

**TOWN OF SARATOGA  
PLANNING BOARD DRAFT MINUTES**

**November 18, 2015**

Chairman Ian Murray called the meeting to order at 7:32 p.m.

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

Also attending: Clarence Fosdick, Phil Perry, John Witt, Frank Owens, Stefanie Bitter, Jenny Meeltan, Jan Murphy, Edith Rubinson, Thomas Yannios, Peg Leisen, Dan Farnsworth, Courtenay Huft, Rod Shrome, Roger Sharp, Justin Grassi, Peter Grassi, Maribeth Macica, Krista Malinoski, Linda & Al Macica, Jean Seiler, Randall Odell, Michelle Madalla, Armando Morales and other interested persons. (Sign-in sheet is on file in the Clerk's office)

**A motion was made by Patrick Hanehan, seconded by Robert McConnell, to accept the meeting minutes of September 23, 2015.** Chairman Ian Murray – aye, Laurie Griffen – absent, Jennifer Koval – aye, Patrick Hanehan – aye, Joseph Lewandowski – aye, Robert McConnell – aye, Brandon Myers – aye.

**Carried 6 - 0**

**Approved**

**Chairman Ian Murray announced to the interested audience, that both applications before the Board tonight were not public hearings, so there would be no public input at this time.**

**Special Use Permit**

**Roger Sharp #13-12  
386 Burgoyne Rd.  
Saratoga Springs, NY 12866  
S/B/L 168.-2-35 Rural**

**Representative: Stefanie Bitter, Attorney**

Returning Applicant seeks to obtain a Special Use Permit for his High Peaks Sound home industry business.

Roger Sharp appeared before the Board with his attorney, Stefanie Bitter. Attorney Stefanie Bitter stated she was aware this application has been ongoing for some time. She said she hoped to move the permit process along and in so doing, she would like only to address the compliance of his business as it is today and deal with the future growth of the business at a later date. She reviewed the revised submitted survey, check list and the nature of High Peaks Sound business and stated that Roger Sharp is proposing to maintain and store his equipment (sound equipment, lighting equipment) in the metal garage for his business. The events are for non-profit benefits and the main employees are he and his wife, with additional employees during peak seasons, being April - October, along with 1st Night in Saratoga Springs. He has turned off the back-up alarms on his two box trucks to diminish the noise, the loading and unloading of the equipment occurs during the daytime only and

most of his work occurs on the weekends. She then reviewed the topography of his parcel and stated that Roger Sharp is willing to put in vegetation buffers to help alleviate the noise for the neighbors and that the proposed parking will be in compliance with the Town's regulations. She also asked for a waiver concerning the drainage plan and stated she would like to obtain a temporary permit.

Chairman Ian Murray stated the Board has some material and this has been ongoing for close to three years. He is aware that Attorney Stefanie Bitter is coming in on the tail end of this, but he wanted to go over a few things. In the letter the Board received from Attorney Stefanie Bitter she had stated that the leach field was identified on the survey; it was not.

Attorney Stefanie Bitter apologized for the error and stated they found the tank not the leach field, but they are in the process of scoping it out.

Patrick Hanehan said the letter also stated assurance that there is no parking on the leach field; if it hasn't been found yet, how can that be assured.

She responded the parking is in the front, not in the location she presented on the plan.

Chairman Ian Murray said he's delighted that Roger Sharp's business is growing and successful, however, the Board has been trying to see how this fits into the definition of home industry so he can do this, but there comes a time when you have to move on when your business grows. The webpage for this business has numerous names listed as employees, not just the applicant and his wife. This business has a much broader range than small entities and not-for profits as Roger Sharp and his Attorney have tried to tell the Board. He added that the Attorney's letter, second page, first paragraph, stated pursuing growth in the future and that will be tough to accommodate. He wishes Roger Sharp success with his business, but explained to his Attorney that the Board has tried for nearly three years to see if this fits in and have been unsuccessful; yet Roger Sharp still wants to expand it. Chairman Ian Murray then stated after careful consideration over the past few years, his personal feeling is this doesn't seem like this is the avenue to pursue. He asked if the Board Members had any questions or statements.

Robert McConnell said they still unload at night according to the neighbors and he'd have to have very large trees brought in for a buffer there. The photos he submitted are very misleading; you need to go to the property to see the whole scope of this. Roger Sharp says he only has two employees but he's not certain that information is always correct. This is in the rural district and this business is not suitable for that district. He then questioned if one can disconnect a backup alarm on a commercial vehicle; he has little ones running around there and questioned the safety factor of that.

Patrick Hanehan responded no, you cannot disconnect it the back-up alarms. It's an OSHA violation; if a commercial vehicle and/or equipment is equipped with one, you cannot unhook or disconnect it.

