

TOWN OF GREENFIELD
PLANNING BOARD

December 11, 2018

REGULAR MEETING

A regular meeting of the Town of Greenfield Planning Board is called to order by Tonya Yasenchak at 7:00 p.m. On roll call, the following members are present: Tonya Yasenchak, Karla Conway, C. Dake, Robert Roeckle, and Stanley Weeks. Butch Duffney is absent. Charlie Baker, Engineer, is present.

MINUTES

October 30, 2018

MOTION: S. Weeks

SECOND: C. Dake

RESOLVED that the Planning Board waives the reading of and approves the minutes of October 30, 2018.

Ayes: C. Dake, K. Conway, M. Gyarmathy, R. Roeckle, S. Weeks, T. Yasenchak

Noes: None

Abstain: None

Absent: B. Duffney

OLD BUSINESS

Chwaz, C. & G. Case #353
TM# 112.-1-24.2

Extension of Special Use Permit
3300 Rt. 9N

Christopher and Gerard Chwaz are present. T. Yasenchak states that C. and G. Chwaz are requesting an extension of their Special Use Permit. This case is scheduled for a public hearing. The code states whenever the Board extends the Special Use Permit the Board should hold a public hearing. G. Chwaz states they are requesting an extension for their Special Use Permit to finalize their ice cream shop. They have a few more things to do such as filing paperwork with NYS DOH and they have brought the water to be tested, just waiting on the results of that. T. Yasenchak states that the permit that the applicants are waiting for are approval from the NYS DOH. This is a Special Use Permit that has been approved in the past. The way that the code reads is if the applicant doesn't have their Certificate of Occupancy and isn't operating (by the time) then the applicants have to reapply for an extension, which is what the applicants are here for tonight. T. Yasenchak opens the public hearing at 7:03 p.m. Tina Sangular, she lives directly across from 3300 Route 9N. What time is this project being renewed? She remembers this being started in 2000. T. Yasenchak states that it looks 2001. T. Sangular states that they have been dealing with this for 17 years and the Board is still extending this. It does not seem fair to everyone that has had to deal with them for the last 17 years. The abuse that her family has taken has been on-going since her children were babies. Up until recently her handicapped daughter was

