



PLANNING BOARD

MINUTES (FINAL)

THURSDAY, JUNE 11, 2020

6:00 P.M.

ZOOM WEBINAR

CALL TO ORDER: Mark Torpey, Chairman called the meeting to order at 6:00 P.M.

SALUTE TO THE FLAG:

PRESENT: Mark Torpey, Chairman; Ruth Horton; Todd Fabozzi; Sara Boivin; Lexie Bonitatibus; Kerry Mayo
Shawna Jenks, Alternate

ABSENT: Jamin Totino, Vice Chairman

STAFF: Susan Barden, Principal Planner, City of Saratoga Springs
Bradley Birge, Administrator, Planning and Economic Development
Vince DeLeonardis, City Attorney, City of Saratoga Springs

ANNOUNCEMENT OF RECORDING OF PROCEEDING:

The proceedings of this meeting are being recorded for the benefit of the secretary. Because the minutes are not a verbatim record of the proceedings, the minutes are not a word-for-word transcript of the recording.

A. APPROVAL OF MEETING MINUTES:

Approval of meeting minutes was deferred to the end of the meeting.

B. POSSIBLE CONSENT AGENDA ITEMS:

NOTE: The intent of a consent agenda is to identify any application that appear to be “approvable” without need for further evaluation or discussion. If anyone wished to further discuss any proposed consent agenda item, then that item would be pulled from the “consent agenda” and dealt with individually.

NONE AT THIS TIME.

C. APPLICATIONS UNDER CONSIDERATION

1. **20190604 THE CLUETT HOUSE**, 2 Clement Avenue, Permanent Special Use Permit for a neighborhood bed and breakfast within an Urban Residential-1 (UR-1) District.

Mark Torpey, Chairman stated what is before the Board is a Permanent Special Use Permit as well as a waiver of Site Plan for the project. We have been discussing the project for some time. We have received some additional correspondence listed below.

CORRESPONDENCE RECEIVED BY THE BOARD:

- Letter from Jennifer McMahon, dated June 9, 2020.
- Letter from Nadine Shadlock, dated May 14, 2020.
- Letter from Michael Toohey, dated June 2, 2020.
- Letter from Gary and Elizabeth Harker, dated May 11, 2020.
- Letter from Jennifer & Jill McMahon, dated May 11, 2020.

- Letter from Robert Coughlin, dated May 11, 2020.
- Letter from Catherine & John Benaquisto, dated May 17, 2020.

Applicant: Scott Strazik

Agent: Michael Toohey, Attorney

SEQRA:

This is a Type II action and exempt from further SEQRA review. Following issuance of a SEQRA determination, the application was denied on November 7, 2019. The decision was challenged and then remanded back to the Board for approval and consideration of appropriate conditions.

Mr. Toohey reviewed the history of the project with the Planning Board. He noted his recent correspondence and some of the proposed conditions listed for a Special Use Permit for this Neighborhood Bed & Breakfast. "A supplementary use in a single or two-family residential structure having a resident house which one to five rooms are offered for rent and one or more meals are furnished to guests. Regularly scheduled commercial indoor or outdoor activities such as weddings/receptions/showers, business meetings, catered events, and the like are not permitted." One of the main concerns was the use and utilization of the building and it being intrusive to the neighborhood such as outdoor events or activities. As a result of this conversation the applicant is willing to waive the ability to have any outdoor activities on the lawn or parking areas. Mr. Toohey stated the Board spoke of the definition of Neighborhood Bed and Breakfast and the terms regularly scheduled and commercial activities. Elimination of outdoor events and activities is not the definition of regularly scheduled. We are proposing limiting the number of these types of activities to 12 in a 12 month period. This will be documented and the host would have to be a tenant/guest of the house. One person can host no more than 3 events in a 12 month period. Due to the recent events with the corona virus and the renovations proposed the property cannot be used as a Bed and Breakfast for over a year. If time limitations are placed we are requesting the time for the Special Use Permit begin when the license becomes effective.

Mr. Toohey noted additional conditions which would be appropriate.

- The property cannot be used as an Air B&B or any of these types of services.
- The property cannot be rented.
- Seeking approval for a 5 year Special Use Permit.
- Return before the Planning Board to renew the Special Use Permit.

Mark Torpey, Chairman stated Ruth Horton will review conditions the Board will discuss.