Robert McConnell then stated that he's happy Roger Sharp has a great business, but looking at the map there seems to be a lot of property behind him where he could move the business to. This is in the rural district and as Chairman Ian Murray has said, we're trying to fit this in but it just doesn't fit. There are barns and other buildings out there that Roger Sharp

could rent for his business as Chairman Ian Murray and other Board Members have suggested numerous times in the past.

Roger Sharp responded that yes, there is a lot of property behind, but in order to access that he'd have to demolish the existing garage, which acts as a buffer to the neighbor filing all the complaints.

Robert McConnell replied the business would be behind him and he can put buffers in; he added he's more interested in what the neighbors have to say, if this has to go to a public hearing and he's not sure it even has to.

Jennifer Koval questioned Roger Sharp if he proposed to house the box trucks inside, since he wants to now comply.

Roger Sharp responded no, they're too big.

Jennifer Koval asked about the scaffolding and other things stored outside against the building; will those be stored inside since they're business equipment; it looks as if he's already overflowing with the storage he has.

Roger Sharp said no, he'll continue storing them where they are.

Jennifer Koval responded that his Attorney stated he is proposing to 'maintain/store his equipment (sound equipment, lighting equipment) in the metal garage for his business'; she questioned how he will make it work for all the things he currently has. She then asked if they could read the definition of the type of permit he wants to be in conformity with.

Brandon Myers read the definition of Home Industry - [Amended 7-10-2006 by 5-2006]:

***A. A use which, although secondary to the residential use of a lot, and carried on by the family residing in the dwelling unit on the lot, is more intensive than a home occupation. A home industry includes the manufacture and sale of handicrafts, the repair of automobile and truck bodies and/or the inspection of automobiles and trucks, the sale of firewood and wood burning stoves, a facility (but not including "self-storage facilities") for the storage and warehousing of personal property for a fee (such as boats, recreational vehicles, or antique cars) and other uses of a similar nature, provided the following conditions are met:***

- 1. The home industry shall be carried on wholly within the principal building or within a building or structure accessory thereto.***
- 2. No offensive noise, vibration, smoke, dust, odors or glare shall be produced.***
- 3. No parking upon the public right-of-way results therefrom.***
- 4. The home industry shall not impair the visual quality of the area in which it is located.***

***B. Any home industry established after enactment of this chapter shall require the issuance of a special use permit in accordance with the special permit requirements contained herein.***

He then stated the key point to him is "carried on by the family residing in the dwelling".

Jennifer Koval reiterated A. 1. ' The home industry shall be carried on wholly within the principal building or within a building or structure accessory thereto.' yet his scaffolding and two large box trucks are parked in the yard, they are not in a building.

Attorney Stefanie Bitter responded that with the sale of firewood, she doubts that would be in a building.

Jennifer Koval responded first we're not talking firewood here, though firewood looks different stacked up neatly for sale than scaffolding and two big box trucks. And in the wintertime the trees are leafless so you have no buffer.

Attorney Stefanie Bitter stated screening is a possibility; he's not abandoning the expansion and she's trying to move forward in the most expeditious fashion possible for her client. If the addition is the preferred method then that is something that Roger Sharp can pursue.

Jennifer Koval said she doesn't know if adding onto the building or modifying the building is the answer, because Roger Sharp was planning on loading docks as the addition and he wasn't planning on housing the trucks inside.

Roger Sharp responded he was not planning on having the trucks inside. He then said there're trucks all over his road and Jennifer Koval stated that's different, they aren't large box trucks.

Jennifer Koval stated maybe the Board should hold a public hearing and listen to what the neighbors have to say since they want to go forward, adding that she feels the business doesn't fit in that district and doesn't fit the home industry definition; the parameters with this specific business are beyond the town's definition. She personally isn't saying she's 100% opposed, but the neighbors are. He needs to realize he may have outgrown his space.

Chairman Ian Murray stated much to Roger Sharp's success, the outside storage is bigger, more box trucks are there, cars parking in the driveway; since the last time the Board was out to that property for their last site walk through, Roger Sharp has re-rubbed the whole front yard and the driveway for employee parking - the expansion and growth is there. Again, more success to him but it doesn't fit there. The Board can publish, and move forward with a public hearing next month.

Roger Sharp told his Attorney he wants to think about it.  
At Roger Sharp's request the application was tabled.

**Returning**

### **Sketch Plan for Major Subdivision Conference**

**John Witt, Witt Construction #15-05      Current Owners: Bethesda Episcopal Church**

**563 N. Broadway  
Saratoga Springs, NY 12866  
S/B/L 193.-1-17, 193.-1-18, 193.18-1-55 Lake Residential  
Rural District II, Rural District  
Location: 142 Cedar Bluff Rd. (Co. Rd. 71)**

**41 Washington St.  
Saratoga Springs, NY  
12866  
Mr. Emory Waldrip  
Mr. John Witt**

Returning Applicant seeks to subdivide three parcels, with a total of 113.70+/- acres, into a major subdivision.

