

Town of Harpersfield

Planning Board

Minutes: **April 24, 2024**

Present: D. Darling, A. Gallagher and W. Keller.

Also present: L. Page, N. Brower, Robert McKertich, Adam Yagelski, A. Phillips, Robert Quierolo, Sean Murphy, Elizabeth DeFalco (The Reporter), Kaitlyn Gott, Gabby Leach, Kitty Ballard, Kathryn Demby, Laura Bertrand, Glenn Bertrand, Audy Heath, Paul Merwin, Christopher Kernan, Catherine Kernan, Patricia Kernan, David Cox, Dev Kernan, Karen Butler, Michael SanFilippo, Nanci SanFilippo, Jennice Chrisman, Robert Prush, Leslie Fatont, Mark Vamog, Vicky KLukkert (Daily Star) Alice Bly, Steven C. Sibburn LS, Carles or Carlos ?. Adam Yagelski, Ken Marschilok and Ken Marschilok.

Chairman D. Darling called the meeting to order at 7 p.m.. The public hearing for NYSafety, Mountaintop Airfield LLC will continue, however the planning board has a few other things to take care of first.

Minutes of the March 27, 2024 meeting were approved, with three corrections as noted, on a motion by W. Keller, with a second by A. Gallagher. Motion carried 4-0. W. Keller asked a correction to the four foot square ditches with gravel percolate less water and holds the water. Page three, the last paragraph should read Article 78 instead of article 74. The last page, second paragraph should read on Jan. 30, 2024, the planning board received information from the applicant, because the board needed clarity, which they did not have time to review prior to its meeting.

Kaitlyn Gott was present regarding the Damian Hill subdivision. She had a letter stating she was authorized to act on his behalf. She provided maps and the mail receipts, along with the application to change the map to the fenceline with Ed and Lana More.

W. Keller made a motion, with a second by A. Gallagher, to accept the revised map to complete the subdivision application. Motion carried 3-0. D. Darling signed the maps.

Steve Sibburn was present regarding the TOPCU subdivision, which had not been presented to the Delaware County Planning Board last month. The county had made a recommendation note that language be written into the deed regarding the driveway and its maintenance. Sibburn disagrees with the terms right of way instead of shared driveway. There is a 50-foot right of way over lot B to lot A that will show on the deed, with a total of 200 feet. Only a small portion will be shared and he provided his reasoning for not calling it a right of way. There will be a note on the map and an agreement between the two landowners regarding the shared portion of the driveway.

A. Gallagher made a motion to accept the subdivision map as presented with the conditions listed on the map. It was noted the county did respond and that is was solely advisory in nature. Motion carried 3-0. D. Darling then signed the maps.

Allissa Marschilok presented the initial sketch plan for a doggie day care/dog boarding facility on state Route 23 near the intersection of Wilcox Road. The address is 25101 State Hwy 23. Allissa and Kenneth Marschilok would like to renovate an existing shed on their property to serve as a boarding kennel. They will fence in the yard for the day care. It involves an existing facility so many of things on the site plan may not apply, but it will require a site plan and they can ask for waivers. The driveway enters off Wilcox Road. They need to provide a written statement they are using an existing structure, along with their hours of operation, type of fencing and its height and where it will be located, disposal of waste. They need to provide information on the traffic, size of the parking lot and lighting. They will provide a written narrative and they will go through the environmental assessment form with the

application. They will return next month to continue the sketch plan meeting and were advised to work their way through the site plan.

D. Darling then moved into the public hearing for NYSafety Track/ Mountaintop Airfield, by reading the public hearing notice published in the Daily Star.

Those speaking were asked to give their names before giving their comments which will be included with all the previous comments and written submissions.

The public hearing included comments on the new submissions from the applicant.

Gabby Leach said they do have a shooting range. She said the backstop is not big enough to keep bullets from going onto neighboring property. If they are selling guns and (he) does have a license to sell ammunition, he is required to have background checks and keep records. If he is selling ammo, she asks if he is getting the proper background checks.

The backstop is made of tires and is not appropriate.

