

Present at Meeting: Chairperson William McGhie
Vice-Chairperson Dan Freebern
Mike Raymond
William Siegle
Joe Turcotte
Alternate # 1 Georgia McMeekin

Also Present: Town Counsel Leah Everhart, Bernie Hill, Charles Hotaling from AAA Tri City Remodeling, Bob Olson, Jim Steen, Jim Bombicino, Judy and Scott Campbell and Brandon Himoff.

AGENDA ITEMS: **File 2018-01 Subdivision** **Tax Map # 36.12-1-70**
 File 2018-02 Conditional Use **Tax Map # 88.7-1-30**
 File 2018-01 Conditional Use **Tax Map # 88.-2-2.112**

Pledge

Chairperson Bill McGhie called the meeting to order at 7:00 pm

Chairperson Bill McGhie stated that Joe Turcotte has been appointed from Alternate # 2 to a member of the Board. Dan Freebern will be moved to the new Vice-Chairperson in light of Teri Schuerlein's resignation.

Review of Minutes: Vice-Chairperson Dan Freebern made a motion to accept the June 20, 2018 minutes as written. Second by Mike Raymond. **All Ayes.**

NEW BUSINESS: **File 2018-01 Subdivision**
 Tax Map # 36.12-1-70
 James Bombicino
 450 and 452 East Shore Drive
 Adirondack, NY

Requesting a Subdivision for two existing lots

Jim Bombicino was present to speak about his request for a Subdivision. He stated that one lot that was purchased in 1969 by his parents and the Siler's parents as co-tenants in common. There were two cabins on the lot and soon after purchase they rebuilt the two cabins. His folks have since passed away and his father left the property to him and the other to the Siler's. They have separate driveways, separate septic systems, separate everything and he wants to split the property in order for each home to have legal ownership.

Chairperson Bill McGhie asked if he gets his water from Blue Sky.

Jim Bombicino stated yes they get the water from Blue Sky and share the same water line spur. They have separate septic systems, driveways and utilities.

Chairman Bill McGhie asked where septic systems are located.

Jim Bombicino responded in the front, his septic is slightly off to the left and the Siler's is in the front of their house. There is a site map indicating where the septic systems are located.

The Board members reviewed the site plan to find out the location of the septic systems.

Chairperson Bill McGhie asked if there are any other questions.

Mike Raymond asked if the both lots are 100' lots.

Jim Bombicino responded the road frontage is 100' now and when they split the property each lot will have 50' of road frontage.

Vice- Chairperson Dan Freebern asked about the side yard setbacks. He stated that each house is 4' away from the property line.

Jim Bombicino stated that is the measurement from the eaves and from foundation to foundation the measurement it is about 12' apart.

Zoning Administrator Jim Steen stated this application is currently before the ZBA and they will make a determination on this file on Tuesday, July 24, 2018 for the variances for side yard and road frontage.

Vice-Chairperson Dan Freebern stated that he does not understand why the Planning Board is making a determination before the ZBA does.

Town Attorney Leah Everhart explained that this can come before the Planning Board prior to the ZBA decision as we are only deeming this application complete tonight.

Being no further questions or comments Mike Raymond made a motion to deem the application complete and set a Public Hearing for Wednesday, August 15, 2018. Second by Joe Turcotte. **ALL AYES.**

NEW BUSINESS:

File 2018- 02 CU
Tax Map # 88.7-1-30
Brant Lake Wesleyan Church
6692 State Route 8
Brant Lake, NY 12815

Requesting a Conditional Use to change the property that was a former church that is now vacant to a Theater.

Scott Campbell was present to speak about his plan. He wants to take the Church and turn it into a Theater. He has 40 years' experience in marketing commercial events. The Church is currently zoned commercial for a church and he wants to change that to a theater. The use application will be for people coming to attend performances.

Chairperson Bill McGhie asked about the septic system on the property.

