

MINUTES OF THE TOWN OF WAYNE
PLANNING BOARD
September 11, 2017

Mr. Witkowski called the public hearing for Peter Ungerland, Site Plan Application, to order at 6:35PM.

Mr. Witkowski stated the following:

- Tonight's meeting is a result of the June 15, 2017 decision rendered by Justice Furfure, where she found the Town of Wayne action was lacking in viewshed impact and the need to do a viewshed analysis and effect of the proposed pole barn.
- Everyone understands the importance of viewshed for the enjoyment of all and how much it's worth once it's gone.
- All are asked to introduce themselves before making any statements and to keep them brief.

Attorney Leslie Mauro was present to represent the Planning Board, reviewed and stated the following:

- The June 15, 2017 Judge's decision concerning Mr. Ungerland's Article 78 petition, the vagueness of the 18 ft. height limit in the Land Use Regulations and only viewshed should be addressed.
- The Town's concern and what it has done to preserve viewshed.
- Reviewed the timeline:
 - a) The court decision was received on June 19, 2017
 - b) Mr. Ungerland's request for review by the Planning Board was received on July 31, 2017
 - c) The subsequent hearing held September 11, 2017 since the application could not be advertised in time to meet the regular August 7, 2017 meeting date.
- The decision made in 2015 was done by different Planning Board members.

Attorney Scott Moore was present to represent Mr. Ungerland and stated the following:

- The applicant hired Rick Willson, a licensed surveyor out of Syracuse with a background in Forestry, to provide a site view analysis on behalf of his client.
- Mr. Wilson's analysis shows the view from the point of the deck level, looking across the peak level of the roof which is below the tops of the trees, you could still see the Lake.
- Reviewed both Mr. Frantz's viewshed analysis and Mr. Wilson's viewshed report of the proposed building.
- Due to the nature of the soil, they had to do extensive excavation of 13-14 ft. below grade, making the proposed peak of the building 26.7 ft. from ground level.
- The court did look at the case and stated it lacked viewshed analysis.
- The size of the building was dictated by the needs for Mr. Ungerland's storage of his motor home, boat and other equipment.
- The existing hedgerow located on Mr. Ungerland's property were trimmed at the neighbor's request has enabled neighbors to view the Lake.
- The right for everyone to follow the Land Use Regulations that exist and to enjoy their property.

- The view was not for just the uphill neighbors, but for the owner and other downhill neighbors.
- The Court found that the Zoning Board focused only the height issue and not viewshed.
- There were larger buildings in the area.

When questioned, Mr. Wilson stated he conducts maybe 1 or 2 viewshed reports a year.

Mr. Frantz, of George Frantz and Associates and Land Use Environmental Planning and Urban Design, stated the following:

- He was hired by the Planning Board and Town of Wayne to do a visual impact assessment analysis for the proposed barn to be located at 9921 Day Rd.
- He has been doing environmental review for 30 years.
- In his estimation, 45% of the viewshed would be blocked, once the barn is constructed.
- Reviewed his visual impact assessment of the proposed barn viewed from 9891 Day Rd.

The following individuals gave their names and addresses before stating their concerns or opinion's regarding the view shed:

Ms. Doucette ,14064 Ste. Rte. 54, stated she moved to this area from a suburban location due to the beautiful view of the Lake and surrounding countryside. Her concern was the impact of the industrial metal building would be as she walked and biked up Day Rd.

Mr. Stowe, 9883 Day Rd., stated the metal structure would be a warehouse looking structure located on a farm.

Mr. Young, 9281 Silsbee Rd., stated he was not affected by the view but wrote the original Land Use Regulations and has served on both the Planning and Zoning Boards. When writing the regulations, the members at that time, didn't want to obstruct the view with buildings and questioned how a structure of the proposed size could get approved by the Zoning Board of Appeals.

Ms. Heath, 9891 Day Rd., stated they would be the neighbors greatly impacted by the proposed metal structure. She further noted, the viewshed analysis took in only consideration of the deck and not her front lawn, downstairs office or laundry room. Ms. Heath then read a statement from the Comprehensive Plan and cited 7.3.1 and 7.3.2 of the Land Use Regulations. (On File).

Mr. Heath, 9891 Day Rd., stated the metal building could be anywhere on the 40 acre parcel that Mr. Ungerland owns, and that the proposed building site would devalue his property.

Mr. Stowe, 9883 Day Rd., stated he was a Planner and would rather look at a tree instead of a warehouse- looking building. He further noted that the actual application didn't have the 28 ft. height request and the proposed size of the metal structure would allow for the storage of 3 Leer jets. Mr. Stowe cited 4.1.2, 7.3.1 and 7.3.2 of the land use regulations and inquired why have regulations if the Town didn't enforce them. He urged the Board to deny the applicants request to place the building on the proposed site and have the applicant either down size the building or move the structure to a different location.