Paul Merwin asked if there is a plan to provide EMS at the facility and will it increase if they do more. The NYS Department of Health requires an ambulance on scene to operate the track. He is a member of the Delaware County EMS Advisory Board and the EMS captain for the Davenport Fire Department. There has been nothing presented to them and no one has contacted him. He is wondering if they do have plans.

Robert Prush asked if anyone from the town has been able to get on site for a site visit. A. Phillips said there has been no site visit. He confirmed there is shooting at NYSafety Track.

Kitty Ballard said people can access their Facebook Page and look at the pictures they post to get a good idea of what takes place at the track.

Mark Vamog said they have scrubbed their Facebook page. All of the violations were there, but we can't see it.

Gabby Leach said they are on regular Facebook. They are taking listing dates to rent the whole track for private use. Just look at the calendar.

Kathryn Demby asked what was added to the site plan in January. A. Phillips said the planning board, in its careful review of Part II of SEQRA, informed the Applicant that its submissions lacked clarity. The Applicant had changed it numerous times. The Delaware County Planning Board recommended the applicant submit a complete plan and additional studies. The applicant resubmitted several documents. It is filed and available from the town clerk.

Robert Prush asked about a drag strip proposed near Sidney and if it violated any laws.

Kitty Ballard said there is rumor they are suing the town of Harpersfield. A. Phillips said the track has filed an Article 78 to compel the planning board to close the public hearing and make a determination on the application.

Mark Vamog asked what has been revised on the application.

A. Phillips said an amended application, a narrative, affidavits, and a prior noise study has been submitted by the applicant. Nothing has been withdrawn.

Kitty Ballard said Ann Marie Garte says it is not in the court docket yet. A. Phillips said a petition has been filed.

Kathryn Demby said they have given broken promises a number of times and go ahead without permits. She is asking the planning board not to move ahead until it is iron clad for them to keep their promises. They have shown contempt for residents and neighbors. There is no reason for our lives to go on like this.

Kitty Ballard asked that if the planning board approves the site plan, will the track drop the lawsuit.

A Phillips said they are asking the court to require the planning board to close the public hearing and make a decision or to tell them what they need to submit. It is a narrow request for relief.

Glenn Bertrand encouraged the planning board to make a no decision. He asked how they can make a decision with no site visit.

A. Phillips said the board will be considering everything that is in the record.

Alice Blu asked if there can be some kind of petition landowners can sign in opposition to the track.

A. Phillips said the planning board has made a third referral to the county planning board, which will meet next week (May 1) regarding the new submission. The county planning board looks at intermunicipal impacts..

Someone asked if written comments may be submitted to the county. The address was provided.

A. Phillips said the planning board could leave the public hearing open for written comments.

Gabby Leach asked if those who opposed approval of the amended site plan and an overwhelming majority of people raised their hands. Almost everyone in the room.

Kathryn Demby asked what if they built the new track and its already finished.

A. Phillips said the planning board does not have enforcement jurisdiction, it only has the site plan review law. They are limited to reviewing applications and have procedural steps and substantive standards they need to consider.

Paul Merwin ?

Dev Kernan said there are no regulatory powers for airplanes. Throughout the application it mentions NYSafety Track and Mountaintop Airfield. They are legitimatizing that by using titles.

A. Phillips said the owner of the property is Mountaintop Airfield LLC

Mark Vamog said he is confused the notice indicates they have changed the site plan application. They need to make their narratives gospel.

A. Phillips said they have withdrawn nothing.

On a motion by A. Gallagher, with a second by W. Keller, a motion was made to allow written comments on the track application to be submitted until May 8 (two weeks), at which time (May 8th) the public hearing will be considered closed. Motion carried 3-0. (8:24 p.m.)

If there is another amendment, A. Phillips said the board could consider whether another public hearing was needed.

Mark Vamog asks if the revised application is available on the town's website. The public was informed it is available at the town clerk's office.

The board discussed that a special meeting may be needed to consider the application. It was noted a special meeting may be scheduled if needed at any time. A. Phillips advised the public to check with the town clerk.