accused of dumping garbage onto their property when she went out to get their garbage cans. In the past she has taken pictures of her yard and she was accused of being a stalker. They have called the sheriff many times to break up fights between the 2 brothers and the vial language. They work all hours of the day and night. It seems unfair that they keep getting rewarded year after year, after decades to keep going with this and they are not seeing much progress. They are fed up. They don't want to see it open. She has raised her kids with this horrendous treatment from these boys. Now it is going to be a business. They were never apprised as to what kind of business. First they heard it was going to be a pizza place, and then it was an ice cream stand, then a family restaurant, now back to ice cream and restaurant. T. Yasenchak states that it has always been an ice cream parlor. As far as the Special Use Permit, it was granted for an ice cream shop. It is an ice cream shop that the applicant has before the Board. The original application was approved for ice cream parlor and restaurant. It was approved to serve ice cream and soups and sandwiches. They also have certain hours that were also approved. T. Sangular states that was another problem they had is with the work hours. Being out there with bright lights and all the cursing they have had to put up with over the years. They still don't know how big the place is. How many people do they plan on serving? They were told that they could only enter and exit out of Spier Falls Road but the only place she has seen them entering and exiting is off Route 9N. It is dangerous and a bad corner. They are concerned for the children behind the project. There have been many things over the years that have been brought to the Boards attention but have seemed to have been voted over and the Special Use Permit extended. She wants to speak on their objections. T. Yasenchak closed the public hearing at 7:08 p.m. T. Yasenchak states that it is very unfortunate how someone is using their property. The only thing that the Board has purview over is to review this restaurant. Once the ice cream parlor is open it can only operate the way the Special Use Permit has been granted. They can only use the site the way it has been approved. Meaning where people are coming and going has to be according to the site plan. It is disappointing to hear this. They are not a governing body on how someone uses it now. It is only when it is operating. The Code Enforcement Official would go out and see whether or not it is being operated according to the approved permit. The Board does not have any purview/authority as to how the applicant gets to that point. G. Chwaz asks what is disappointing. T. Yasenchak states it is disappointing to hear that perhaps there are noises and issues between neighbors. G. Chwaz states there isn't. John Chwaz states that he is the brother of the applicants and there has never been any record of what T. Sangular stated. T. Yasenchak reiterates what she previously stated, that the Board has no authority regarding how someone lives on their property, operates on their property when they are getting from point A to point B. That is not within the Boards authority or purview. The only thing the Board is allowed to look at is the project in front of them. The project as a whole and what it will look like as a whole and how it will operate. That is what they have reviewed in the past, what they have re-approved. They are looking at this as operating as an ice cream parlor, as a site that is regulated by NYS DOH which will make sure it is operating at a certain standard, as well as the Code Enforcement Official will be reviewing that the site is done and is continued to be maintained in a way that is per the approved site plan,. Whatever has happened on the site is not the Boards authority. They are only looking at the project itself. S. Weeks states that probably the applicant is frustrated, as the Board is as well, for as long that this has taken. He thinks that everyone would like to see the project finished up and operational. It has been a long drawn out process. He encourages the applicants to get it done. R. Roeckle states that before it is opened the Board needs to make sure that it meets the requirements of the site plan and the Special Use Permit. M. Gyarmathy states that he thinks in the past the Board has had a discussion about renewing the application time and time again. He thinks that they have gone out of their way to help the applicants to get to the finish line. Maybe this should be the last time the Board renews the application. It's gone on long enough. G. Chwaz states that they are waiting for the Board of Health. T. Yasenchak states they have not waited 17 years for NYS DOH they are waiting for them now. C. Chwaz states they

actually have because they would not have come until a certain point in the process. T. Yasenchak states that was not the DOH issue. K. Conway states that she is concerned about the length of time it has taken to complete this project. Do they have an anticipated date? C. Chwaz states that depends on the DOH, when the permit gets finalized. They do not know how long it takes them to do their job. How much is left after the DOH comes? K. Conway asks if they are ready to open. T. Yasenchak asks what date did they submit the paperwork? C. Chwaz states right now they are waiting on the water test and the Building Inspector has to come over and do another inspection. T. Yasenchak states the Code Enforcement Official is Bob Gizzi; he is the assistant Building Inspector. G. Chwaz states once they get the paperwork back they can get their Certificate of Occupancy they can apply to the DOH. T. Yasenchak asks if they have submitted everything to B. Gizzi. Do they need him to come out and do final inspection? G. Chwaz states they need to get the results back from the water test. T. Yasenchak asks if they sent the water to be tested. G. Chwaz states yes. T. Yasenchak asks when it was sent out. G. Chwaz states last week. T. Yasenchak states that if they do not have that done and B. Gizzi won't go out until they have that. So they are not waiting on B. Gizzi they are waiting on the water test that they submitted last week, for the record. When they get the water test results back then B. Gizzi can do the final inspection. Once he does that then they are calling NYS DOH. G. Chwaz states yes. T. Yasenchak asks if everything else has been submitted to the DOH that they need. Is it that the applicant needs to Certificate of Occupancy? G. Chwaz states the NYS DOH will have to come and inspect. K. Conway states the applicants were in front of the Board 2 weeks ago and they still had not submitted the water test. They only did that last week. G. Chwaz states yes. M. Gyarmathy states that it has been his experience in building restaurants that once they contact DOH and they do their final inspection, it is done rather quickly. T. Yasenchak asks if the applicants have anticipation as to when the water test results will come back. G. Chwaz states that they have no idea. T. Yasenchak asks when they submitted, did they tell them how long it would take. G. Chwaz states that he has never done this so he does not know how long it takes. M. Gyarmathy asks if T. Yasenchak is looking to put a contingency on this if they don't have a Certificate of Occupancy within a few weeks or what are her thoughts. T. Yasenchak states she is just asking questions right now. C. Dake states that he saw a few years ago it was 87% done and last year it was 95% done, he finds that remarkably specific. How complete do the applicants feel they are at this time? G. Chwaz states that he does not know. C. Dake states since there were the numbers the last couple times, he was just impressed by them. C. Baker states that along C. Dake's lines of thinking, he asked G. McKenna (one of his last days of work with the Town) where they were in the process he said based on his last inspection they were about 98% there. As far as the water test goes, part 5 water analysis probably takes 15 days, so there is no reason they shouldn't have the results on their water within a week or so. He understands the frustration that has been brought up and thinks 17 years is a very generous amount of time not to complete a project of this scale. The only other comment he would have is where the site plan stands as for what the Board approved and how much of that work has been done. He does not remember if the parking lot is supposed to be paved and all the details. That has to be reviewed as well. T. Yasenchak states correct that is part of the Certificate of Occupancy. G. Chwaz states as far as the parking lot an excavator is supposed to be coming over but with the weather this year is very back-logged with his work. He told them quite some time ago when he gets caught up he will get there. They are still waiting to have it done. T. Yasenchak asks if the applicants understand that what the Town Engineer is saying is that it is also part of the Certificate of Occupancy process. When they get the water results, schedule an inspection and if B. Gizzi goes out and if the site is not complete they are not getting their Certificate of Occupancy. It does not matter who they are waiting on, that is required. That is where the Board's purview comes in, they review the site. G. Chwaz states that he cannot force the man to come do the work. T. Yasenchak states again, when they are in business this are part of approval so they will not get their Certificate of Occupancy until that site is completed. They can't have DOH out because they won't have the Certificate of Occupancy. G.

