

TOWN OF LOCKPORT
PLANNING BOARD
April 19, 2016

PRESENT: Morris Wingard
Rodney Conrad
Marie Bindeman
Robert Langdon
Thomas Grzebinski
Adam Tyson
Tyler Ray, Alternate
Richard Forsey, Chairman

ALSO PRESENT: Brian Belson, Senior Building Inspector
Drew Reilly, Town Planner
Jane Trombley, Secretary
Michael Norris, Town Attorney

The April 19, 2016 Town of Lockport Planning Board meeting was called to order at 7:00 pm by Chairman Forsey, who then led the Pledge of Allegiance.

CASE #1 **4040 Lake Avenue – SBL #81.04-1-21.2 – Wright’s Corners Self Storage –**
Tim Arlington of Apex Consulting presenting with owner Jerry Tomaino. Mr. Arlington reviewed the history of the self storage. In 2010 Mr. Tomaino was approved for 3 buildings and in 2014 another 3 buildings. Mr. Tomaino constructed 2 of the buildings approved in 2014, but there wasn’t enough demand to do the third one at this time to make it financially feasible. Now, he would like to store rental moving vans where the third building would have been and outside storage of boats, RV’s and other recreational vehicles in the back of the complex. Mr. Arlington stated the outside rear storage area will be fenced and noted there is a tremendous grade difference there of about 10’ from the front to the back, so the front buildings will provide a natural buffer as well as they will put in 6’ evergreens for screening. There is a storm drain there and a detention pond and there won’t be any utilities required. Senior Building Inspector Belson noted that all the variances have been obtained.

Chairman Forsey opened the Public Hearing.

Member Langdon questioned how many moving vehicles will be out front. Mr. Arlington stated 3 or 4 small ones and 3 or 4 large ones would be out front. Member Conrad questioned how high the vans are and Mr. Arlington stated 8 and possibly 10’. Member Conrad didn’t feel the screening would be enough.

Alternate Ray asked if the vehicles will be about 40 – 50' from the road. Mr. Arlington said no, about 150' off the road. Member Grzebinski asked how tall the buildings are and Mr. Arlington stated 10', so they are also visible.

Member Conrad asked how far from tree to tree. Mr. Arlington stated 10 to 15' apart.

Member Bindeman asked if the Board could place a time frame on the placement of the moving vehicles out front to be a temporary condition of the Special Use Permit and Attorney Norris stated yes.

Town Planner Reilly stated the trees will look nice, but feels maybe some bushes or shrubs should be in between the trees as the trees will grow taller and it would break up the monotony.

Town Planner Reilly stated the engineering is fine according to Rob Klavoon of Wendel Engineering.

Hearing no further comments, Chairman Forsey closed the Public Hearing.

The Board all reviewed the submitted SEQRA Part I by the applicant.

Town Planner Reilly reviewed all questions of SEQRA Part II with the Board and recommended no or small impact for each response. Mr. Reilly asked if any members had any questions or concerns. There were none.

Attorney Norris read the resolutions.

MOTION made by Member Langdon, seconded by Member Bindeman to approve the following SEQRA RESOLUTION:

WHEREAS, a Short Form Environmental Assessment Form has been prepared for the proposed action which consists of the leasing and storage of up to ten moving vehicles and to allow the outside retail storage of RV's, boats and similar recreational vehicles located at 4040 Lake Avenue, Lockport, NY (Tax Map No. 81.04-1-21.2) and

WHEREAS, the Short Form Environmental Assessment Form does not identify any moderate to large impact to the environment associated with the project,

NOW, THEREFORE, BE IT RESOLVED, that it is determined that the action is an unlisted action pursuant to SEQRA, and that the proposed action will not result in any significant adverse impacts on the environment, and it is directed that this Determination pursuant to SEQRA be prepared and filed.
7 Ayes, 0 Nays, Carried.

