

**TOWN OF SARATOGA
PLANNING BOARD DRAFT MINUTES
May 26, 2010**

Chairman Ian Murray called the meeting to order at 7:30 p.m.

Planning Clerk Linda McCabe called the roll: Chairman Ian Murray – present, Robert Park – present, Paul Griffen – absent, Laurie Griffen – absent, Patrick Hanehan – absent, Robert McConnell – present, Jennifer Koval – present and Alternate Joseph Lewandowski – absent.

Also attending: Town Engineer Ken Martin, Justin Liptak, Matthew Mincher, Stephanie Ferradino and other interested persons.

Sign-in sheet is on file in the Planning Clerk's office.

Approval of Minutes: A motion was made by Robert Park, and seconded by Jennifer Koval to accept the minutes of the April 28, 2010 meeting as written. Chairman Ian Murray – aye, Robert Park – aye, Laurie Griffen – absent, Patrick Hanehan – absent, Paul Griffen – absent, Robert McConnell – aye, Jennifer Koval – aye.

Carried 4 - 0

Approved

Chairman Ian Murray stated that our first Applicants are not here so we will begin tonight with Mr. Liptak's Special Use Permit Pre-Submission Conference.

Special Use Permit Pre-Submission Conference

Justin Liptak #10-09

139 Co. Rt. 338

Schuylerville, NY 12871

S/B/L 157.-1-27 Rural Residential

Applicant proposes to open a dog kennel, located at 139 Co. Rt. 338, Schuylerville.

The Applicant appeared before the Board seeking a Special Use Permit for a kennel. He explained to the Board that he had a complaint against him for a barking dog and due to that, met with Zoning Officer Gil Albert and found he needs to have a kennel permit if he wants more than three dogs. Due to the complaint, he contacted the owner to pick up the dog; he had the dog there to train it, but he won't keep nuisance dogs like that. He added that he usually has two adult hounds as his breeder pair and raises the pups; needs to train and run them until they are at minimum 6 or 7 months of age to 9 months of age, then sells them. Since he cannot have more than three dogs longer than three months according to NYS Ag & Markets law without a permit, he is here before this Board. Right now he has one inside dog, two hounds and four puppies, the cages are behind the building. Chairman Ian Murray asked if the Applicant had any photos and the Applicant replied no, but he had sketches. He showed the placement of the cages and explained his plans to knock down the existing garage and rebuild with an extended lean-to attached where he can place the cages. You won't be able to see them from the road and it will keep the dogs out of the elements. Chairman Ian Murray questioned that the Applicant's intent is to raise and sell them as more mature dogs for hunting; the Applicant replied yes. Chairman Ian Murray questioned the average size of a litter and was told 6-7 pups. The Applicant also told him that he keeps them 6-9months, 90% are sold and he rotates his stock; he is constantly training the dogs. If a dog comes into the kennel and is compatible with the other dogs, he trains them for 3 months, which is the maximum time he likes to keep them. Chairman Ian Murray stated the Applicant has a right to do it; he meets all regulations. The only concern he has is with the garage coming down and the new structure.

He asked the Applicant if he could reorient the garage and kennel similar to the current building and questioned how it will affect the neighbors and foot traffic, and believes the dogs' barking will echo in the lean-to. He suggested it would be better and quieter to have them inside the building. The Applicant responded that basically that is how it would be. He'll extend the garage between the two buildings; there's a pool yard and pool house with a tree line so you can't see the kennels from the road at all. He added that his Grandfather raised dogs there his entire life; he replaced those old kennels and for four years he's been training dogs there without a single complaint. It's been very quiet, aside from that one nuisance dog, and since he removed that dog it's continued to be quiet. People walk up and down that road all the time and these dogs don't bark. He'd like to keep his dogs, even if he can't do training. Chairman Ian Murray reiterated the Applicant has the right to do this but he'd like to set a reasonable maximum for the number of dogs. Bob McConnell questioned if the Applicant could put in a tree buffer in that lean-to/garage area and the Applicant replied yes, he's already planning on doing that. Chairman Ian Murray stated we will advertise a Public Hearing for next month and make this a renewable permit.