Ms. Kerrick inquired as to why the applicant couldn't use this existing barns located on the property.

Mr. Ungerland stated the existing barns due to age, were starting to lean. The upstairs was for equipment and the downstairs was constructed for livestock.

Mr. Young again stated that he had served on both the Planning and Zoning Board's in the past and helped write the original regulations. He noted that when the regulations were being drafted, the Board took into account the view sheds and didn't want buildings obstructing the view. He further questioned how did a structure this size get approval in the first place.

Attorney Leslie Mauro stated there were different members on the Board at the time of the application request and consul wasn't present.

Ms. Stowe, who resides in Avoca, stated her brother and sister-in-law looked at several properties before purchasing the 9883 residence. She noted one of the reasons they bought the property was for the view and was troubled that a large metal warehouse would be allowed to be constructed in the area.

Mr. Frost, stated the following:

- He submitted the variance application for Mr. Ungerland to the Zoning Board of Appeals for the proposed pole barn and the application was approved.
- Mr. Ungerland has allowed Mr. Sebastian to clear some trees that have since allowed a view of the Lake.

Mr. Ungerland stated that he shouldn't be denied to construct the pole barn as he was given a permit and spent a lot of money to improve the site. He has tried to be a good neighbor and hopes to retire once the barn is completed.

Upon further discussion, Mr. Stowe asked that the application be tabled until they could have a viewshed analysis conducted from their property located at 9883 Day Rd. (Request on file)

Ms. Kerrick made a motion to keep the public hearing open until October 12, 2017 at 6:30PM, seconded by Ms. Gabel.

A roll call vote was taken.

<u>VOTE RECORD:</u>	<u>Ayes</u>	<u>Nays</u>	<u>Abstain</u>
Stan Witkowski	<u>X</u>	___	___
Nancy Gabel	<u>X</u>	___	___
Donna Sue Kerrick	<u>X</u>	___	___
Chris Mooney	<u>X</u>	___	___
Jon Serdula	<u>X</u>	___	___

Ayes-5. Nays-0.

Mr. Witkowski stated the following:

- Per the Judge's decision; the Board was only able to address the viewshed issue and read page 17, of the Judge's decision to the public.
- Since the application; the Board has attended training in 2016 such as Sustainable New York that came up with hot spots within the surrounding areas.
- The Board has to do due diligence when it comes to viewshed issues.
- And thanked all who attended.

The September 11, 2017 Planning Board meeting started with a roll call of the members.

	<u>PRESENT</u>	<u>ABSENT</u>	<u>LATE ARRIVAL</u>
<u>MEMBERS PRESENT:</u> Stan Witkowski, Chair	<u>X</u>	___	___
Nancy Gabel	<u>X</u>	___	___
Chris Mooney	<u>X</u>	___	___
Jon Serdula	<u>X</u>	___	___
Donna Sue Kerrick	<u>X</u>	___	___
Jeff Martin, alternate	<u>X</u>	___	___
Dennis Carlson, liaison	___	<u>X</u>	___
Gill Harrop, CEO	<u>X</u>	___	___

<u>ALSO PRESENT:</u> Lynne Heath	Geoff Heath
Marilyn D'Angelo	Donald Young
Candace Dietrich	Karen Doucette
Andrew Williams	Wayne Hand
Scott Moore	Rick Wilson
Richard Rosenberg	David Frost
Joann Ungerland	Peter Ungerland
David Bauer	Mary Ellen Miller
George Barth	David Wheaton
Jodie Stowe	Winifred Stowe
LuAnn Simmons	Tom Golden
Shona Freeman	Tom Freeman
John Walton	Cathy Walton
Tom Tammaro	Art Wilder
George Barth	Tom Dunbar

MINUTES:

Mr. Mooney made a motion to approve the August 7, 2017 minutes, seconded by Mr. Serdula.

A roll call vote was taken.

<u>VOTE RECORD:</u>	<u>Ayes</u>	<u>Nays</u>	<u>Abstain</u>
Stan Witkowski	<u>X</u>	___	___
Nancy Gabel	<u>X</u>	___	___
Donna Sue Kerrick	<u>X</u>	___	___
Chris Mooney	<u>X</u>	___	___
Jon Serdula	<u>X</u>	___	___

Ayes-5. Nays-0. Abstain-0. Absent-0.

NEW BUSINESS:

SITE PLAN APPLICATION FOR David Wheaton: Property located at 9785 Mohawk Trail, Town of Wayne. Request to add a pole addition onto an existing trailer.

Mr. Serdula made a motion to accept the site plan application as submitted, seconded by Mr. Mooney.