Chwaz states that the Board has to understand. T. Yasenchak states no, it is something that has been 17 years in the making and they can't keep saying that they are waiting. Call the man and tell him that they can't get the Certificate of Occupancy until it's completed. That is part of doing business otherwise they won't get their Certificate of Occupancy. It is not the Board's fault, the Building Inspector's fault, or the DOH. They are not waiting on anyone in the Town or DOH. That is what needs to be done in this process. G. Chwaz states he is not blaming anyone he is just saying what reality is. He does not feel he should tell someone how to run their business. T. Yasenchak states that they are not going to tell them that either, but she is saying if that is what holds up their Certificate of Occupancy and prevents them from opening, that is very serious. B. Gizzi is not going to go out and they are not going to tell him sorry they don't have the site plan done. He will tell them that their Certificate of Occupancy waits. It has dragged on and there are certain responsibilities in going through this process and having a business. In the past the Board has extended it because they don't want to see anyone invest money on a site or business and have a site sit vacant because the other option is that it does not get extended if they deny it, they have lost it and they have a site that becomes vacant. It doesn't do anyone any good. It doesn't do the applicants, the Town, the neighbors any good. However, that being said, she does not think they are going that way this time, but they do have within their purview to say come back with a whole new application and they may ask them to go through the whole process all over again. They don't want to do that because they want this project to be completed. They want every business owner to be successful especially small companies. It needs to get done. There have been a lot of excuses. DOH will not go out until they get the Certificate of Occupancy and that won't happen until they get the site completed. S. Weeks states he is willing to approve it for a year. He thinks that is appropriate. He really wants to see it get done. R. Roeckle states that based on the information that was provided they are just waiting on paperwork and the final touches to the site plan. That should be able to be done by July 1, 2019. T. Yasenchak asks just a 6 month extension. R. Roeckle states yes. They have indicated that they are so close and even if they are not able to get things done on the site in the winter there is the spring that they can do that. M. Gyarmathy agrees with R. Roeckle and the Board have been more than generous and feels that a 6 month extension is in order. It has dragged on too long. All kinds of things have changed in the 17 year period and he wants to see it wrapped up. He would be in favor of a 6 month extension. K. Conway and C. Dake agree. G. Chwaz asks what if the DOH doesn't come out within 6 months. T. Yasenchak states then they come back to the Board, explain that to the Board and they will be doing the same thing they are doing now. M. Gyarmathy states next time they will be asking them for documentation from the DOH. They will have to explain their extension to the Board if they don't have everything done in the 6 months and why they are at this stage. G. Chwaz states the M. Gyarmathy is the first person that he has heard of that DOH came so quickly. M. Gyarmathy states that his company wired many Taco Bell's and Kentucky Fried Chicken's in the area and they always had a person from the DOH there within one week of the Certificate of Occupancy. R. Roeckle states that he presumes that they have been working with the DOH all along and all they are waiting for is their final inspection and their final paperwork. That should not take long. M. Gyarmathy states they come and look for signage and other things. C. Baker states he just finished a restaurant in Clifton Park and it took 2 months start to finish with DOH final approval included. T. Yasenchak states that is when the paperwork gets in. If they come back in 6 months the Board would be asking when they gave the DOH their paperwork. If they come back in July and tell the Board that they did not submit anything to the DOH until June they will be having more discussion. If they are that close it is about pushing forward and getting it done. Not that the DOH is taking that long, they need the paperwork ahead of time. G. Chwaz states that it depends on when they get their parking lot finished. T. Yasenchak states, again, that is part of business, part of site plan, it's just part of it. G. Chwaz asks if they get their Certificate of Occupancy do they still have to get a Building Permit. R. Roeckle asks Permit for what? G. Chwaz asks if they are done and just waiting on the DOH do they still need a Building Permit? R. Roeckle states when