Returning

Public Hearing for Special Use Permit

**Drumm & Ayres Turf Svc. #10-07
1120 Rt. 29
Schuylerville, NY 12871
S/B/L 156.-3-11 Rural Residential**

Returning Applicants propose to stock and sell landscape materials from their property, located at 1120 Rt. 29.

The Applicant appeared before the Board. Chairman Ian Murray stated there are a few things that need to be done; the Applicant needs to remove the westerly entrance along with the culvert and then re-swale there. Town Engineer Ken Martin has gone to the site and stated the visual is a bit below 700' on the west side and it's quite a fight to see in that direction, so really trim the hedges back and remove the brush. Also the stock is to go to the left of the barn/studio and they'd like the Applicant to level out that hill there. The Applicant responded they have leveled that hill and the trimming of the hedges and brush removal is being done this week. Chairman Ian Murray added that the Applicant is to contact NYSDOT.

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

Chairman Ian Murray read the letter from the Saratoga County Planning Board indicating approval with the comment that "the application should contact NYSDOT and have a discussion about the access onto Rt. 29 and types of trucks they anticipate accessing the site. NYSDOT may decide signs or a reduction of speed limit in the area is warranted for safety along their roadway."

Proof of Notice having been furnished by newspaper on May 16, 2010, Chairman Ian Murray opened the Public Hearing at 7:47 p.m., asking those wishing to speak to please stand and state their name and address.

No one came forward; **Chairman Ian Murray closed the Public Hearing at 7:48 p.m.**

**Robert Park read the short form EAF, line by line, which was completed by the Board. Chairman Ian Murray made a motion, seconded by Robert Park to accept the documents as presented, to declare the SEQR review complete and to make a Negative Declaration. Chairman Ian Murray – aye, Robert Park – aye, Laurie Griffen – absent, Patrick Hanehan – absent, Paul Griffen – absent, Robert McConnell – aye, Jennifer Koval – aye. Carried 4-0
Approved**

Chairman Ian Murray made a motion, seconded by Robert Park to rescind all prior special use permits approved for this property, 1120 Rt. 29, Schuylerville, NY. Chairman Ian Murray – aye, Robert Park – aye, Laurie Griffen – absent, Patrick Hanehan – absent, Paul Griffen – absent, Robert McConnell – aye, Jennifer Koval – aye. **Carried 4-0**
Approved

Chairman Ian Murray asked if there were any other questions. Zoning Officer Gil Albert stated that once the brick house is renovated, the Applicant will have to remove the kitchen/s in the existing buildings (the old dance studio and the cottage) on the property and they are not to be ‘dwellings’, according to Town regulations. Chairman Ian Murray stated that is correct. He then stated that the Applicant has listed one of the buildings as an office and asked which of the buildings do they live in and the Applicant responded both, it’s just their family. Zoning Officer Gil Albert stated that the Applicant cannot have residency in any of the other two buildings once they establish the house; nor can they rent out the other units. Chairman Ian Murray stated that is correct and asked if there were any other questions; there were none.

Chairman Ian Murray made a motion, seconded by Robert McConnell, to approve this application as presented along with the following conditions: renewable in one year and the Applicant is to contact NYSDOT. Chairman Ian Murray – aye, Robert Park – aye, Laurie Griffen – absent, Patrick Hanehan – absent, Paul Griffen – absent, Robert McConnell – aye, Jennifer Koval – aye. **Carried 4-0**
Approved

Brown Road Planned Unit Development Review

Saratoga Development, LLC #10-11
14 Ogden St.
Newark, NJ 07104
S/B/L 206.-1-34 Rural Residential II, future PUD

Applicant proposes a sixteen lot Planned Unit Development, located on 84+/- acres on Brown Rd.

