

Town of Homer Planning Board

Minutes for Wednesday, June 25, 2014

Board Members (absent *)

Eugene Wright, Chairman

Michael McMahon

Betsy Gray

Bruce Crandall

Stuart Young

Chad Butts

Michael Park

Others Present

Lindsay Andersen, Recording Secretary

John Daniels, CEO*

Pat Snyder, Attorney

Public Attendance: Atty. Matthew Neuman, Ward Dukelow, Erica Beard, James Beard, Ed Beard, Kevin Brown, Otis Young, Zack Young, Ken Poole, Dan Weddle, Matt Calvin, Fred Forbes, Dennis Underwood, Amanda Barber SWCD, Ted McBride, Lori Tyrrell, and Gary Lawrence.

Public Hearing

Chairman Wright opened the Public Hearing for **an application by Sunset-Young Farm for a special permit to remove a 1.5 acre knoll and replace the topsoil to restore farmland. The removed material may be used for landfill cover. The project is located at 2859 Route 13.**

Attorney Snyder explained that because he had previously represented the Beard family in obtaining their mining permit he would be recusing himself and would not represent the Town with this matter as he felt it may be a conflict. He explained that he contacted Attorney Fran Casullo and he agreed to represent the Town of Homer with this application.

Attorney Matt Neuman was present and representing Kenneth Poole. Ken stated that he applied to have an exemption from mining to remove a hill. The exemption came from district 7 at DEC. The application was to remove the material.

Amanda Barber was present from the Soil and Water Conservation district. She stated that she had met with the contractor on site and the knoll would be removed for safer agriculture use. She and Mr. Poole met with DEC and determined that there may be a need for a SPEEDES permit. There was a field slope management plan designed and the use is for agriculture productivity and therefore it is exempt in the DEC statute.

Kevin Brown is representing the Beard family and he stated that he believes that there is impropriety involved in this application. He stated that he feels that the requirements of an application are: to meet the town ethics code, to complete the environmental assessment form and a full statement should be included in the application.

He believes that this matter is considered mining under the town code. It is a commercial sale of the material that is being removed. In order for the Beard's to obtain a permit several years ago they had to have a full archeological survey completed. He also stated that after reviewing the application a negative declaration cannot be made. Phase 1 would be needed and that cannot be determined without high sensitivity because of the archeological survey.

Erica Beard stated that she and her family do not believe that it is fair that they had to complete the entire process to extract sand and gravel for commercial sale and Mr. Poole also plans to sell the removed material and is not being required to submit the same information.

Attorney Brown stated that the County Planning Department returned the request without review.

Jim Beard read a letter written by his father which in summary stated that it was a very hard decision deciding to pursue this matter but he feels that it is a very competitive market and everyone should be treated fairly. Erica Beard stated that it is not a matter of the loss of business. She feels that the Town is favoring Mr. Poole over her family and not making him follow the same guidelines that her family had to follow.

Fred Forbes stated that as the Town of Homer Supervisor he wanted to make it clear and know that the topic and application has never been discussed by the Town of Homer board or outside of a meeting on a personal basis.

Member Butts asked Mr. Poole what the total amount of material would be removed during the project. Mr. Poole stated that approximately 20,000 yards of material would be removed for the sale and the land would then be covered with topsoil.

With no further questions or comments the public hearing was closed.

Chairman Wright opened the public hearing for **an application by Lori Tyrell to subdivide 4.6 acres out of a 33 acre parcel at 5672 Rice Road.**

Lori Tyrell stated that they had just purchased the house and barns from the Heimstra's and because of financial arrangements they would like the property as 3 parcels instead of the existing 2 parcels. Attorney Neuman was present and stated that he has represented the Heimstra's and the purpose of this subdivision would be for a mortgage of vacant land.

With no questions or comments from the public, the Public Hearing was closed.

Chairman Wright opened the public hearing for **an application by Westan Realty LLC for approval to subdivide 2.4 acres out of a 40 acre parcel for a single family home at 5061 Route 281.**

Dan Weddle stated that his daughter his daughter currently lives in Cortland and would like to purchase land and build a new home in the Town of Homer.

Fred Forbes stated that a resident in the area had written a letter addressing their concern with the speed limit remaining 35mph through the intersection. He stated that the Town of Homer would need to petition the State to change the speed limit.

With no further questions or comments from the public the public hearing was closed.