MOTION made by Member Langdon, seconded by Member Conrad to adopt the following SPECIAL USE PERMIT AMENDMENT RESOLUTION:

WRIGHT'S CORNERS SELF STORAGE

WHEREAS, on April 14, 2010, the Town Planning Board granted a Special Use Permit for the Tomaino Real Estate Appraisal and Storage Unit Project; and

WHEREAS, on February 11, 2014 the Town Planning Board granted an amendment to said Special Use Permit to allow a second storage unit phase; and

WHEREAS, on October 25, 2014, the Town Planning Board granted an amendment to said Special Use Permit to allow a smaller storage unit in Phase II; and

WHEREAS, the applicant has not yet constructed the third building of Phase II and would like to place the moving vehicles near the front where this third building would be placed until it is constructed; and

WHEREAS, Wright's Corners Self Storage has applied for an amendment of this Special Use Permit by the Town Planning Board to allow the leasing and storing of up to ten moving vehicles and to allow the outside retail storage of RV's, boats and similar recreational vehicles on said premises:

NOW THEREFORE BE IT RESOLVED, that having taken into consideration the scale of the proposed project and the possible impact on neighboring properties and all the criteria set forth in Town Code 200-137, the Board finds:

1. That the proposed attached findings dated March 16, 2016, submitted by Apex Consulting Survey & Engineering Services P.C., Timothy W. Arlington, sets forth the appropriate findings of this Board for amending the Special Use Permit granted on April 14, 2010 and the findings are hereby adopted by this Board, and

BE IT FURTHER RESOLVED, that the Board further finds no adverse impacts that require mitigation caused by this Project, and

BE IT FURTHER RESOLVED, the said Special use Permit is hereby amended to allow the aforementioned improvements subject to the following conditions:

1. No outside storage shall be permitted up front (in northeast portion) except for up to ten (10) moving vehicles.
2. The outside storage of RV's, boats and similar recreational vehicles shall only be placed as indicated on the layout plan dated March 16, 2016.
3. The placement of up to ten (10) moving vehicles near the front (northeast portion of premises) shall only be allowed for up to five (5) years, or until the third storage building is constructed. Upon the completion of the third storage building, the moving vehicles shall be moved to the back where the other outside storage of RV's, boats and other vehicles are allowed.
4. Final engineering approval.

7 Ayes, 0 Nays, Carried.

MOTION made by Member Conrad, seconded by Member Grzebinski to approve the following SITE PLAN RESOLUTION:

BE IT RESOLVED, that the site plan of Wright's Corners Self Storage, applicant as submitted by Apex Consulting Survey & Engineering Services P.C. dated March 16, 2016, is hereby approved and this approval is conditioned on the following:

1. Final Town Engineer landscaping approval.

7 Ayes, 0 Nays, Carried.

CASE #2 **6695 Transit Road – SBL #152.03-1-35 – William Heitsenrater, owner.** Dan McKie proposing a Doggy Daycare in a B2 Zoning District. Required approvals are Special Use Permit, Site Plan, Architectural Review, NC Planning Board. Brian Hutchison of Muscato, DiMillo & Vona, L.L.P. presenting on behalf of the McKie's.

Chairman Forsey opened the Public Hearing.

Mr. Hutchison stated the proposed doggy daycare is in a B2 zone and they will not be changing the existing structure or expand the parking lot, all changes will be inside. Mr. Hutchison stated the intention is to close at 6:00 pm, so this business will not contribute to the South Transit congestion with the drive-in movie business.

Originally, the applicant was required to apply for a Use variance. However, Attorney Norris stated after the work session, he and Senior Building Inspector Brian Belson read the Town code more closely and it was determined that a Special Use Permit could be applied for instead of the variance, due to the general services provision in Section 200-70(A).

Town Planner Reilly pointed out that this is not a kennel as defined in the Town Code since there is no overnight stays.

Member Conrad asked if this is an unlisted SEQRA action and Town Planner Reilly said yes.

Chairman Forsey asked for Public Comment.

Rick Cohen of the Transit Drive-In stated he is the next door business and welcomes the new business. Mr. Cohen stated his only concern was the noise and since they are closing at 6:00, it won't affect him. Mr. Cohen asked if the waste will be held on site. Mr. Hutchison stated it will be put in biodegradable bags and not kept on site.

