

**Town of Phelps
Planning Board
Minutes**

October 27, 2011

MEMBERS PRESENT

Ron Allen, Chairman, Steve McCarrick, Kenny Sontheim,
Dan Hurdle, Ed Clark, Zoning Officer

Absent: Grace Carlson, Alternate, Collette Barnard

CALL TO ORDER

Chairman Ron Allen called the meeting of the Planning Board to order at 7:00 p.m. at the Phelps Town Courthouse.

The Pledge of Allegiance was said by all.

Introductions were made.

MINUTES

The minutes from September 22, 2011 were considered. One correction was noted. Mr. Sontheim made a motion to accept the minutes with the correction. Mr. Hurdle seconded. The motion carried. Mr. Allen abstained.

**APPLICATION PERMIT
#1021-11 FOR SUSAN
PARSONS**

Application 1021-11: Area variance for Susan Parsons 2093 Route 488, Clifton Springs, NY for the purpose of obtaining a kennel permit.

The variance is for 80 feet on the South lot line and 75 feet on the North lot line to the next existing structures. Mr. Sontheim asked if the neighbors were happy with this request. Per the owner, the Orlanders do not have any issues. The other property is currently vacant. Mr. Hurdle visited the property and said the dogs were quiet and he didn't feel they could be heard by the other property owners. Mr. Hurdle didn't have any issue with these types of dogs. He also commented that Ag and Markets no longer require any registration with them. Mr. Hurdle spoke with the Humane Society to confirm this. Owner is compliant with all necessary paperwork/registrations and licenses. Mr. Hurdle did say it was 4 months of age instead of the 6 months of age when the dogs need to be licensed, according to the Ontario County Humane Society Director. The applicant should check this out with proper authorities.

Mr. Allen asked if the area variance had been reviewed last week by the Zoning Board meeting. The kennel permit application was reviewed and it was determined at that point that the area variance would be required.

Mr. Hurdle made a motion to accept the area variance for Susan Parsons with 220 feet to the nearest residence with the condition that the dog run has been moved behind the home and the breed would be the smaller breed dog (with the exception of the family pet). Also there would be no more than 15 adult dogs at the kennel at one

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time. Mr. McCarrick seconded the motion. The motion carried unanimously.

APPLICATION PERMIT
#KP7-11 FOR SUSAN
PARSONS

Application: KP 7-111 Susan Parsons for a kennel permit. Mr. Hurdle asked if the board action on the kennel permit and the on premise business permit could be combined. Mr. Clark said that would be fine, but we were waiting on Zoning Board to approve the special use kennel permit.

Mr. Hurdle made a motion recommending the Zoning Board accept the application for special use kennel permit based on the findings:

- 1) No more than 15 dogs shall be housed here
- 2) Small dog breed such as the Shih Tzu
- 3) The dog run be moved South behind the home

Mr. Sontheim seconded the motion. The motion carried unanimously.

APPLICATION PERMIT
#OP1027-11 FOR SUSAN
PARSONS

Application: OP1027-11 Susan Parsons for an on premise business permit.

Mr. Allen made a motion to accept the application with the following findings:

- 1) No more than 15 dogs shall be housed here
- 2) Small dog breed such as the Shih Tzu
- 3) The dog run be moved South behind the home
- 4) Special use permit approval by the Zoning Board

Mr. Hurdle seconded the motion. The motion carried unanimously.

APPLICATION PERMIT
#SD1014-11 FOR DALE
HEMMINGER

Application: SD1014-11 Dale Hemminger, PO Box 198, Seneca Castle, NY 14547 to subdivide 23.6 acre parcel with existing barns from the parent parcel of 104 +/- acres. Project located on the East side of Toll Road about 1403 feet South of Griffith Rd.

Dave Clark was present to discuss and review site maps. All requirements are met with appropriate setbacks. The two to one rule can be waved. Mr. Allen asked if there were any questions. Mr. Sontheim asked why it is a proposed easement not an easement. Mr. D. Clark explained that the easement can't be granted until the deed has been filed. It is not currently an existing easement. There were no further questions. Public hearing was opened at 7:25 p.m. Public hearing was closed at 7:26 p.m.

Mr. Sontheim made a motion to accept application SD1014-11 (as stated above). SEQR Type 2 action not subject to further review per SEQR 617.5 (17) and (26), which reads as follows:

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- (17) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns; and
- (26) license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities.

Applicant has met the requirements in Chapter 123 of the Town code. The map dated 10/12/11 will be used. Mr. McCarrick seconded the motion. The motion carried unanimously.