Ruth Horton presented the proposed conditions:

- Activities and Events** – no indoor or outdoor activities such as weddings/receptions/showers, business meetings, catered events would occur on the premises. Per Mr. Toohey's memo this was changed to no regularly scheduled indoor or outdoor activities such as weddings/receptions/showers, business meetings or catered events. The applicant is now requesting no outdoor activities and has better defined no regularly scheduled or commercial events. Any events must be held at the request of a resident/host who must attend the activity and there be no more than 12 activities that require catering in a 12 month period. No resident/host can hold more than 3 catered events in a 12 month period.
- Hours of Operation** – In the original memorandum the hours of operation for people gathering outdoors or on the porch shall end at 10PM.
- Occupancy**- Maximum of 5 bedrooms for rent, plus a resident/host living quarters.
- Kitchen** - One kitchen in the residence. No kitchen facilities in the resident host manager's quarters. The applicant noted there would be only one kitchen in the premises. No private kitchen for the resident host.

-**No Food Deliveries** – The applicant noted there should be no catering trucks on the premises. Trucks delivering milk and groceries may be permitted. No catering or oversized trucks should be on the premises.

-**Parking** – for the use should be accommodated on the property.

-**Signage**-directional signage one way in from Clement and one way out on State Street. The applicant sent verbiage noting the signage should be limited by code and variance. Directional signage will be placed to control traffic flow driveway and parking area.

-**Rules** - operation of the B& B shall be placed in all guest rooms

-**Site Plan** – consider site plan review be waived if the site to be developed is consistent with a parking schematic plan. This was submitted to the Board on September 19, 2019. The applicant requested consideration for waiver of site Plan under any circumstances. A condition being considered by the Board is site plan review would be required upon Issuance of a Permanent Special Use Permit.

-**Sidewalk** – sidewalk extended along Clement to the existing crosswalk. Consideration unless and until a Permanent Special Use Permit is issued. Renewable Special Use – Time period and re-appearance before the Board. Start of the Special Use Permit to begin upon issuance of the license.

-**Operate from April – October** this is to be removed from the list.

Mark Torpey, Chairman stated the Board will review each item as listed:

-**Activities and Events** – We have a new proposal before the Board in terms of outdoor events. No more than 12 activities that require catering in a 12 month period. No resident/host can hold more than 3 catered events in a 12 month period, and must attend the event.

Kerry Mayo questioned where all the events would occur.

Mr. Toohey stated all events would occur indoors.

Sara Boivin stated there might be some confusion with the wording Resident Manager and Resident Host.

Discussion ensued among the Board and the wording resident /host will be changed to Guest/host.

It was the consensus of the Board this condition is appropriate as presented.

-**Hours of Operation** – In the original memorandum the hours of operation for people gathering outdoors or on the porch shall end at 10PM.

Mr. Strazik, applicant/owner stated this is completely reasonable.

It was the consensus of the Board this condition is appropriate as presented.

-**Occupancy**- Maximum of 5 bedrooms for rent, plus a resident/host living quarters.

Discussion ensued among the Board regarding children accompanying adults, and the number of beds per room, and the layout and maximum occupancy.

Mr. Strazik provided information on the number of beds per room. It has not yet been determined. Some rooms may

have two double beds, some rooms may have one bed and a pull out couch.

Bradley Birge, Administrator, Planning and Economic Development stated a maximum occupancy will be established by the Fire Department based upon the space. It is nearly impossible to enforce something that states only two people or three people per room. He encouraged the Board to allow Police and Fire Protection to establish occupancy. It is interior to the property and interior to the building and allows some flexibility. Establishing an occupancy will be difficult to enforce. If you are looking at impacts it would be impacts to the exterior of the property, to the neighbors and the neighborhood.

It was the consensus of the Board to note the provision maximum number of bedrooms to rent plus resident manager living quarters. It is explicit in the rules as well.

-Kitchen - One kitchen in the residence. No kitchen facilities in the resident manager's quarters.

It was the consensus of the Board this condition is appropriate as presented.

-No Food Deliveries – *The applicant noted there should be no catering trucks on the premises. Trucks delivering milk and groceries may be permitted. No catering or oversized trucks should be on the premises.*

Discussion ensued among the Board concerning catering truck and food deliveries, and food delivery trucks.

It was the consensus of the Board the condition should read No oversized trucks for regular deliveries.

-Parking – for the use should be accommodated on the property.

Discussion ensued among the Board noting there are 13 parking spaces required to meet the code. The parking spaces being added will be permeable spaces.

It was the consensus of the Board the condition is appropriate as presented.

-Signage-directional signage one way in from Clement and one way out on State Street. The applicant sent verbiage noting the signage should be limited by code and variance. Directional signage will be placed to control traffic flow into the driveway and parking area.