Hearing no further comments, Chairman Forsey closed the Public Hearing.

The Board all reviewed the submitted SEQRA Part I by the applicant.

Attorney Norris reviewed all questions of SEQRA Part II with the Board and recommended no or small impact for each response. Attorney Norris asked if any members had any questions or concerns. There were none.

Attorney Norris then read the resolutions.

MOTION made by Member Langdon, seconded by Member Wingard that this is an unlisted action under SEQRA and grant the following SEQRA RESOLUTION:

WHEREAS, a Short Form Environmental Assessment Form has been prepared for the proposed action which consists of use of the real property located at 6695 Transit Road, Lockport, NY (Tax Map No. 152.03-1-35) for a doggy day care service, and

WHEREAS, the Short Form Environmental Assessment Form does not identify any moderate to large impact to the environment associated with the project,

NOW, THEREFORE, BE IT RESOLVED, that it is determined that the action is an unlisted action pursuant to SEQRA, and that the proposed action will not result in any significant adverse impacts on the environment, and it is directed that this Determination pursuant to SEQRA be prepared and filed.

MOTION made by Member Bindeman, seconded by Member Conrad to grant the following Special Use Permit:

WHEREAS, an application for a Special Use Permit has been submitted by Dan and Cheryl McKie for the proposed action which consists of use of the real property owned by William Heitsenrater located at 6695 South Transit Road, Lockport, NY (Tax Map No. 152.03-1-35) for a doggy day care service,

NOW, THEREFORE, BE IT,

RESOLVED, that the Board further finds no adverse impacts will be caused by this Project, and

BE IT FURTHER RESOLVED, that the attached findings are hereby adopted by the Board, and

BE IT FURTHER RESOLVED, the Special Use Permit is hereby approved subject to the following conditions:

1. There shall be no overnight stays of dogs;
2. There shall be no more than fifty (50) dogs on said premises at one time.
3. The dog waste shall be disposed of at least weekly.

Attorney Norris asked the applicant if these conditions are acceptable. Mr. McKie agreed.

7 Ayes, 0 Nays, Carried.

MOTION made by Member Conrad, seconded by Member Grzebinski to approve the following SITE PLAN RESOLUTION:

WHEREAS, a Site Layout Plan for a doggy day care service with related site improvements for Dan and Cheryl McKie, Applicants, located at 6695 Transit Road, Lockport, New York 14094, as submitted by Life By Design Architecture dated March 24, 2016, has been submitted to the Planning Board for review, now therefore be it:

RESOLVED, that the site layout plan of Dan and Cheryl McKie for modification

of its facility for a doggy day care service is hereby approved and this approval is conditioned on the following:

1. Approval of the Town Engineer and all Town Engineer recommended changes.

7 Ayes, 0 Nays, Carried.

Senior Building Inspector Belson stated this project has been approved by the Niagara County Planning Board.

CASE #3 **6655 Transit Road – SBL #152.03-1-4 – Transit Drive-In – Rick Cohen, owner.** Tim Arlington of Apex Consulting presenting an update of 5th screen project expansion.

Chairman Forsey opened the Public Hearing.

Mr. Arlington stated after the February meeting he was directed to the DOT and they were concerned about traffic and asked for on-site queuing. The main entrances and signage will be moved to the south with two lanes and then split to the north and south corridors. Mr. Arlington stated they also will move the ticket booths back so about 120 cars can be stacked. Mr. Cohen stated his peak times are June, July and August.

Mr. Arlington stated the FAA also asked for the screen to be moved back, so it is now 600' from the airstrip. This made the configuration narrower, but can accommodate 200 to 225 cars. Mr. Arlington stated this will give Mr. Cohen more capacity for his main movies and landscaping has been added around the building. Mr. Arlington said 5 ½ to 6 acres are being disturbed to meet the requirements. Mr. Cohen has received verbal approval from the FAA, but is waiting for written approval.

Town Planner Reilly thanked Mr. Cohen for working diligently with the DOT on the stacking issue.

