

**Horicon Planning Board  
Regular Meeting**

**May 15, 2013  
7:00PM**

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**Present at meeting:** Harry Balz Chairman  
Bill McGhie, Member  
Jim Remington, Member  
Mike Raymond, Member  
Teri Schuerlein, Member  
Georgia McMeekin, Alternate  
Paul Holmes, Alternate

**Also Present:** Gary Frenz, ZBA Chair  
Bob Olson, Town Board Member  
Dan Smith, Tom Johanson, John Palermo, Camille and Kelli Dougan

**Agenda Items:**

**File # 2012-17SD Tax Map# 38.16-1-16 Clemente Property 3-lot subdivision  
File #2013-04CU Tax Map #88.-1-4 Schuerlein Garden Center/greenhouses/store & cafe'**

Pledge

Chairperson, Harry Balz called the meeting to order at 7:00 PM

**APPROVAL OF MINUTES:** Bill McGhie made a motion to approve the April 2013 minutes, 2<sup>nd</sup> by Jim Remington, All Ayes.

**COMMUNICATIONS:** None

Teri Schuerlein recused herself and sat in the audience. Harry Balz stated that Georgia McMeekin will be a voting member for the Schuerlein project.

**PUBLIC HEARING:** File #2013-04CU  
Tax Map 88.-1-4  
Schuerlein, Teri and Paul  
Conditional Use: Garden Center/Greenhouses/General Store & cafe'

Teri Schuerlein stated she purchased Brant Lake Supply and would like to re-open as a general store in the main building with a café similar to the Adirondack General Store with greenhouses.

Harry Balz asked if anyone would like to speak on this project.

Bob Olson stated that he is a member of the Horicon town board and does not speak for the town board and is representing himself as a citizen. Bob Olson continued on to state that he feels this is a great project that will create some employment, this will provide a needed service to the residents and the applicants are utilizing an existing building with enhanced features.

Georgia McMeekin asked about an opening date and what type of products would be sold such as shrubs, annuals, perennials, insecticides, fertilizers etc.

Teri Schuerlein stated that this is a large undertaking and the goal will be to start at Christmas time and be fully operational in the Spring of 2014 and would be selling items just at Tom Hughes has sold in the past.

Being no further comments or questions, Bill McGhie made a motion to close the public hearing, 2<sup>nd</sup> by Mike Raymond. All Ayes.

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**UNFINISHED BUSINESS:** File #2013-04CU  
Tax Map 88.-1-4  
Schuerlein, Teri and Paul  
Conditional Use: Garden Center/Greenhouses/General Store & cafe'

The board reviewed the SEQRA form.

Bill McGhie made a motion to declare a negative declaration, 2<sup>nd</sup> by Jim Remington. All Ayes.

Mike Hill stated that the board should review the merits of the Conditional Use in Section 9.61 on page 41 of the Zoning Ordinance.

Harry Balz asked about the parking and how many cars would there be room for.

Teri Schuerlein stated that there are 20 approved parking spots and there is room to widen an area for easier traffic flow.

Paul Holmes asked what color the building would be.

Teri Schuerlein stated all the buildings would be Adirondack theme - all natural colors, no multicolored buildings.

Bill McGhie asked about the line site for traffic on Route 8.

Harry Balz stated that the highway garage entrance/exit is much worse, the road is posted

Teri Schuerlein stated that there is an orange truck entrance sign at the bottom of the driveway,

Harry Balz stated that the Highway Superintendent should be consulted about moving the orange sign away from the property line.

The Board reviewed the three criteria per Section 9.61:

1) The Use complies with all other requirements of this ordinance: The structures and business we previously in operation, this is the same type of business with some expansion of a café' and artisans, this is pre-existing not new development and the re-use of an existing site and structures.

2) The Use would be in harmony with the general purpose and intent of this ordinance: There is no change, this is identical to an existing site, this will be an improvement and stop the deterioration of the site.

3) The establishment, maintenance or operation of the proposed use would not, create public hazard from traffic, traffic congestion, or the parking of automobiles: On site parking will be expanded, there will be no parking on the road, site distance is not an issue, a second entrance/exit is being planned.

There are no Special requirements for this type of review per Section 9.70 as this relates to other types of uses.

Jim Remington stated that there is a right-of-way through the property.

Teri Schuerlein stated that she was aware of the right-of-way.

Bill McGhie made a motion to approve the Conditional Use application for a Garden Center/Greenhouses/General Store & cafe' as discussed, 2<sup>nd</sup> by Mike Raymond. All Ayes.

*Teri Schuerlein returned to the board, Harry Balz stated that Teri Schuerlein will be the voting member for the remainder of the meeting.*

Mike Hill asked Georgia McMeekin (Alternate Member) if she would consider recusing herself from the Clemente application as she has submitted photos of the vernal pond and is a nearby property owner.

Georgia McMeekin stated that the photos submitted were for informational purposes and feels

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that she can be fair and unbiased not recusing herself from the Clemente, Ryan & Debari application.