APPLICATION PERMIT
#SD1015-11 FOR
THOMAS OAKS

Application SD1015-11 for Thomas Oaks to subdivide parent parcel into 2 parcels. Convey and annex westerly parcel to lands of Thomas Oaks. Annex easterly parcel to other lands of Charles Oaks having frontage on Carter Road.

Dave Clark was present and reviewed site maps. Mr. Oaks was present as well. 3 parcels will be moved into the 2 parcels. A will go with the existing Thomas Oaks property with B and C being combined. Mr. McCarrick asked what the right away behind the barn was for. Mr. D. Clark explained and said it could stay "as is" going forward. Mr. Allen asked for any questions. There were none.

Public hearing was opened at 7:32 p.m.
Public hearing was closed at 7:33 p.m.

Mr. Sontheim made a motion to accept application SD1015-11 (as stated above).

SEQR Type 2 action not subject to further review per SEQR 617.5 (17) and (26), which reads as follows:

- (17) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns; and
- (26) license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities.

Applicant has met the requirements in Chapter 123 of the Town code. The map dated 8/26/11 will be used. Mr. Hurdle seconded the motion. The motion carried unanimously.

APPLICATION PERMIT
#SD081511 FOR LINDA
POLLOT

Application SD081511 for Linda Pollot 1116 Co. Rd #23, Phelps, NY. Subdivide mother's estate. 1 acre to go with the mother's house and the remainder to be divided equally between siblings.

Ms. Pollot was present. This was reviewed last month. The public hearing was delayed last month due to the maps not being given to the Zoning Officer. All is in order now. There were no questions.

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Public hearing was opened at 7:37 p.m.
Public hearing was closed at 7:38 p.m.

Motion made by Mr. Hurdle to accept the application (as stated above). It is a simple subdivision that meets the code requirements set forth by the town. SEQR Type 2 action not subject to further review per SEQR 617.5 (17) and (26), which reads as follows:

- (17) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns; and
- (26) license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities.

Maps dated 8/12/11. Mr. McCarrick seconded the motion. The motion carried unanimously.

APPLICATION PERMIT
#SD0915-11 FOR
RICHARD AND EDITH
SINACK

Application SD0915-11: Syracuse Sand and Gravel, 979 Lake Rd, Phelps, NY to subdivide lands of Richard L. Sinack and Edith S. Sinack into 3 lots as shown on map.

Mr. Sontheim stated that he lives across from the existing mining operation operated by Syracuse Sand and Gravel. He believes he can act on this application without prejudice but wanted to make sure the board was in agreement with this. They were. The attorney for this application was present and had no issue with Mr. Sontheim participating in this decision. There were no issues after last month's review of this application.

Public hearing opened at 7:43 p.m.
Public hearing closed at 7:44 p.m.

Mr. Sontheim recommended this application for approval as a SEQR Type 2 action not subject to further review per SEQR 617.5 (17) and (26), which reads as follows:

- (17) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns; and
- (26) license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities.

This application meets all requirements set forth by the Town Code chapter 123. Mr. Hurdle seconded the motion. The motion carried unanimously.

APPLICATION PERMIT
#0916-11 FOR
LAWRENCE
CONSTRUCTION

Application 0916-11 for Lawrence Construction, 430 East St, Canandaigua, NY 14424 to demolish existing house and barn and construct a 8,000 square foot Family Dollar store and associated parking, storm water management area, and utilities upon a 4.619 acre parcel of land (created by subdivision) situated

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in the Village and Town of Phelps.

Mr. McCarrick asked why the combined meeting (County, Village and Town) had been cancelled. Mr. Clark stated he was unsure why the Village Board had cancelled their October meeting, but knew that the County Board had tried to schedule a combined meeting at 3:30 p.m. Mr. Clark was adamant about having an evening meeting so all necessary participants could attend. The question was asked why this is being held up. The answer seems to be that the Village Board is new and might not know what to do next.

Mr. Fremouw expressed his opinion of how the Town Planning/Zoning Board should try to help the Village Board so this can move forward. Mr. McCarrick felt as if the Village doesn't want this business to come into this property. There is feelings that these businesses are being chased away from Phelps.

Mr. Fremouw also wondered what the timeframe was for needing this to be done. Mr. Clark thinks that the developer was retaining a lawyer due to the delays.

Mr. Clark presented the final site plan and the SWPPP to the board to review. Mr. Allen commended the Village Board for inviting the Town Planning Board to the review meeting. He feels they have done a good job so far.

Findings:

- 1) Enough parking
- 2) Adequate handicapped parking
- 3) Access for trailers/trucks from Route 88
- 4) No issue with the storm water run off plan per SWPPP 10/11 that was presented.