Discussion ensued among the Board regarding wording for the signage. It was the consensus of the Board that The condition should read directional signage should be limited by code.

-Rules – for operation of the B& B shall be placed in all guest rooms.

It was the consensus of the Board the condition is appropriate as presented.

-Site Plan Waiver – consider site plan review be waived if the site to be developed is consistent with a parking schematic plan which was submitted to the Board on September 19, 2019. The applicant requested consideration for waiver of site plan under any circumstances.

Discussion ensued among the Board regarding waiver of site plan. One of the criteria focuses on pedestrian safety, and traffic flow. Safer way to walk up State Street to the crosswalk which crosses Clement Avenue to the park. We spoke about a small stub connection in this area.

Discussion ensued among the Board that this would be a conversation best suited if the Board considers granting a Permanent Special Use permit. The condition of Waiver of Site Plan would be discussed at that time.

-Permanent vs. Temporary Special Use Permit – The applicant has requested a 5 year Temporary Special Use Permit. The applicant will return before the Board in 3 ½ years. This does provide an opportunity for the business owner to sunset this operation if is not working. It is a good suggestion.

Discussion ensued among the Board regarding the applicant's request.

Susan Barden, Principal Planner spoke regarding the applicant's request. It would begin with the issuance of the license to operate the B&B. There would be 3 ½ years to operate and return before the Board for consideration of a Permanent Special Use Permit.

Vince DeLeonardis, City Attorney stated the applicant prior to the expiration of the renewable Special use Permit The applicant makes an application to renew that permit for another specified period of time including a Permanent Special Use Permit that is up to the Planning Board to make a determination upon that application whether they grant a renewable Special Use Permit for a period of time or a Permanent Special Use Permit at that time.

Discussion ensued among the Board regarding the request of the applicant. The start time for the Renewable Special Use Permit will begin when the City issues the license. The interim period when this Board decides to when The City issues the license the offering here is not to operate this as a B&B. It is strictly a seasonal rental.

It was the consensus of the Board that the condition is appropriate as presented.

-Operate from April –October

Discussion ensued among the Board regarding operation of the B&B as a year around operation.

It was the consensus of the Board that the condition to operated from April through October should be removed from the list.

Mark Torpey, Chairman stated what is being proposed is a 5 year Temporary Special Use Permit with the applicant Returning at 3 ½ years for further determination of a Permanent Special Use Permit.

Discussion ensued among the Board concerning a 3 Year Temporary Special Use Permit versus what the applicant is proposing.

Mr. Toohey provided information regarding the time frame. No usage until the summer of 2021. Interior work needs to be completed. We are basically giving the applicant two years to determine a return on his investment. This time period appear logical to determine impact on the neighborhood as well as feedback to the applicant.

Mr. Strazik, applicant –owner spoke regarding their proposal and why it is being requested.

Discussion ensued among the Board regarding what the applicant is proposing a Renewable 5 year Special Use Permit with the applicant returning before the Board in 3 ½ years to seek either another Renewable or Permanent Special Use Permit.

Vince DeLeonardis, City Attorney stated the ordinance speaks to the time frame in which the applicant must return Before the Board for renewal. Your approval is what you are approving. The time frame in which the applicant returns before the Board for renewal is dictated by the Zoning Ordinance which indicates the applicant must be submitted prior to the expiration of the term the Board sets. I am suggesting you issue a permit for a Renewable Special Use Permit for a specified time and end it there.

Mark Torpey, Chairman questioned if the Board has the authority to act on what the applicant is proposing. A 5 year Renewable Temporary Special use Permit with a condition that they return before the Board in 3 ½ years.

Bradley Birge, Administrator, Planning and Economic Development stated the applicant has offered and conceded to return before the Board in 3 ½ years and the applicant agrees to it the Board can agree to it as part of the conditions of the Special Use Permit.

Discussion continued among the Board and with the applicant on the time frame for the Renewable Special Use Permit as well as the start time for the license to be granted.

Mark Torpey, Chairman stated he feels the Board should remove the wording no Air B&B and substitute no short term rental which is less than 30 days.

Mr. Toohey stated he specifically wanted to avoid this because it is legal for the applicant to rent his place for a week or two or three weeks. What we are not allowed to do and the Air B&B was an indication that we are renting rooms in the building. There is no limitation within the City of Saratoga Springs for anybody to rent their homes. The distinction between this and the Air B&B is we cannot rent rooms, eliminating this from the neighborhood.