Scott Campbell stated that no one has any records of that. Tom Hutchins Engineering, the real estate office, nor the Church has any definitive record on that and what we have concluded is that it is a cesspool 8' feet below grade. The Church has a cellar as well. They think the cesspool is on the north side of the building. Tom Hutchins Engineering will be preparing a report on that. According to the realtor and church it has never had any problems with the cesspool. There are three bathrooms in the building, one upstairs and 2 downstairs. What they would like to do is have the property grandfathered "as is" and want to have assurance in the future if it fails to be able to put in a containment tank replacement. Right now he does not think the property is compliant with today's code. That is why they are requesting grandfathering. There is also an oil tank that is buried underground and they have asked the Church to extract that. They will put a new oil tank in the cellar. Tom Hutchins has done samples on the well and he will meet with Zoning Administrator on this issue when the results are done. They think now that because it has not been used in three years they think it needs to be flushed out.

Mike Raymond said he does not see the location of the well on the site plan.

Scott Campbell indicated it is on the lawn about 100' from the building and 150' from the cesspool.

Zoning Administrator Jim Steen stated the drilled well on the map is behind the parking lot.

Discussion ensued regarding the location on the plan of the cesspool, the well and the oil tank location with the Board members and Mr. Campbell.

Mike Raymond asked if the parking lot is completely within your property of 4.4 acres.

Scott Campbell indicated yes, the parking lot borders on the street. There are two deeds for the property and ten to twelve years ago when Ralph Bentley was supervisor a small portion of the Town property was donated to the church in order to square off the land near the cemetery.

Vice-Chairperson Dan Freebern asked if anyone has done a study to determine how many vehicles can park there.

Scott Campbell stated he thinks about 45 vehicles can be parked and he is talking with the neighbor across the road from the Historical Society about purchasing a parcel in order to use that for additional parking.

Vice-Chairperson Dan Freebern stated he has concerns with not having enough parking there at the church property.

Scott Campbell stated that their seating capacity will only be 100 people and they are looking at procuring property across the street for additional parking. They are also looking for additional parking by contacting the Remington's about shared parking. He talked with Tom Johansen from the Historical Society and Tom indicated that when there were events in the area in the past part of the Town of Horicon cemetery parking area was used and maybe they could work out something with the Town to use it as well.

Vice-Chairperson Dan Freebern asked about the underground oil tank and would the APA be involved.

Town Attorney Leah Everhart stated that probably not. On residential properties underground oil tanks are found in residential sales and they just get moved during the sale and her assumption is it is not required for the APA or DEC to be involved.

Scott Campbell stated that Buckman's would be removing the oil tank and they have stated if they found any contamination they would contact the proper environmental agencies. He contacted Paul Shannon a Senior Geologist and President at PS Property Solutions in Hudson Falls who has agreed to come and assess the property and give us an assessment and recommendations about environmental issues and concerns.

Mike Raymond asked if they have closed on the property.

Scott Campbell stated no, we are in the process. When the church sells property they have to go through the Supreme Court of New York for permission. They are 30 days into the process now and usually takes 30-90 days. Once they get the Church to extract the oil tank and move it inside, they won't close until the oil tank is removed and will be applying for septic variances in advance as well. Since no records of the septic system exists anywhere they have conducted their due diligence to identify the status of the existing septic system and enlisted Tom Hutchins Engineering to research and evaluate the status of the existing septic system. Right now they think it is a cesspool, eight feet below cellar grade located on the north side of the building between the buildings foundation and the dirt road leading to the cemetery. Because of the age of the building which was constructed in 1900 the existing septic field does not meet current codes. Thus, they request to be "grandfathered" to be able to use the existing system until it fails and (b) request the Town now, before we purchase property, grant an appropriate legal variance in advance. Assurance that they will have an acceptable resolution to satisfy the Town's compliance expectations in the future. Tom Hutchins Engineering will be providing a report to Zoning Administrator Jim Steen and we will be able to provide that to you by the next meeting. He has the home inspection report as well. Just waiting for water and septic answers.

Mike Raymond asked Mr. Campbell if we turned you down, would you be out thousands of dollars.

