 – 4 nights weekly and a couple of events. They need urgent action as they’ve lost all 2023 clients. If they have any hope of events in 2024 they have to begin reservations. When he read the special use permit laws, restaurants were listed; it gives the Planning Board leeway. Planning Board is the right authority for this and they’d like to get in agreement, if possible, to go forward. Acoustic measurements were taken on the property with speakers at full blast. Mr. Albert conducted the decibel experiment with Town Board members from the tree line, and sound levels were well below Town’s limit. He did more testing at other locations on the property as well. Source of sound at the doors of the barn measured less than allowed. Parking and sound were adjudicated in 2016. The Wooley Rd. addition helps with additional parking. His business is being destroyed daily. All 2023 patrons cancelled and were punished for no reason. He’s trying to accelerate his plan for a restaurant and tasting room. Farm-to-table events cover what they’d like and he asked what else does he need do, that hasn’t been done, to ask for Board approval?

Chairman Ian Murray responded it is allowable. You can apply for a special use permit. You have the parking plan proposed, Stone looked into existing septic and said its in good shape. He said Mr. Dempsey can go forward with the application. He asked Zoning Officer Gil Albert and the ZBA to define ‘restaurant events’ to the Planning Board.

Attorney Jackie White questioned that the Board wants the Zoning Officer to weigh in on restaurant or events?

Chairman Ian Murray clarified he wants definition of events and how that is associated with restaurants. Restaurants hold events many times a year.

Mr. Dempsey stated this business plan is viable, but hasn’t helped to be shut down. The good will has been damaged and he asked Attorney Jackie White if restaurants can have private parties.

Attorney Jackie White didn’t respond but recommend the Board not define restaurants; let the Zoning Officer make that decision.

Mr. Dempsey stated as restaurant definition is exactly what they want to do, he questioned if anything prohibits dancing at a restaurant.

Christopher Koval said they shouldn't be talking about what was done, let's go forward with a new permit.

Mr. Dempsey responded the things the Board wanted have been done; is there anything else needed? This'll be a small restaurant, food brought in off-site and in future, will be done on-site.

Attorney Jackie White said Board is not to render a definition; wait for the definition from the Zoning Officer.

Returning

Old Business: None

New Business: None

A motion was made by Walter Borisenok, seconded by Robert McConnell to adjourn the meeting at 8:27 p.m. Chairman Ian Murray – aye, Walter Borisenok – aye, Robert McConnell – aye, Christopher Koval – aye, Laurie Griffen – absent, George Olsen – absent, Joseph Lewandowski – absent, Patrick Hanehan – absent.

Carried 4 - 0

Meeting Adjourned

The next regular meeting will be held Wednesday, May 24, 2023 at 7:00 p.m.

*All submittals must be to the Clerk **no later than 8:45 a.m., May10, 2023 to be on the May agenda.***

Respectfully submitted,

Linda A. McCabe
Planning Clerk