Mr. Harrop stated the following:

- The Zoning Board of Appeals granted him a variance.
- It was a pole barn structure added onto an existing trailer.
- He had no issues.

Upon discussion, the following items were noted:

- The application was approved for variance on August 10, 2017 by the Zoning Board of Appeals.
- No SEQR was needed, as it was a Type II action.

Upon further discussion, a roll call vote was taken to approve the site plan application as submitted.

Ayes-5 Nays-0.

SITE PLAN APPLICATION FOR Thomas Freeman: Property located a 9221 Hines Rd., Town of Wayne. A basement foundation for placement of a modular home.

Mr. Serdula made a motion to accept the site plan, seconded by Ms. Kerrick.

Mr. Harrop stated the following:

- The request was to construct a basement foundation for a new modular home to be placed at a later date.
- There is an existing well and septic on the site.
- It meets all setback requirements.
- Viewshed isn't an issue.

Mr. Witkowski stated this was a Type II action and no SEQR was needed.

A roll call vote was taken. Ayes-5. Nays-0. The site plan was approved as submitted.

SITE PLAN APPLICATION FOR Richard Rosenberg: Property located at 13349 Ste. Rte. 54. Town of Wayne. Request to add an extension onto their existing home.

Mr. Serdula made a motion to accept the site plan, seconded by Mr. Mooney.

Mr. Harrop stated the following:

- It met all setback requirements.
- It was an addition to an existing building.
- He had no issues with this request.

Mr. Witkowski stated this was a Type II action and no SEQR was needed.

A roll call vote was taken. Ayes-5. Nays-0. The site plan was approved as submitted.

SITE APPLICATION FOR Andrew Williams: Property located at 9264 Wixson Rd. Town of Wayne. Request to construct a 32 ft. by 40 ft. pole barn for storage.

Ms. Kerrick made a motion to accept the site plan application, seconded by Mr. Serdula.

Mr. Harrop stated:

- It was located in an AG-R district that had an existing garage.
- It met all setback requirements.
- Viewshed would not be an issue.

Mr. Witkowski stated it was a Type II action and no SEQR would be needed.

A roll call vote was taken. Ayes-5. Nays-0.

SITE PLAN APPLICATION FOR John Walton: Property located at 9323 Spruce Rd., Town of Wayne. Request to build new single family home.

Mr. Serdula made a motion to accept the site plan, seconded by Mr. Mooney.

Mr. Harrop stated the following:

- This was tear down and rebuild.
- The applicant had to meet FEMA standards.
- They have applied and received a demolition permit.
- Currently preparing for the construction phase.
- They have a 5 year plan.
- Viewshed was not an issue.

Mr. Witkowski stated this was a type II action.

A roll call vote was taken. Ayes-5. Nays-0.

SITE PLAN APPLICATION FOR Tim McCracken: Property located at tax map #078.00-01-039.000, Ste. Rte. 230. Town of Wayne. Request to construct a 32 ft. by 60 ft. by 21 ½ ft. high pole barn.

Mr. Harrop stated:

- The applicant applied and received approval by the Zoning Board of Appeals for a height variance of 3.4 ft. on August 10, 2017.
- It met all setback requirements.
- Viewshed wasn't an issue.

Mr. Witkowski stated this was a type II action.

A roll call vote was taken. Ayes-5. Nays-0.

SITE PLAN APPLICATION FOR Rudy School: Property located at 9445 Grove Springs Rd. Town of Wayne. Request to place 12 ft. by 20 ft. prefab shed on property.

Mr. Mooney made a motion to accept the site plan application, seconded by Mr. Serdula.

Mr. Harrop stated:

- The proposed shed would be 300 plus ft. from Grove Springs Rd. and met all the setback requirements.
- It would be set on a gravel base.
- He had no issues with this request.

Mr. Witkowski stated this was a type II action.

A roll call vote was taken. Ayes-5. Nays-0.

UNFINISHED BUSINESS FOR Verizon:

Mr. Witkowski stated there was no new news at this time.

COMMUNITICATIONS:

Mr. Witkowski stated the Zoning Board of Appeals needed the Planning Board give a recommendation regarding Sanders/Frank Nolan subdivision request.

Mr. Harrop stated:

- It would be a lot line adjustment.
- The applicant is currently trying to acquire the right of way adjacent to the property.
- It would still be 2 non-conforming lots, but moving towards conforming.

Mr. Serdula made a motion to recommend the Zoning Board of Appeals approve variance application 12V17, seconded by Ms. Gabel.

As there was no further business, Ms. Gabel made a motion to adjourn the meeting at 8:43PM, seconded by Mr. Serdula. Ayes-5. Nays-0.

Respectfully, Maureen Kurtz