Hearing no further comments, Chairman Forsey closed the Public Hearing.

Town Planner Reilly raised three CCOD issues:

1. No accessory structure shall exceed 25' in height, but the screen is 43';
2. A landscaping green area shall be located adjacent to all roads, but they need the access road;
3. The paved areas of parking lots with more than 20 spaces shall be interspersed with landscaping medians containing trees and other natural growing materials, but this is truly a viewing area and not a parking lot.

Town Planner Reilly recommended CCOD waivers be granted to address these 3 concerns.

Mr. Cohen stated he would like to be ready for the busy season, his contractor is ready to start and he will be meeting with Senior Building Inspector Belson tomorrow.

Part I of SEQRA was read in its entirety by Attorney Norris noting there will be room for 225 cars for screen #5 and no new utilities will be required. After taking a hard look at all Part I responses, the Planning Board determined that each question in Part II should be no or small impact.

Mr. Cohen received County Planning Board approval yesterday.

Town Planner Reilly stated everything is adequate for the additional water use.

MOTION made by Member Langdon, seconded by Member Bindeman to grant the following SEQRA RESOLUTION:

WHEREAS, a Short Form Environmental Assessment Form has been prepared for the proposed action which consists of adding a new movie screen and associated theater parking and reconfiguring of its entrance/exit way and related site improvements at 6655 Transit Road, Lockport, NY (Tax Map No. 152.03-1-4) and

WHEREAS, the Short Form Environmental Assessment Form does not identify any moderate to large impact to the environment associated with the project,

NOW, THEREFORE, BE IT RESOLVED, that it is determined that the action is an unlisted action pursuant to SEQRA, and that the proposed action will not result in any significant adverse impacts on the environment, and it is directed that this Determination pursuant to SEQRA be prepared and filed.

7 Ayes, 0 Nays, Carried.

Town Planner Reilly stated Rob Klavoon of Wendel Engineering will need to sign off on the storm water.

Member Bindeman questioned the safety of the retention pond with regards to the safety of the children. It will be buffered and about 150' from the cars and is already there. Town Planner Reilly stated a fence won't stop children if they want to get in. Mr. Cohen stated the DEC wants wildlife to have access to the

pond. Member Wingard asked how you will keep the cattails out. Mr. Arlington stated it will be maintained.

MOTION made by Member Conrad, seconded by Member Tyson to grant the following SITE PLAN RESOLUTION, read by Town Planner Reilly:

WHEREAS, a Site Layout Plan for the expansion and modification of its facility by adding a new movie screen and associated theater parking and reconfiguring of its entrance/exit way with related site improvements for Transit Drive-In Theater, Owner, located at 6655 Transit Road, Lockport, NY 14094, as submitted by Apex Consulting Survey & Engineering Services, P.C. dated March 28, 2016, has been submitted to the Planning Board for review,

WHEREAS, CCOD requirements have been reviewed by the Board, now therefore be it

RESOLVED, that the following CCOD waivers be granted due to the unique business and the public health and safety of customers and town residents:

1. Required landscaping between the viewing area and the road is eliminated as the access road has been added to increase protection and safety of customers and motorists;
2. Required landscaping in paved parking areas with trees and medians is eliminated since this area is truly a viewing area to watch the movies and not a traditional parking lot; and
3. The 25' height limit on the accessory structure is eliminated because it is necessary to have a movie screen for proper viewing of up to 45' in height, now therefore be it further

RESOLVED, that the site layout plan of Transit Drive-In Theater for expansion and modification of its facility by adding a new movie screen and associated theater parking and reconfiguring of its entrance/exit way with related site improvements is hereby approved and this approval is conditioned on the following:

1. Approval of the Town Engineer and all Town Engineer recommended changes.
2. All required Federal and State approvals, including the Federal Aviation Administration and New York State Department of Transportation.

7 Ayes, 0 Nays, Carried.

MOTION made by Member Wingard, seconded by Member Langdon to adjourn. 7 Ayes, 0 Nays, Carried.