they get the Certificate of Occupancy the Building permit is closed. G. Chwaz states that he did not know that.

Resolution- C. & G. Chwaz, Extension –Special Use Permit

MOTION: R. Roeckle

SECOND: M. Gyarmathy

RESOLVED, that the Planning Board hereby grants an extension of a Special Use Permit to Christopher and Gerard Chwaz for six months beyond the current expiration date of July 13, 2019 to have the business open, have the Certificate of Occupancy, and the permit from New York State Department of Health for property located at 3300 Route 9N and 2 Spier Falls Road, Case #353, TM# 112.-1-24.2, per the application submitted.

Ayes: C. Dake, K. Conway, M. Gyarmathy, R. Roeckle, S. Weeks, T. Yasenchak

Noes: None

Abstain: None

Absent: B. Duffney

OLD BUSINESS

**Dechesne, D. Case #625
TM# 138.-2-50.11**

**Minor Subdivision
2087 Rt. 9N**

Daniel Duchasne is present. T. Yasenchak states this is a minor subdivision. Last time he was in front of the Board he provided a sketch review. He has had a surveyor plot out everything accurately. The top left is the larger property. There is the small piece in the middle. The larger section is to the right, south, and he is subdividing a 1.682 acre parcel from the right-of-way. They did discuss that smaller parcel but it already exists and they understand there are also legalities that prevent that from being absorbed into any of the other lots. D. Dechesne states right now the whole property is on one mortgage in his name and when this is completed his daughter is going to take over that section. He wants to break that front section and eventually become part of his mother-in-law's house. T. Yasenchak states they do have the frontage that is required so the new lot does have 270.94' of frontage. The remaining lot is not changing. He doesn't have frontage but he has access through the right-of-way, nothing is changing there. The larger piece continues to have frontage and that is over 500'. Nothing changes zoning wise. The site that he is requesting to subdivide out meets the zoning regulations. The house that exists does have a setback issue however, that is a pre-existing, non-conforming situation. That cannot be changed and there is already a property line there. What he is in front of the Board for now is not affected by the pre-existing non-conforming condition. T. Yasenchak asks that the surveyor make a notation that states. It that he has an arrow that states this is the remaining lands and has arrow to the point that is actually being taken out when it gets subdivided out it won't be remaining under the same tax map number that is on the top of the map. Just a notation that the surveyor would have to make before he submits the final map. S. Weeks, R. Roeckle, M. Gyarmathy, K. Conway, and C. Dake do not have any comments or concerns with this project. C. Baker states that