Stephanie Ferradino appeared before the Board on behalf of the Applicant. She made a presentation of the amendments for the Brown Road Planned Unit Development (PUD), which originally was before this Board in 2006 and was approved by the Town Board in January 2009. They were before the Town Board again in April 2010 and the Town Board deemed the application complete, declared Town Board as Lead Agency and referred the application here, to the Planning Board, for recommendation. The reason for the amendments was that once approved, the engineering began and they found that six of the sixteen sites needed an alternate septic system; a raised bed system. Due to the lots being less than 5 acres they needed to modify the layout of the sites, which does not affect the homes or their locations significantly, but it does affect the size of the lots that will now be under private ownership instead of the Home Owners Association (HOA).

Board Member Robert Park questioned if there will still be an HOA now that the lots will be completely owned by the homeowners. Stephanie Ferradino replied yes, there will still be an HOA involved to maintain all the roads, storm water basins, haying the open fields and the beach parcel. The HOA also talks about the Town’s ability to come in to the property for the purpose of maintenance if for some reason the HOA isn’t doing its job; the HOA would expect a bill for those services rendered. Each lot will have two areas; area A will be the building envelopes and area B will be in a conservation easement and no building allowed in that section, although septic will be on area B of each lot. In order for these changes to occur the PUD legislation needs to be changed.

Section 13 in the HOA is new and is the conservation easement portion of the legislation amendment. It talks about the purpose it could be used for, for the lot fees of the homeowners. It allows agriculture,

passive recreation, construction and maintenance of access roadways (any roadway that leads to more than one lot), driveways which are for single lots, walking paths and storm water maintenance areas, private and community underground septic systems, leach fields and wells. The bulk summary table has also been changed: minimum lot size now will be 4500 sq. ft. (1+ acre); maximum lot size is 330,000 sq. ft. (7+ acres). Minimum lot coverage has changed from 75% down to 20%.

Town Engineer Ken Martin stated a driveway equals access to one home, but you show the driveway as an access road, that definition has to be changed. Stephanie Ferradino agreed and they will put the definition within the text of the legislation.

Town Engineer Ken Martin stated they need to show the access roads; change the 'driveway' to an 'access road' because it's clear that is what it is. He then stated that in the write-up they asked for six private road access points but show only four; where are the two others and what are they for. Stephanie Ferradino responded they were to provide some flexibility if there were four lots that could have access directly to the road; this was to provide a buffer if two of those four wanted to go that route.

Chairman Ian Murray stated this would change the conceptual design as it's been proposed; questioning what lots are they are thinking of for this and she responded lots 7 and 9. Town Engineer Ken Martin stated that if they split them it brings them back to the 500' then and driveways over 500' should be 18' wide as opposed to 16' wide. Chairman Ian Murray agreed.

Town Engineer Ken Martin and Chairman Ian Murray then reviewed the questions they had submitted concerning the PUD.

Town Engineer Ken Martin said under number 5, he understood it to read each lot would come back to the Planning Board for site plan approval and he doesn't think that is necessary, he thinks they need to define this well enough now, so that Building Inspector/Zoning Officer Gil Albert can operate with the building permits as opposed to the Planning Board getting involved.

Stephanie Ferradino said she felt that the two clusters are the ones the Planning Board is most concerned about for architectural review since they're near the road and it's important this look like a functional farm. So when the first of these come in, lets come to the Planning Board, the Board can hash out what kind of materials they want, what architectural style they're looking for and have guidelines drawn up at that point.

Town Engineer Ken Martin stated in a farm setting you end up with a large farmhouse and a barn and smaller out buildings; somewhere along the way you need to decide who gets what kind of house; it can vary from lot to lot, it can't all be one style. He added that Building Inspector/Zoning Officer Gil Albert needs something to go by, so he'd like to see it as part of site plan approval when the Planning Board gets to that point.

Chairman Ian Murray stated he'd like this done in site plan approval also; the Planning Board doesn't want to become the architect police on it. He added he'd also like to have the parameters written down, have it in the HOA; let them police it since they're the ones buying into it.

Building Inspector/Zoning Officer Gil Albert added he'd like to see this in writing so he knows what he's dealing with for each house.

Chairman Ian Murray questioned if John Muse is still working on the project and Stephanie Ferradino didn't know. Chairman Ian Murray stated the reason he wanted to know is he could give the Board some parameters to go by; the Board isn't looking for conceptual house designs. Town Engineer Ken Martin added they're looking for style right now, not home plans as such; they've already defined the size. Chairman Ian Murray stated that if the architect could write up some of the criteria, the Board could finish it in site plan, then it goes on to the Building Inspector.