Scott Campbell stated he would be very discouraged.

Mike Raymond stated that he just wanted to make sure, if we turn you down, that you will not lose \$110,000 which is the purchase price.

Scott Campbell stated no, we would only lose the \$1,000 we put down.

Vice-Chairperson Dan Freebern asked if this is before the ZBA for a variance.

Attorney Leah Everhart stated no, and the ZBA does not grant the septic system variances. The Town of Horicon Town Board (acting as the Local Board of Health) hears all requests for septic system variances and currently there is no request from Mr. Campbell that is pending before the Town Board.

Scott Campbell asked Zoning Administrator Jim Steen if he had any information from Tom Hutchins on what's necessary for the Town.

Zoning Administrator Jim Steen responded no and he further stated that the "grandfathering in the septic system" request is not a provision in our Sanitary Regulations. Sanitary Code is like the Zoning code and I'm responsible for decisions on the Sanitary Regulations. It would be my call when it comes to Sanitary Regulation and I would make a decision that this issue has to be addressed before putting it into operation.

Attorney Leah Everhart stated to Mr. Campbell that his engineer can provide an opinion on an application what the Department of Health standards are and whether or not those non-compliant systems are grandfathered or not. That would be for the Zoning Administrator Jims Steen or the Town Board to consider.

Scott Campbell stated that they are trying to do all the due diligence before they take possession of the property and they don't plan on opening until next year.

Mike Raymond stated that there are a lot of "what if's" hanging out there and cant' say this application is complete until they have more information on the other issues.

Chairperson Bill McGhie stated that the Planning Board meeting next month will be held prior to the next Town Board meeting and if that's the case you will not have your official approval for the septic system.

Scott Campbell stated that he and his wife would be departing for Arizona on August 25, 2018 and would like his attorney, Bruce Carr to represent them at any further meetings.

Town Attorney Leah Everhart stated that the engineer has evaluated the type of system currently there and likely location of it but what is not clear is whether or not the septic system will be replaced prior to your purchase.

Scott Campbell stated that it seems to be a cesspool that is compliant with distance from the well. They are looking at replacing it with a containment tank. Judy Campbell stated that they are looking to get a variance for the septic prior to closing and they are looking to keep the existing cesspool and wants plan B if the cesspool fails to put in the new system (containment tank).

Town Attorney Leah Everhart asked if they are talking about seeking a variance in order to keep the septic system that's currently in place despite it not being compliant.

Scott Campbell stated ideally what he would like to do is keep the cesspool in place because there have been no problems with it but if it fails then they want to have a plan in place (Plan B) to put in a 1000 gallon containment tank in the same place or elsewhere.

Town Attorney Leah Everhart stated she wants to see if there are any outstanding documents this board might need or expect to be able to receive in the near future for purposes of deeming the application complete but it does not sound like any documents can be provided at this point.

Scott Campbell stated they want to be able to procure the property and use the septic "as is". He wants to address the Town and say look, we understand at some point this may fail or we may want to replace it at some future point and he does not want the system to fail and then not have Plan B to fall back on. He wants to turn it into a Performing Arts center "as is". We are aware of the situation that is there and that maybe a septic issue and he wants to address that.

Mike Raymond asked how close the oil tank is to the filler pipe itself.

Scott Campbell stated it is about 5' away from the foundation.

Mike Raymond asked if they know about any leakage from the oil tank.

Scott Campbell responded no.

Mike Raymond asked if there is oil in the tank.

Scott Campbell stated he does not know and when they had the home inspection the other day they turned on the furnace so there is oil in the tank.

Mike Raymond asked if they know about how much oil is in the tank.

Scott Campbell stated he does not know and that Buckman's would know that information because they will pump it all out and put foam in there and the Church will take on that issue by taking out the tank prior to them closing on the property.

Mike Raymond asked if he knows the age of the building.