John Witt appeared before the Board and stated he is representing himself and Emory Waldrip. The property for this subdivision consists of lands owned by Bethesda Episcopal Church, Mr. Waldrip and a parcel of his own. He reviewed the three possible concepts he presented the last time he was before the Board: a 25 lot, 63 lot and a 29 lot layout. Since his last appearance before the Board he's had the land surveyed, shot the topography and had the wetland study completed. He showed the eastern parcel with the old farmstead, pointed out the unbuildable area (the slopes of 25% or more) of the land and stated there are no wetlands on the one side of that parcel. He then reviewed the western parcel (Hill Rd.) with the steep slopes, wetland runoffs and said there are 1½ acres of wetlands, steep slopes of 25% or greater on 16.4 acres. The total project is 111.8 acres so he's leaning toward a conservation subdivision of that parcel. There are a total of 17.9 acres of non-buildable lands, 93.7 acres of buildable lands and according to code, 50% of the buildable area is to be set-aside lands for open space; they actually have 56.9 acres of open space lands which is 10% more than required. The proposed lot coverage of 54 acres. He then showed their 'by-right' plan of 2 acre lots with a total of 62 lots with road frontage. He said they don't want to do that; they'd prefer a conservation subdivision, running a road down from Hill Rd. with a total of 36 lots and bring sewer from 9P to Hill Rd. and he wants to create buildable lots up on the ridge and those larger lots on the ridge will have septic systems. His goal is to create buildable lots tucked up on the ridge and he then talked about creating an orchard in the open space there, which would keep the houses out of sight from the 9P road.

Jennifer Koval questioned with the by-right plan concerning where the drainage is on the westside, how steep is it there.

John Witt replied it's only 8% grade there, so not very steep.

Jennifer Koval questioned if he will be clearing all that area around the ridge for the houses to have views and what effect will that have on erosion.

John Witt replied that they would follow town code for drainage. They wouldn't clear-cut the whole area and it would be replanted right away.

Jennifer Koval then asked if everything on the map in red indicates steep slopes of 25% or more.

John Witt replied yes, everything on the map in red is 25% or greater steep slopes. He then stated that it was once a farm and all the fingers of wetlands there are only a foot wide, but they will follow regulations; if creating farmland there they will follow farm plans for that tract.

Jennifer Koval questioned if that open space land will go with that one specific parcel and John Witt replied it will be tied to the farm parcel in perpetuity. He'd like to see a vineyard or orchard there in that open space area.

Chairman Ian Murray stated the Board will have to go over this together. That is why he had wanted John Witt to walk the property with the Board prior to tonight. He then asked if Kevin Hastings did the designs for those lots or the by-rights plan?

John Witt replied that Kevin Hastings did all the plans.

Chairman Ian Murray stated he'd like Kevin Hastings to take a harder look at the conservation subdivision regulations; there are some things there that he needs to look at, that the Board needs to look at and then review together. One of the main things are the three proposed flag lots on the east side; that is not the purpose and intent for flag lots in the regulations as it was developed years ago and that proposal doesn't meet the Town objectives or the letter of the law.

Chairman Ian Murray then read:

***Purpose and Intent from §400-8.13 Flag Lots [5-22-2003 by L.L. No. 1-2003]:***

***The use of flag lots is generally discouraged. The primary objective is to prevent incremental development that unnecessarily uses valuable farmland and degrades the open space perspective of the Town. Allowing limited flag lots allows the Planning Board the flexibility to negotiate the set-aside of roadside views and agriculturally used lands to get a better land use pattern than would be achieved by the straight road frontage rule.***

***The second objective is to plan for the proper use of our roadway system by limiting public road access points.***

The proposal of flag lots defeats those two purposes because you're just stacking mailboxes on there and there's no preservation of agriculture. It doesn't warrant any benefits to the Town. He told John Witt he needs to go through and rework the design with his design professional.

Chairman Ian Murray asked if he set the flag lots up because of the view lots; in the anticipation that the land on the other side would be cleared and the viewshed would be okay for the lake.

John Witt replied yes.

Chairman Ian Murray said in the conservation subdivision code, it states that the set-aside land is technically open space that is to be preserved and in perpetuity; it doesn't mean it's to go to agriculture. He then stated he knows this is the sketch plan phase but he'd like to go over the following list as far as timing:

- ❖ Phase I Environmental has been done; he's gone through that and has a couple of questions.
- ❖ Phase I Archeological needs to be started right away if you want to continue with this through the winter, otherwise they'll run out of time; this is on the Town's sensitive areas map. Phase I is a literature study and more than likely they'll go to 1A and 1B and make you do test sites; it's not uncommon for projects on the lake. He added he has no idea what those companies schedules are and what they can do in adverse weather conditions.