Vince DeLeonardis, City Attorney stated the issue is the City of Saratoga Springs does not regulate short term rentals. We are still looking into it.

Ruth Horton stated perhaps the wording should read no individual rooms are to be rented in the interim.

Sara Boivin suggested room rentals as pursuant to the law of the City of Saratoga Springs, keep it that simple.

The Board was in agreement with this terminology.

Mark Torpey, Chairman asked if there was any further questions or comments from the Board. None heard.

Mark Torpey, Chairman stated this is an adaptive reuse. There is no SEQRA required. This is a Type II action. The Board only needs to act on the Special Use Permit. Based on our discussion and review of the points presented we will move forward with this application. We spoke regarding this is a 5 bedroom neighborhood bed and breakfast. We are approving a 5 year Renewable Special Use Permit with a condition that requires the applicant to return before the Planning Board within 3 ½ years to seek approval for another Renewable or a Permanent or a denial of Special Use Permit based on the operations.

Ruth Horton made a motion in the matter of the application of the Cluett House, 2 Clement Avenue for 5 year Renewable Special Use Permit for a 5 bedroom Neighborhood Bed and Breakfast with the conditions as discussed. Todd Fabozzi seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chairman, in favor; Ruth Horton, in favor; Todd Fabozzi, in favor; Sara Boivin, in favor; Lexie Bonitatibus, in favor; Kerry Mayo, in favor; Shawna Jenks, Alternate, in favor

MOTION PASSES: 7-0

- 2. 20200205 KAYDEROSS AVENUE EAST SUBDIVISION**, 227 Kaydeross Avenue East, coordinated SEQRA review for a proposed 15-lot conservation subdivision in the Rural Residential (RR) District.

Mark Torpey, Chairman stated this project has appeared before the Board in the past. We had some sketch discussions back in 2017, and at that point a 12 lot subdivision was proposed. A preliminary revised set of plans was before the Board in January and May of 2019. In this instance the project has returned with a 15 lot subdivision. The applicant

walked the Board through a rigorous conservation analysis. This is before the Board for a final subdivision. The action tonight is to coordinate SEQRA review and seek Lead Agency Status. Perhaps the applicant can walk the Board through the application for the benefit of the new Board members and to receive an update on the project.

Applicant: Ken Scott, land owner

Agent: Dave Carr, Doug Heller, LA Group; Libby Coreno, Attorney

A visual of the site was provided to the Board which entails two tax parcels, 79 acres in total.

Ms. Coreno provided a history of the project for the Board. In 2016-2017 Sketch Plan process with only western parcel with 12 lots. No conservation analysis was done and no decision about conservation lands or eligibility. The owner went back to the drawing board. In 2018 Preliminary Subdivision Application was submitted and the applicant re-engaged in conversation subdivision review in accordance with regulations in Section 241 (conservation design). They submitted and reviewed conversation analysis and map with Board consistent with 241-12(B) (2)(c). In 2019 they received conservation analysis consensus from Board and designed plot plan in accordance with the Conservation Plan.

Ms. Coreno provided the conservation subdivision process noting what has been completed. Density calculation has been completed. Conservation analysis has been completed along with constrained lands, open space and recreational resources, buffers, lands which have potential conservation value, and descriptions of the importance of each feature. A Conservation Determination which is a part of preliminary subdivision review where the Board identifies which of the lands are most important to preserve.

Ms Coreno stated the following is under review by the Board which is the Conservation Design, incorporating all requirements and recommendations into a design, approval of the areas of development by the Board via the plot plan, a decision made about open space and conservation easements and finally SEQRA review.

Ms. Coreno provided information on the Conservation Analysis Review noting the Areas of High Conservation Value. DEC Wetland Q-11 located on Parcel 2 and secondarily the small areas of ACOE wetlands located on Parcel 1. Flood zones, the significant Oak Tree on Parcel 1, recommendations of City's findings in the Open Space Recreation Plan. The applicant conducted visual impact analysis and tree survey in development plan.

Ms. Corena provided a Final Design Consideration after presenting to the Board. Following the City's Subdivision Regulations: maximum allowable density is 15 residential lots, preserving areas of highest conservation value, cluster development of homes located in rear of Parcel 1, within the wooded area and including forested buffer to neighboring parcels, and the existing tractor path which crosses existing stream can be improved to provide access to rear parcel.

The Open Space Committee reviewed conservation analysis and did a site walk in January 2018. Their comments were to follow 2002 City Open Space Plan recommendations, bike trail, and agriculture theme and preserve rural road corridor. Also, renovation of the existing farmhouse and honor character. Move development back away from Kaydeross to preserve rural road. Dark sky compliant along with wetland preservation and oak tree preservation.