Scott Campbell stated it was built in 1900 and there have been changes made over the years. There was a metal roof put on about 5 years ago. In the 1980's the Church got a new furnace and that is when the tank went in the ground. In 1960's or 1970's space was added for Sunday school with a kitchenette, bathroom and Sunday school room. The cellar was also used for Sunday school and gatherings.

Chairperson Bill McGhie stated that there were other organizations that used the church. Carl Heilman had a gallery there at one time.

Scott Campbell stated he spoke with Carl Heilman and they would like to welcome him to put his photography on display. They are planning on having art shows, photography shows and craft shows in the building. They are planning to landscape in the backyard and put up a seasonal tent for yard sales and have a food truck come in and serve hot dogs and pizza. Will have other events with the Historical Society and the Hub.

Zoning Administrator Jim Steen talked about the provision in the Zoning Law for off street parking in **Section 8.23**. It states that each parking space shall be required for all uses that are constructed altered, extended and engaged in use after the effective date of this local law. Each off street space shall consist of at least 200 square feet per spot and shall be at least 10' wide by 20' long and I just did a rough square foot measurement for this parking area and it would allow roughly about 25 parking spaces in total.

Mike Raymond asked for clarification of what Zoning Administrator Jim Steen just said about the parking spaces. Was the number of cars 25 or 45?

Zoning Administrator responded 25 cars in total requiring 200 square foot per spot.

Mike Raymond said that he wants you to be successful but there are too many questions still not answered.

Campbell stated that the church has signs and they want to move the one in front in more away from the road. He went on to state that when pulling out of the driveway there is a clear sight both ways and it is not in a hazardous curve area. When they have events then they will have the need for the parking. At the next meeting I can bring you up to date on additional parking arrangements either through cooperation or lease whatever that case made be. If I do not buy the parcel for additional parking the person who owns the parcel said that he would allow them to use his property for overflow parking.

Mike Raymond is concerned about special events like art shows, etc. that would mean more people coming and going.

Scott Campbell said it would be more like the Farmer's Market and customers would stop and then leave with a faster turnover of patrons. I've done these types of venues in the past with Casinos in Connecticut and Arizona and also done State Fairs in Rhode Island and he knows the details of what it takes for crowd control and security. The point the Board is making about parking he is addressing and can provide more information at the next meeting.

Bernie Hill spoke up stating he does Boat Shows in Queensbury and he has cooperation with the Town to use their parking and has shuttles to the event. He suggested Mr. Campbell could possibly get an arrangement with the Town of Horicon to use their parking areas for overflow parking.

Vice-Chairperson Dan Freebern stated he would have to go the Town Board for that type of request.

Town Attorney Leah Everhart made a suggestion to the Board members for a path forward at this point. If the applicant has submitted the required documents they can deem the application complete and ask for additional materials. Or they can deem the application complete and they don't have to set a Public Hearing at this point in order to have continued discussion about the application.

Vice-Chairperson Dan Freebern stated that the Town Board has to do some things before the Planning Board would make any decision.

Chairperson Bill McGhie asked the Board members if they want any additional information from the applicants.

Scott Campbell as stated previously, said they are leaving for Arizona on August 25, 2018 and not returning until May 2019 so he would like his attorney Bruce Carr to provide the Board with additional information during their absence and represent them to the Board in any further hearings.

Town Attorney Leah Everhart asked if Mr. Carr has the authorization to represent their interest here.

Scott Campbell stated yes he does have the authorization to act on their behalf.

Town Attorney Leah Everhart stated that it is in the record that Mr. Carr has authority to act on behalf of the Campbell's.

Vice-Chairperson Dan Freebern stated at this point he would have no problem with deeming the application complete.