Town Engineer Ken Martin then stated that under number 6 he'd like to see an easement for the Town to go in if the HOA fails, and he'd like to see it written up in the deeds to each one that the cost will be passed to all the homeowners in the PUD.

Chairman Ian Murray added that he'd like to see language if the HOA neglects to do their duties, not necessarily for the Town, but for an 'easement for maintenance purposes', stating it would go to a special assessment district so that only those people in the Brown Rd. PUD would be taxed for those services and not the balance of the residents of the Town of Saratoga; so in case an independent contractor were hired, they could cross that property to complete those services.

Under number 7, Town Engineer Ken Martin stated please strike out 'town engineer' for he sees no reason for it to be there. Stephanie Ferradino responded no problem.

Under number 8, Town Engineer Ken Martin stated that water and sewer systems should be reviewed as the Town does it now. Also the rural roads section and driveways should be built to the current Town standards so if anything were to come back on the Town they could take them over. Stormwater management always becomes a question on how to handle it on each lot and the roadways, since you have significant roads. He wants to do the stormwater right up front, make it part of Stormwater Pollution Prevention Plans (SWPPP).

Under number 9, Town Engineer Ken Martin stated he thinks their engineer should prepare and submit the performance bond/letter of credit to the Town Highway Superintendent and the Town Engineer since those are the two involved with this. Stephanie Ferradino stated that the town attorney said he wants to be involved with this too. Town Engineer Ken Martin said they should add the Attorney to the list as well as the Town Supervisor.

Under number 10, Town Engineer Ken Martin questioned if the passive recreational use is public or just for the PUD and was told just for the HOA.

He then stated, going back to the drawing, there is no lot number on the south end of the pond, which is part of the HOA and the Board would like to see a number on it. Stephanie Ferradino stated that will be Lot 17 and they'll put that on it.

Town Engineer Ken Martin then stated the cul-de-sac on Lot 3 needs to be eliminated since they already have a place for fire trucks and emergency vehicles to turn around, the Board would like to see a 'T' type turn on the HOA Lot 17 since they'll need to turn around there too, and in the area of Lots 5 and 6 put a cul-de-sac in and the driveway going to those lots should be changed to an access road.

Chairman Ian Murray stated he knew the Board would not be able to make an opinion at this point, but once the Applicant cleans this up they'll come back before the Board. He then added he had a couple of things to address on the PUD document. He doesn't necessarily have any questions on design aside from Lots 1 and 3, 13 and 14 about changing the driveways and things, but that will be gone over in site plan review. He has questions about how this PUD was written and wants to take the time to thoroughly read through it, digest it and send some comments back to Town Attorney Bill Reynolds. He also sees that Stephanie Ferradino had marked up the prior MKN PUD plans and some of those corrections that were made on that document were from the Planning Board's recommendations in 2006 to the Town Board, so a few of these things have already been mitigated. There are a couple of other ones he'd like to see written in there, like the special assessment district in case of default by the HOA for roads, stormwater; any infrastructure. Chairman Ian Murray also stated that in December of 2006, the Planning Board sent a memo to the Town Board stating no further subdivision is to be allowed, but in this current document, in several places (example page 2, 5A) it says 'that any further subdivision' we want to strike that from the document. There is to be no further subdivision, none.

Page 3, under H; they've stricken out 'all private roads, driveways, paths, all open spaces shall remain in private ownership of the HOA in perpetuity'. Is there any reason that was stricken from there?

Stephanie Ferradino replied yes, because the HOA won't own any of those things anymore, they'll be privately owned. Each segment of the roads will be owned by each homeowner; they'll be maintained by the HOA but not owned. Chairman Ian Murray stated we need easement language for all this. Stephanie Ferradino agreed.

Board Member Robert McConnell questioned if the HOA will repair each of the roads and Stephanie Ferradino replied they're under private ownership but they'll have to be maintained by the one entity.