Sean Murphy and Rob Quierolo were present regarding Blue Wave Solar's third project off Bruce Hill Road . S. Murphy referred to emailed items, such as the decommissioning inflator in an April 22 letter to D. Darling.

R. McKertich asked if the costs match actual costs and if the planning board wants to make a condition to put that in the decommissioning plan. It was reiterated that NYSERDA is the standard used for detailed costs and they have provided detailed costs

A. Yagelski – Provided details regarding his comments related to revenue for substances and figures and to make sure the math is there so that when it changes they can go back and work with them and get back to the planning board.

Groundwater and Stormwater – A. Yagelski said there is the construction phase and the operational phase.

In the construction phase the SWPPP meets DEC requirements and was revised by DEP, A five acre waiver and the most recent submission. The DEC requirements are in the permit itself.

A. Yagelski and the applicant have consulted with DEC regarding the five acre requirement, out of all the application requirements they do not want it to exceed 10 acres. It needs to be part of the SWPPP. A solution to that is to keep it below 10 acres.

Other pieces include the post construction with DEP comments. DEC has reviewed the portion of the impervious access road. When they remove the farm road they must deal with the 25 percent impervious surface that remains. It will be dealt with as a redevelopment with an increase in the amount of water that will need to be treated in the retention pond.

There is concern there could be channelized water flow due to construction and operation where flow could be concentrated enough to erode soil if there is an increase in the runoff. Becky (DEC) offered no guidance. We will meet with the applicant to slow the water to promote infiltration. The berms and compost filter sock. There are maintenance practicalities, with equipment that has to traverse those berms, which presents a challenge. If they are damaged by equipment it would interrupt the flow. It would need equipment to construct and maintain the berms. The panels would have to be installed first, but then equipment would not fit underneath them.

If there is erosion on the site, they would have to top dress or regrade. If there was a nasty storm event or spring runoff that no one watches, the condition could deteriorate and create a change to the existing hydrology.

Check dams could be installed to slow the water down and filter. The benefit is that it would minimize contributing areas, erosion control seed mix that puts roots deeper into the soil and filter stabilization at a higher height for moving a more complex path to flow through. The key mitigation measures we discussed in relation to W. Kellers's concern and is all in the memo.

The equipment used to do installations beats up the landscape. They will see if there are issues before the site is done and the project completed. It could be a condition to the site plan and would be enforceable by the code officer to make sure it is installed as planned or was not adequately addressed initially.

W. Keller asked if they can submit this stuff to DEC, which is seeking comments until August. It is the only way fisheries will be able to keep the fish going, if there is groundwater recharge. You have done all this work, give it to them.

The time of year is also a consideration and provides flexibility to avoid the most sensitive times of the year.

R. Quierolo said they will get a sample of a road use agreement and go from there. He noted here is a lot of farm equipment on Bruce Hill Road. They will provide estimates of the types and classes of vehicles that will be using the site for the solar project.

R. McKertich said the site plan is not yet ready to be submitted to the county or for a public hearing. The town and village of Stamford still need to be notified and invited into the process prior to any hearings.

It is anticipated a new set of plans will be submitted in May.

A. Yagelski will start looking at SEQRA and EAF and where we want to start.

D. Darling reported that a sign for the Catskill Mountain Little League was approved at the entrance to the facility. He submitted copies to all the planning board members and all thought the sign was okay. It is located near the existing Russ Archibald Memorial Park sign, DOT was okay with it because it was off of their right of way. He polled the planning

board members, who thought it would be okay to locate the sign there.

He also announced one planning board member was ill and another has retired from the planning board.

D. Darling announced that A. Phillips asked if a special meeting could be held . to review the track site plan. The dates for that meeting could be 16,20 or 21. Those present agreed on May 16 at 2 p.m. as a tentative meeting date.

On a motion by W. Keller, with a second by A. Gallagher, the meeting was adjourned at 10:02 p.m... Motion carried 3-0.

Respectfully submitted,

Liz Page,

Recording secretary.