Vice-Chairperson Dan Freebern made a motion to deem the application complete and not schedule a Public Hearing at this point because he has to appear before the Town Board first. Second by Mike Raymond. **ALL AYES.**

PUBLIC HEARING: **File # 2018-01 CU**
 Tax Map # 88.-2-2.112
 Bernard Hill
 Horicon Avenue

Requesting a Conditional Use to erect three boat storage buildings

Brandon Himoff, a neighboring property owner, was present and he wanted to ask some questions and address his concerns with this proposed project. He stated that he spoke with Bernie Hill and got answers on the colors of the buildings and they will be in keeping with the neighborhood. He did not get to address any fire issues with Bernie Hill and his house is across the street from this location so he has concerns about fires at the site. He wanted to know how Bernie Hill will be addressing his fire protection at the location. He stated it is a 12,000 square foot building, twice the size of any other building here in Town and will be storing boats containing gasoline. So he would like to know more about fire prevention.

Bernie Hill stated that he does not know of any boat storage buildings here or in any county that requires a sprinkler system for boat storage buildings.

Mike Raymond asked what distance between the buildings.

Bernie Hill stated that he needs at least 60' between the buildings in order to maneuver a fork lift in order to put the boats in place.

Zoning Administrator Jim Steen stated that the survey shows there is 57' between the buildings.

Bernie Hill stated that he measured his forklift and he determined 60' is necessary. The building is not built yet and can be changed to 60' between the buildings.

Mike Raymond stated that Brandon brings up a good question about any regulation regarding fire prevention.

Zoning Administrator Jim Steen stated that it is up to Warren County Building Fire Prevention codes and he believes it is based on the occupancy.

Bernie Hill stated there is no occupancy in boat storage buildings.

Town Attorney Leah Everhart asked Zoning Administrator Jim Steen about the previous Subdivision approval and was the berm part of the approval.

Zoning Administrator Jim Steen stated that the berm was not part of the approval it was already in place.

Town Attorney Leah Everhart asked if there was any identification by the Planning Board at that time for a building envelope for boat storage.

Joe Turcotte stated that he remembers there being a layout on the site plan.

Bernie Hill stated the original intent was identified as a property to store boats.

Zoning Administrator Jim Steen stated he would get the file and let Leah know.

Bernie Hill stated the original intent was for this to be a boat storage facility for storage inside and outside.

Town Attorney Leah Everhart asked Bernie Hill if he is proposing to change the location of the boats to inside the buildings only.

Bernie Hill responded no. He will still be putting boats outside however, he wants to put them inside because it is a better and safer way of storing boats.

The Board had a discussion with Bernie Hill regarding the previous approval for boat storage inside and outside the building.

Mike Raymond stated that when you shrink wrap boats there is a possibility to explode.

Bernie Hill stated it is definitely a risk when you shrink wrap boats that they will explode.

Mike Raymond asked if Bernie will be shrink wrapping inside the building.

Bernie Hill stated no he will be shrink wrapping boats at his current facility at EZ Marine. He stated the primary reason for the new boat storage facility at this location is to put all of the boats inside the building once all three buildings are constructed. In the meantime some boats will be stored outside. It is more economical for him to have them stored inside which is the main goal and no shrink wrap will be done at this location.

Town Attorney Leah Everhart asked Bernie Hill if his intent is to get all of the boats inside to the exclusion of boats outside.

Bernie Hill responded yes. He will not be building up forty feet in the air and it is more expensive to do that. He will be going down with a flat profile which is much simpler and safer.

Mike Raymond stated that he is trying to mitigate Brandon Himoff's concerns about fire safety.

Chairperson Bill McGhie asked if Brandon's concern is that the fire would spread over to your house.

Brandon Himoff responded yes and he thinks that cleaning up the site and having indoor boat storage is great. However, he is concerned that a fire would spread and effect his home. There would be an issue with the water supply at that location, it is a wooden frame structure and he is concerned about the fire departments response in fighting any fire there and concerned about a sprinkler system not being installed.

Bernie Hill responded that a steel building would come to the ground faster than a wooden structure. He will be storing boats with less gas and boats with full tanks are more inclined to go on fire.

Chuck Hotaling stated that this building is low profile and open so that any fumes will go right through the building. It will not be a closed in building.

Bernie Hill stated they have done engineering on this proposal and this is the most cost effective and safe way of doing boat storage.