typically he would suggest or ask for topography to be shown but in this case they are all existing buildings and existing lots so he does not feel there is a need for it. He feels the applicant has all the appropriate notes on there. T. Yasenchak states under the Code the Board can waive a public hearing. M. Gyarmathy states that he does not think it is necessary in this instance. The applicant has owned this land forever with his family. T. Yasenchak agrees it is not changing the way it is being used. The right-of-way already creates the lot to the south. Nothing is being changed by the proposed application. K. Conway asks if there is going to be a driveway put in? M. Gyarmathy states that there already is a driveway there. D. Dechesne states that was the original driveway for the whole property. K. Conway asks if that complies with the Code. T. Yasenchak states they didn't address it because it exists and it is currently being used. The Board agrees that they do not need a public hearing for this case. T. Yasenchak states that this is actually making the property more conforming. T. Yasenchak states it is a subdivision. The Board reviews SEQRA. T. Yasenchak states that the Board reviews Part I of SEQRA, completed by the applicant and Part II. The Board reviews part III and checks the second box. The applicant has provided the Board with all the materials that have been asked for.

Resolution- D. Dechesne--SEQRA

MOTION: M. Gyarmathy

SECOND: C. Dake

RESOLVED, that the Planning Board completes Part II of the Short Form SEQRA. All questions are answered and the second box is checked, indicating that this will not result in any significant negative environmental impacts for the Minor Subdivision of Daniel Duchesne for property located at 2087 Route 9N, TM# 138.-2-50.11.

Ayes: K. Conway, C. Dake, M. Gyarmathy, R. Roeckle, S. Weeks, T. Yasenchak

Noes: None

Abstain: None

Absent: B. Duffney

Resolution- Minor Subdivision-D. Dechesne

MOTION: C. Dake

SECOND: R. Roeckle

RESOLVED, that the Planning Board hereby grants approval for Daniel Dechesne for a minor subdivision for property located at 2087 Route 9N, Case #625, TM# 138.-2-50.11, per the application submitted contingent upon:

- The surveyor to change the inset to depict the remaining lands after the subdivision is completed.

Ayes: K. Conway, C. Dake, M. Gyarmathy, R. Roeckle, S. Weeks, T. Yasenchak

Noes: None

Abstain: None

Absent: B. Duffney

DISCUSSION

T. Yasenchak states that starting in January they will start to have different notes that will be attached to the bottom of their agenda that outlines the process of a public hearing. They are the same notes that were handed out at the last meeting. They will be following what the City of Saratoga does. Anyone coming to a public hearing will understand the process. They are also working on checklists that will help the Board during their review as well as the secretary when she is accepting applications. The Town's and Topics magazine that they received has a large article about SEQRA changes and asks the Board to read it. She is sure that when they go to the conference in February they will address that. Keep their eyes open, the conference date has changed. It is the beginning of February. They haven't actually got a date or the registration forms to sign up. This is the last meeting of the year. When they come back in January if there are any additional changes anyone would like to make let her know. T. Yasenchak states in the Code book it states that they meet at 7:30 p.m. not 7:00 p.m. They have never met at 7:30 p.m. since she has been on the Board. They need to change the by-law. R. Roeckle asks if the Town Board has to approve it. T. Yasenchak states yes, but they can do that conditionally.

Meeting adjourned at 7:55 p.m. All members in favor.

Respectfully submitted by,

Kimberley McMahon
Planning Board Secretary