Board Member Jennifer Koval stated it sounds like originally the open lands were going to be maintained as one; Stephanie Ferradino said absolutely still doing that, all the roadways are the same as they were, but all the open land will be hayed. Board Member Jennifer Koval continued, stating since some of the septic systems are raised, how will it be hayed; one can't go over raised septic, are they going to change how that will be maintained; realistically you'll only have little pockets of land and you won't find anyone to hay like that. She then added they may be able to get someone in to brush-hog or something. Town Engineer Ken Martin agreed with her; they should not go over any of the septic systems. Stephanie Ferradino responded that area B will be maintained by the HOA for every lot.

Chairman Ian Murray stated the Board had asked for the open space land management plan for that. Chairman Ian Murray stated again that he has a couple of things to digest further and pass some things on to Town Attorney Bill Reynolds because he's not a word crafter or a lawyer. He also wants them to address animals in the HOA agreement; not necessarily dogs, but large animals; since they are buying farmhouses, some may want to do some farming and this should be addressed; he's not saying they can't have them, but this needs to be addressed.

Board Member Jennifer Koval questioned if the homeowners will be able to walk across all the area B sections of the properties and if there will be language in the HOA stating such and Stephanie Ferradino replied yes.

Board Member Robert McConnell questioned if there is liability with the lots going across the pond; the response was yes.

Board Member Robert Park stated under section 9 he sees they added language that states 'the HOA shall be responsible for maintenance of the roadways, haying the open fields and other things' and ends with 'the Town of Saratoga has the right to enter the property for the purposes of maintenance', and the next section on performance bonds/letters of credit they have 'to be established for maintaining roadways, driveways and stormwater management'; why not make it for conservation areas as well.

Stephanie Ferradino replied that typically performance bonds are used for the actual construction itself, not for maintenance 20 yrs. later; at some point they have to get their bond back. Town Engineer Ken Martin explained like Neilson Landing, the bond covered the roads, sewers, and water too.

Board Member Robert Park questioned should language be put in on how the Town will be reimbursed and Chairman Ian Murray responded that he thinks there should be a special assessment district to cover all that.

Building Inspector/Zoning Officer Gil Albert questioned if a homeowner complains to him concerning a neighbor not maintaining their parcel what is he to do and Chairman Ian Murray responded tell them to go to the HOA. He then asked if the HOA does nothing then the Town takes care of it and charges them and Town Engineer Ken Martin responded and the bills go to the HOA for those services; not to the Town. Building Inspector/Zoning Officer Gil Albert clarified they can only build inside the building envelope (area A), but they can shift the building around within that building envelope with no concerns for setbacks etc.; but cannot build on the conservation area of the lots (area B) is that correct, and Stephanie Ferradino replied yes, correct. Chairman Ian Murray stated that will also be accompanied in their deeds and spelled out in the HOA guidelines, so Building Inspector/Zoning Officer Gil Albert would need sign-off of HOA prior to issuing permits. Chairman Ian Murray asked if there were any other questions; there were none.

Returning

Site Plan Review

**Matthew Mincher # 10-10
63 Springwaters Dr.
Saratoga Springs, NY 12866
S/B/L 206.6-3-8 Lake Residential**

Applicant proposes to move an existing cabin onto his 6.06 acre parcel to establish a second detached home.

The Applicant appeared before the Board explaining he was before the Zoning Board last month and they sent him here. He has 6+/- acres on Springwaters Dr., a private road that he owns. He was granted a frontage variance in 1996 and he built his house there in 2001. His neighbors, the Ambrosy's, have offered to give him their renovated cottage, which they used as their summer residence, as long as he can remove it from their property before September, because that is when they will begin building their permanent home and the cottage needs to either be removed or torn down. This is a great opportunity and he'd like to use it as a guest cottage for family and friends. He doesn't want a driveway, only a path