Town Attorney Leah Everhart stated she wanted to clarify some issues that were discussed earlier. She is not sure if sprinklers are required or not, that is for New York State to decide and it is administered through the County. It is out of the Board's hands because the building code at the County addresses whether sprinklers are required or not. It would not be appropriate for the Board to consider fire suppression and a building permit won't be issued without proper permits.

Chuck Hotaling stated that issue was addressed because he asked that question at the County and there is no requirement for a sprinkler system in boat storage facilities. They will have final say on that issue.

Joe Turcotte stated he would like to back up what Bernie Hill said about sprinkler systems in boat storage facilities. He has never been in a boat storage building that had any sprinkler systems.

Vice-Chairperson Dan Freebern would like to find out if the fire company thinks they can fight a fire at that site. Are they capable?

Zoning Administrator Jim Steen stated that as a former NYC firefighter boats don't explode. They burn. It would be surrounded and flooded with water until it burnt itself out. It would not spread across the road 180'.

Chairperson Bill McGhie asked if there were any more questions.

Being no further comments or questions, Mike Raymond made a motion to close the Public Hearing. Second by Joe Turcotte. **ALL AYES.**

UNFINISHED BUSINESS: **File # 2018-01 CU**
 Tax Map # 88.-2-2.112
 Bernard Hill
 Horicon Avenue

Requesting a Conditional Use to erect three boat storage buildings

Town Attorney Leah Everhart stated that the Board conducted a SEQRA review at the previous approval. If the Board thinks there would be new or different impacts they could review the SEQRA again.

Mike Raymond had one question. He stated that when the Board approved the Conditional Use for that property when Bernie Bolton owned it, it was approved for low income housing; however, they were never constructed. If we approve this Conditional Use for Bernie Hill's boat storage facility at that location will that effect the previous Conditional Use that was granted for low income housing? Could Bernie Hill then put boat storage and low-income housing on this property?

Town Attorney Leah Everhart stated that she is not sure if residential use is allowed any more for this property. We would have to look at the Zoning Code from that time and we would have to know if that use is still an allowed use in that zone. If they were not constructed within a certain time frame then it would not be allowed. We would have to look at code in place at the time and if there were time limits on construction. If it is no allowed at all then a Conditional Use would mean nothing.

Zoning Administrator Jim Steen stated that he does not agree with that view point. Those lots have been reconfigured by Boundary Line Adjustments so they no longer exist and he would not issue any Zoning Compliance Certificate based on an old Conditional Use for that property.

The Board members decided to conduct the SEQRA review again.

Vice-Chairperson Dan Freebern made a motion stating the Board identified this as a SEQRA unlisted action. There are no other involved agencies so the Board chooses to conduct uncoordinated review and while the action was previously reviewed for SEQRA purposes the Board chose to undertake additional SEQRA review to evaluate the modifications and hereby adopts a negative declaration. Second by Bill Siegle. **ALL AYES.**

Town Attorney Leah Everhart discussed with the Board members whether or not they want to put any limits on outside storage and lifting the two year limitation on building. She advised the Board to make sure if they want to put any limitations they include those changes in their motions.

After the discussion it was the consensus of the Board not to put any conditions on storage either outside or inside and to lift the two year limitation on building.

Being no further questions or comments Joe Turcotte made a motion to approve application 2018-01 for Conditional Use to erect three boat storage buildings and to lift the two year limitation requirements from **Zoning Code Section 11.70 (L)** of the Zoning Law and impose a ten year expiration date for building the remaining three buildings. Second by Bill Siegle. **ALL AYES.**

Being no further correspondence or comments Mike Raymond made a motion to adjourn the meeting. Second by Joe Turcotte. **ALL AYES.**

REMINDER: None

CORRESPONDENCE: None

PUBLIC COMMENTS: None

BOARD MEMBER COMMENTS: None

Meeting adjourned: 8:50 pm

Next Meeting: August 15, 2018

Respectfully Submitted,
Terri Katsch, Secretary