Mr. Carr provided a visual of the site noting the wetlands, and the floodplains. He provided information on the conservation subdivision requirements and what is required by the applicant to provide and complete prior to final approval. This plan provides the elements where they are located and protected on the site. The development plan was overlaid over the analysis and development area. We are pretty much in the area. Conservation subdivision calculations were also provided to the Board noting the total area subtracting the jurisdictional wetlands, steep slopes, and the 100 year plain. This will ultimately provide you will the unconstrained land which is slightly over 30 acres divided by the allowable density which is 2 acre lots providing 15 proposed lots. Part of the requirement is that a certain amount of land needs to be conserved. In this zone you have to conserve at least 50% of the land which is not constrained. Our conservation area is about 20 acres which is much more than 50%.

Mr. Carr provided the original sketch plan in 2016; the revised sketch plan in 2017 and the current proposed plan which is before the Board. 15 lots on a cul-de-sac which would have two connections to neighboring properties. Lots would each have individual septic systems. There is a public trail system with the hope that in the future it could be the continuation of a larger trail system. 86% of the property would go into a conservation easement. 10.8 acres of the 79 acres is actually being developed. Mr. Carr reviewed what the applicant has done on the site. An archeological study was completed and we have received a sign off from OPR-HP on archeology. We have secured wetland permit for the crossing from the ACOE and received a water quality certification from NYS-DEC. This means the project as planned does not impact any of their wetlands. We completed deep hole test pits with the State Department of Health on site. This was done because this is a realty subdivision and we will need a realty subdivision approval from the DOH and that makes them an involved agency. The involved agencies we believe are the ACOE, NYS-DEC and DOH. We also completed the drawings and are necessary to get to the SEQRA impacts. We also submitted a draft manager's plan. We are here tonight to start the SEQRA process. Chazen is also reviewing this project at this time.

Mark Torpey, Chairman questioned what the archeological protection zones are.

Mr. Carr stated those are new. As part of the archeology study following a review by this Board there were five sites on the project site that were actually pre-contact evidence. We chose to avoid those areas.

Mark Torpey, Chairman spoke about the draft management plan submitted in April of 2020. The proposed land manager of this area would be the City of Saratoga Springs.

Mr. Carr stated that is the preference.

Ms. Coreno spoke regarding land management and the many organizations that have done so in the past do not have the resources to continue. There are several options the applicant is pursuing. Ms. Coreno provided information available to the applicant on the land management plan. We will continue these conversations with City staff.

Todd Fabozzi questioned if the applicant could provide information where the steep slopes 15% or greater exist on the site.

Mr. Carr stated they will provide this information to the Board.

Discussion ensued among the Board and the applicant's agent regarding the conservation subdivision and the amount of density allowed.

Bradley Birge, Administrator, Planning and Economic Development spoke to the Board regarding a conservation subdivision what it entails and what requirements must be met by the applicant and the Planning Boards area of purview.

Mark Torpey, Chairman stated the Board will now move to request Lead Agency Status. Other involved agencies are DOH; DEC and ACOE.

Shawna Jenks made a motion in the matter of the application of the Kaydeross Avenue East Subdivision, 227 Kaydeross Avenue that the Planning Board initiate coordinated SEQRA review and requests Lead Agency Status. Sara Boivin seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chairman, in favor; Ruth Horton, in favor; Todd Fabozzi, in favor; Sara Boivin, in favor; Lexie Bonitatibus, in favor; Kerry Mayo, in favor; Shawna Jenks, Alternate, in favor

MOTION PASSES: 7-0

APPROVAL OF MEETING MINUTES:

Todd Fabozzi made a motion to approve the minutes of the May 14, 2020 Planning Board Meeting as submitted. Shawna Jenks seconded the motion.

VOTE:

Mark Torpey, Chairman, in favor; Ruth Horton, in favor; Todd Fabozzi, in favor; Lexie Bonitatibus, in favor; Kerry Mayo, in favor; Shawna Jenks, Alternate, in favor

MOTION PASSES: 7-0

UPCOMING MEETINGS:

Planning Board Workshop, Thursday, June 18, 2020 at 5:00 P.M.
Planning Board Meeting, Thursday, June 25, 2020 at 6:00 PM.

MOTION TO ADJOURN:

There being no further business to discuss Mark Torpey, Chairman adjourned the meeting at 9:00 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 7-30-20