**PUBLIC HEARING:** File #2012-17AD  
Tax Map 38.16-1-16  
Clemente, Ryan & Debari  
Three (3) lot subdivision  
1114 Palisades Road

Dan Smith, representing the Clemente family stated that the property is owned by three children and they would like a three-lot subdivision of the parcel, road frontage variances were received and a meeting was held with the APA as there are wetlands on Lot #1, Lot #2 is jurisdictional to the APA and Lot #3 is not subject to APA review. Dan Smith continued to stated that Tom Hutchins, Engineer is present to answer any questions the board may have, a SEQRA form was completed for lot #3 as Lots 1 & 2 are not subject to SEQRA review, the driveway is 50 feet in width.

Tom Hutchins stated that the right-of-way is 50'in width and the access road was laid out to minimize the impact on resources, the vernal pool is in a low area and the pool dries up, and the waste water area of entire site has been placed for the best soil conditions away from the lake, Harry Balz stated that one of the septic area is over the property line.

Tom Hutchins stated that there is an easement for that septic over lot #2.

Teri Schuerlein asked about the elevation of the vernal pond in relation to the lake.

Tom Hutchins stated that the pond and the lake do not connect.

Mike Raymond stated that there is a berm in between with shelf rock and there is no connection to the lake.

Tom Hutchins stated that the berm is at 805, the mean high water is at 805, there is no flow between the pond and the lake.

Jim Remington asked what kind of pipe would be across the driveway and how wide is the pond where it is to be filled in.

Tom Hutchins stated a 50'to 60' crossing the flow of the pond.

Teri Schuerlein asked if there were any endangered species in the area.

Mike Raymond stated that he used a minnow net in ther vernal pond and there was nothing but slime, no mosquitos, or larvae.

Bill McGhie asked the percentage of filling in the pond.

Tom Hutchins stated a small percentage, less than 20%

Jim Remington stated that the beach is on lot #1 and asked if others will have a beach on the other two parcels.

Dan Smith stated that there will be three deeds and there is no guarantees that these parcels will stay in the family.

Paul Holmes asked if there will be deeded rights to the beach on lot #1

Dan Smith stated no, permission to use the beach only.

Harry Balz stated that the beach use does not have any impact on this application

Jim Remington stated that at the recent training session, a statement was made that a pond could not be filled in.

Dan Smith stated that he met with the APA and this is a disappearing pond.

Georgia McMeekin asked Mike Hill if the APA, NYS or Federal agency have jurisdiction over a vernal pond

Mike Hill stated that he does not know if another agency has jurisdiction and the board could do some research on the issue or have the Town Engineer review the project.

Dan Smith stated that the vernal pond is not a wetlands area, this is less than 1/4 of an acre and

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there is no interchange of water

Georgia McMeekin asked Mike Hill to read Section 10.10 page 29 (4) and referred to Section 12.60.

Teri Schuerlein stated that an email was received and there are concerns of a graves located near the property line.

Mike Raymond stated that the grave sites are 30 feet from the property line.

Jim Remington asked if Lot #3 was marked out.

Tom Hutchins stated that the lots are roughly marked out.

Jim Remington stated that comments were made at the training regarding filling in the vernal pond.

Georgia McMeekin stated that Stuart Messinger made those comments.

Mike Hill recommended to the board that they get an answer to there questions before making a determination from an Engineer.

Harry Balz stated that the issue has been raised by two members and asked if the town has appointed on Engineer.

Bob Olson stated that Chazen Engineering has been the town's engineer in the past and is used on an as needed basis.

Harry Balz requested that Mark Schachner be asked about the statement made in the training session and if the Town Attorney can not answer the question as to the filling of a vernal pond, the question be poised to the Town Engineer.

Mike Raymond stated that the puddle dries up, there is no wildlife present and has no problem with the filling in of the puddle.

Paul Holmes stated that a lot of plants call the vernal pond home and does not want to distrust then environment of the wood frogs, insects which is a food supply.

Harry Balz stated that a consensus is needed from the board as to the next step.

Dan Smith stated that time is not of the essence, the APA has been on site.

Paul Holmes stated that the board will go by the legal opinion or the Engineer's opinion as to whether the vernal pond can be filled.

Harry Balz reiterated that the question is if it is legal or not to fill in the pond.

Tom Hutchins stated that NYSDEC has indicated that this is not a jurisdictional water body, it is not mapped and the Army Corps of Engineers stated this is not navigational.

Dan Smith stated that no one has jurisdiction over this vernal pond, the pond was mapped on 5/1/2013.

Mike Raymond made a motion to close the public hearing. There was no second to the motion, the motion failed.

Bill McGhie made a motion to continue the public hearing, direct the town attorney Mark Schachner review the file for the legal opinion whether or not the vernal pond can be filled in, and if necessary, refer the application to the Town Engineer at a reasonable cost for an opinion whether or not the vernal pond can be filled in, 2<sup>nd</sup> by Jim Remington.

Bob Olson stated that the legal opinion should be at the Town's expense and the Engineer's opinion should be the at the applicants expense.

The Board was polled: Bill McGhie Aye; Jim Remington Aye; Harry Balz Aye; Teri Schuerlein, Aye; Mike Raymond Nay. The motion was passed.

**PUBLIC COMMENTS:** Town Board Member Bob Olson stated that a new zoning clerk and secretary to the boards will be hired soon and request that the board have patience with the new person.

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**BOARD COMMENTS:** none

**NEXT MEETING:** June 19,, 2013 7 PM

Being no further business before the board, the meeting was adjourned at 8:20 PM.

Respectfully submitted

*Christine Hayes, Secretary*