- ❖ Road profile and engineering - he asked Town Highway Superintendent Don Ormsby to look at ingress/egress where the Hill Rd. connects to Wright Rd. He asked John Witt if he knew the distance between the Y on Wright Rd. and turn on Cedar Bluff Rd. They need 300' or more for safety concerns with plow trucks; he doesn't think that's a useful entrance as proposed.

John Witt questioned if they should do a T there instead and Chairman Ian Murray replied yes.

Chairman Ian Murray continued with the list:

- ❖ storm-water plan, he knows they aren't ready for that yet since lot configurations have not been determined.
- ❖ Road alignment on Wright as they discussed.
- ❖ Sanitary on the west side-they've proposed a forced main and gravity feed; he asked if they've talked with the sewer district about the proposed forced main because he's never seen a forced main under a road like that; the Board will need a sign-off on that from Saratoga County Sewer District.
- ❖ Open space-proposed mechanism tied to the farm lot, not an HOA?
- ❖ Setbacks on eastside-proposed minimum should be 100' with the conservation subdivision
- ❖ Open space-figure out what to do with the layout, purpose, intent, clearing. He'd like Kevin Hastings to go back and look at the regulations on the definition of open space. It has clear definition of what community open-space is, what green-space is and what should stay natural conditions and what open space is.

Chairman Ian Murray stated he is okay with the east side, but he did a drive-by on the west side and he's more concerned with erosion control measures there. The Board needs to see what the SWPP plan is for the proposed homes and the road. Ideally he'd like a site visit walk through with the Board and since they can't have private meetings, the neighbors are welcome to walk too.

Chairman Ian Murray and the Board discussed a date for the site visit and stated he'd like the Board to walk the property on Tuesday, 11/24/2015 at 2 p.m. (with a rain date of 11/25/2015) if John Witt will be available; John Witt replied that's fine with him.

Chairman Ian Murray stated the walk through will not be a public hearing but the public is welcome to walk with them. They will meet 2 p.m. at the Hill Rd. cul de sac to begin.

### **Returning**

**Information:** Michelle Modella and Armando Morales of 14 Eagles Way appeared before the Board and said they are looking for information and feedback from the Board concerning operating a community based business, specifically a dog obedience training and dog grooming facility. They are looking for a space to house their business; they'd like to open their business in the town of Saratoga because for 4½ years they've been going to the homes of their customers and their customer base is in this town. They envision a training facility for obedience classes, small group training, individual training, maybe more intensive training.

Chairman Ian Murray questioned if this is to be a kennel or training facility.

Michelle Modella replied they envision it being a dog training facility and eventually as it expands, they'd like to offer a limited amount of training services that would happen on site. For example, for a limited number of dogs they might offer a board & train class, where the dogs are there for two weeks for intensive training, but they don't ever envision the dogs being alone in the building; if and when they get to that point, they would have to have staff there. They are looking at the building on Rt. 29 as a starter for them; once they get four dogs in residential training, they will outgrow that space. Armando Morales added that they are not looking for a large space, something more like 500 - 600 sq. ft. to start the business.

Chairman Ian Murray questioned if they will they need outdoor space for training.

Armando Morales replied they train indoors; depending on the location of the facility if they had outdoor space it would be ideal, but it would not be a deal breaker if they didn't have that. They'd only need a small space outside for the dogs to do their business when needed. They want to begin with a small space, get their feet wet with small financial output at this time.

Chairman Ian Murray reviewed the regulations stating for a kennel they'd need 5 acres. He also stated day training services are considered a retail business.

Michelle Modella and Armando Morales stated they are looking at the old Hair Diva space on Rt. 29 as a start-up and hope to outgrow that space in a year.

Chairman Ian Murray questioned if they anticipate two rooms for training and they replied no, one open space with 5 - 6 clients at a time and a small area fenced in for potty breaks.

Chairman Ian Murray stated that would classify it as a service and he's okay with that. The Board members like the concept and are okay with it as well. Chairman Ian Murray and the Board told them to file application for a special use permit. They both thanked the Board.

**Old Business:** None

**New Business:** Next Joint Workshop Meeting will take place on November 19, 2015 at 7:00 p.m. and December's Joint Workshop Meeting will be held on December 15, 2015 at 7:00 p.m.

**A motion was made by Robert McConnell, seconded by Brandon Myers to adjourn the meeting at 8:57 p.m.** Chairman Ian Murray – aye, Laurie Griffen – absent, Jennifer Koval – aye, Patrick Hanehan – aye, Robert McConnell – aye, Joseph Lewandowski – aye, Brandon Myers – aye.

**Carried 6 - 0**

**Meeting Adjourned**

The next regular meeting will be held Wednesday, December 16, 2015 at 7:30 PM.

Respectfully submitted,

Linda A. McCabe  
Planning Clerk