Mr. Allen made a motion to accept the site plan dated 6/20/11 specifically the storm water pond (anything within the Town). Mr. Sontheim asked Mr. Allen to amend his motion by including the demolition of the existing barn at the same time as construction commences on the Family dollar store as a condition of the Town's approval. Mr. Allen concurred with this addition to his motion. The Town Planning Board would also like to review any changes. The Town also gives the Village the lead on the project. Preliminary site plan review was last month; final review is this month.

A letter will be sent to: Village Planning Board, Linda Nieskes, Ontario County Planning Board, Town of Phelps explaining the the Boards findings and recommendation.

Mr. McCarrick seconded the motions. The motion carried unanimously.

APPLICATION PERMIT

Application SP921-11 for Juan Benito 1940 Spafford Rd,

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#SP921-11 FOR JUAN
BENITO

Phelps, NY

No one was present regarding this application. No further information has been provided to the Zoning Officer.

Mr. Sontheim made a motion to table this application.
Mr. Allen seconded and the motion carried unanimously.

OPEN DISCUSSION

Mr. Sontheim discussed the public comments by Mr. John Oaks about improving public notice provisions for the Town. Mr. Sontheim would like to see improvement. He feels the applicant should notify the surrounding properties in reference to the application. This should be at the applicant's expense. Notifications should be for subdivisions, zoning reviews, site plan reviews and on site business requests.

New York State has mandated a 500 foot notification close to a State property. Mr. Sontheim feels this is a fair distance for the Town's notifications as well. Mr. Sontheim didn't feel 5 days was an adequate amount of time of the notification. He suggested 25 days but felt even 10 days was an improvement. There was also discussion about adding another public hearing to subdivision applications. Mr. Hurdle thought that would drastically slow the process. This was later agreed upon as not being advantageous.

Mr. Allen has seen other Townships use yard signs as notifications. Mr. Clark felt that if this was re-implemented that the fees should be increased. Mailing information to property owners was also discussed. Mr. Fremouw asked how the Town would be sure the applicant followed through with the notifications. The Town would provide a form which would need to be filled out and perhaps even notarized. This would include names and addresses of the adjacent property owners. Tax records could be used to verify who should be contacted. Mr. Fremouw thought that perhaps the Zoning Officer should be responsible for this. Most of the board agreed it was the applicants responsibility for this; not the Zoning Officer. Mr. Sontheim felt we had a responsibility to give them the form, but not actually do the mailings. The sign seemed to be the easiest and most cost effective method. There was some concern about the signs being returned after the application was approved/denied. There was discussion regarding charging a deposit for the sign.

Mr. Sontheim polled the board to see who actually receives the Finger Lakes Times. Only 50% currently receive it. This means that roughly 50% are actually getting the public hearing notices.

Mr. Sontheim made it clear he wasn't looking for approval or disapproval from the adjacent property owners; only notification. He likes the ideas of the signs, but would like to see something more formal down the road. Even with using the signs, the newspaper

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notification cannot be stopped.

Ms. Barnard was going to check on other township procedures for area variances. There was no update available as she was not present.

Mr. Hurdle made a motion that the recommendation for notifications about upcoming actions would be through posting signs (by Code Enforcement Officer) on the applicant's property. The Planning Board recommends that the Zoning Board also consider this. Mr. Allen will inform Supervisor Teed. Mr. McCarrick seconded the motion and the motion carried. Mr. Sontheim was opposed. He feels it should be in the code (or an addendum) and neighbor notifications would be more effective.

Mr. Clark will start testing the signs and Mr. Fremouw will talk with the Zoning Board.

AREA VARIANCE
DISCUSSION

Mr. Allen asked if the Zoning Board could put something together about area variances in front of the house. Mr. Fremouw stated the Zoning Board didn't want to remove the requirement all together. He does feel something should be in the codebook. Mr. McCarrick stated that the time to complete these variances are too long. Mr. Fremouw agreed but said that wouldn't change at this point. The Code Officer could also make recommendations on what would come to the board for review vs. everything coming to the board. Mr. Fremouw agreed he could draft something for the Planning Board to review and feedback.

Mr. Allen suggested a combined meeting to discuss some of the issues/changes that have been discussed lately. There was discussion of an updated codebook. The information was the same but the verbiage was different.

NEXT MEETING

November's meeting must be changed due to the Thanksgiving holiday. Mr. McCarrick made a motion to change the meeting to Monday November 21, 2011 at 7:00 p.m. Mr. Sontheim seconded the motion and the motion carried unanimously. A public notice will go in the Finger Lakes Times to announce the change in meeting date.

ADJOURN

Mr. Hurdle made a motion to adjourn. Mr. McCarrick seconded. The motion carried unanimously and the meeting was adjourned at 9:14 p.m.