up to his house and he'd like to tuck it in near the trees where the land is flat, and you wouldn't see it from the road. It sits on blocks, although he'd like to put in on techno-posts, and he had Mr. Larmon out to see if it can be moved and it can. He'd hate to see it torn down and he has sewer and power there. He added that he went on the Town's website, and read minutes going back to 2004 and it looks like this has been done before. He then added it even sounds like it could fall under Multiple Uses § 400-8.11, quoting "unless otherwise allowed by this chapter, no more than one principle building and/or use shall be established on any lot; except, however, that upon application to and approval by the Town Planning Board, more than one one-family detached dwelling unit may be placed on a lot, provided that each one-family dwelling unit is so sited as to meet the minimum area, width, frontage and yard requirements of the zoning district in which said lot is situated. Additionally, every one-family dwelling unit so placed shall be served by a separate sanitary sewer and water supply required by § 400-8 through § 400-8.13 and § 400-9 of this chapter."

Chairman Ian Murray stated the key word there is frontage.

Jennifer Koval questioned if it would make a difference if he makes it a year round home verses a guest cottage and Chairman Ian Murray stated it's a detached dwelling, it needs to be attached according to Town Regulations, and those regulations dictate our job. But the Applicant can appeal the frontage issue, that's why we have the laws.

The Applicant asked, as a whole, if the Board saw anything wrong with this and their response was no, only the frontage issue. They understand what the Applicant is saying but they have to go by the Town Regulations. The Applicant stated he already got a frontage variance when he built his house; can't he go forward since he has that and Chairman Ian Murray questioned what that variance was for and was told frontage. Chairman Ian Murray then stated that was for one house not a second house.

Town Engineer Ken Martin said he felt the Applicant will need two variances; one for frontage and one for a second dwelling.

The Applicant asked if he can apply for a second frontage variance and was told yes, he has the right to appeal at the Zoning Board of Appeals.

Zoning Officer Gil Albert questioned if the ZBA grants the variances does the Applicant need to appear before this Board, since the denial is for frontage correct, and Chairman Ian Murray responded correct, and to answer that question, they'd have to check with the Town Attorney.

The Applicant stated the Town's Attorney is the one who sent him before this Board.

Chairman Ian Murray made a motion, seconded by Robert Park, to deny this application as presented. Chairman Ian Murray – aye, Robert Park – aye, Laurie Griffen – absent, Patrick Hanehan – absent, Paul Griffen – absent, Robert McConnell – aye, Jennifer Koval – aye. **Carried 4-0**
Denied

Old Business: Chairman Ian Murray stated we have two Special Use Permits up for renewal and have received positive recommendations from Zoning Officer Gil Albert for one year renewals for both permits:

Mango's Deli, Rt. 29, Schuylerville

Dennis J. Brida
2160 Rowley Rd.
Ballston Spa, NY 12020
S/B/L 156-1-10 Rural Residential

Robert Park made a motion, seconded by Robert McConnell to approve a one year renewable Special Use Permit for Mango's 29 Deli. Chairman Ian Murray – aye, Robert Park – aye, Laurie Griffen – absent, Patrick Hanehan – absent, Paul Griffen – absent, Robert McConnell – aye, Jennifer Koval – aye. **Carried 4-0**
Approved

Old Saratoga U-Pull-It Junkyard, Hayes Rd., Schuylerville

Phillip N. Heitmann
19 Stafford Bridge Rd.
Saratoga Springs, NY 12866
S/B/L 169-1-44 Rural

Chairman Ian Murray made a motion, seconded by Robert Park to approve a one year renewable Special Use Permit for U-Pull-It Junkyard. Chairman Ian Murray – aye, Robert Park – aye, Laurie Griffen – absent, Patrick Hanehan – absent, Paul Griffen – absent, Robert McConnell – aye, Jennifer Koval – aye. **Carried 4-0**
Approved

New Business: None

Robert McConnell made a motion, seconded by Jennifer Koval, to adjourn the meeting at 9:17 p.m. Chairman Ian Murray – aye, Robert Park – aye, Laurie Griffen – absent, Patrick Hanehan – absent, Paul Griffen – absent, Robert McConnell – aye, Jennifer Koval – aye. **Carried 4-0**
Meeting Adjourned

The next meeting will be held June 23, 2010 at 7:30 PM.

Respectfully submitted,

Linda A. McCabe
Clerk