Regular Meeting

Chairman Wright opened discussion for the **application by Lori Tyrell to subdivide 4.6 acres out of a 33 acre parcel at 5672 Rice Road.**

Attorney Snyder stated that the board received a letter from the County Planning Department and they determined that the request was technically adequate and would have no state or county impact and was being returned to the Town of Homer Planning Board for local determination.

Chairman Wright reviewed the short environmental assessment form with all of the board members. Part 2 of the environmental assessment form was reviewed and all questions were answered no.

Member McMahon made the motion to declare a negative declaration under SEQR. Member Parks seconded the motion. With all members in favor saying “aye”, none opposed and none abstained. The motion was carried unanimous 7,0,0.

Member Young made the motion to approve the subdivision. Member McMahon seconded the motion. With all members in favor saying “aye”, none opposed and none abstained. The motion was carried unanimous 7,0,0.

Chairman Wright opened discussion for **an application by Westan Realty LLC for approval to subdivide 2.4 acres out of a 40 acre parcel for a single family home at 5061 Route 281.**

Chairman Wright read a letter that had been received by Ingrid that stated she had no objection to the subdivision and would welcome new neighbors.

Member McMahon stated that he feels the lot size is sufficient and recommended completing the short environmental assessment form. Chairman Wright read Part 1 of the short environmental assessment form which had been completed by the applicant. He then reviewed part 2 of the short environmental assessment form with the board members and all questions were answered no.

Member Young made the motion to declare a negative declaration under SEQR. Member McMahon seconded the motion. With all members in favor saying “aye”, none opposed and none abstained. The motion was carried unanimous 7,0,0.

Member Young made the motion to approve the subdivision. Member McMahon seconded the motion. With all members in favor saying “aye”, none opposed and none abstained. The motion was carried unanimous 7,0,0.

Member Young made a resolution to support the Town of Homer Board to petition the State to leave the speed limit at 45mph until after passing Bob’s Barbeque. Member McMahon seconded the resolution and all board members were in favor of the resolution.

Member Young made the motion to appoint Member McMahon to Vice Chairman of the Town of Homer Planning Board. Member Crandall seconded the motion. With members in favor saying “aye”, none opposed and Member McMahon abstained. The motion was carried 6,0,1.

Chairman Wright opened discussion for **an application by Sunset-Young Farm for a special permit to remove a 1.5 acre knoll and replace the topsoil to restore farmland. The removed material may be used for landfill cover. The project is located at 2859 Route 13.**

Attorney Fran Casullo explained to the board members that he agreed to represent the Town of Homer with this matter due to the conflict that Attorney Snyder had because he had previously represented the Beard's.

Member Crandall stated that he also felt he needed to recuse himself from this matter as he works for a construction company which is contracting with one of the involved parties. Member Crandall was recused and will not be voting in this matter.

Attorney Casullo stated that he has spoken to both Attorneys who are representing each party. Attorney Neuman feels that a completed application was submitted and Attorney Brown stated that he feels that the paperwork presented was not a completed application.

Attorney Casullo recommended tabling the paperwork that was submitted until the next meeting. He stated that he is in the process of reviewing the Town of Homer Code. He believes the board has 45 days to render a decision and the Town of Homer ethics code also needs to be reviewed. He stated the paperwork that has been set forth can be tabled.

Member Butts asked Attorney Casullo if he feels anything has been done wrong in this case. Attorney Casullo stated that he feels there needs to be more research done before that decision is made. He will be able to inform the board of a recommendation after the research is complete.

Member McMahon stated that he feels there should be more research done and an alternate board member should be appointed prior to any decision being made.

Member Parks asked if there should be any work being done at this time. Attorney Casullo stated that no work should be being conducted at this time as there has not been a special permit granted.

Member McMahon made the motion to table what is currently being considered as a special permit application by Kenneth Poole and hold the next meeting July 23, 2014 at 7:30pm. Member Gray seconded the motion. With all members in favor saying "aye", none opposed and none abstained. The motion was carried unanimous 7,0,0.

Chairman Wright shared a possible aquifer protection form that should be used.

Member Parks made the motion to implement the use of the proposed form with the following changes: the form should include any conditions that were set forth by the board and include a record of the voting. Member McMahon seconded the motion. With all members in favor saying "aye", none opposed and none abstained. The motion was carried unanimous 7,0,0.

Member McMahon made the motion for Chairman Wright to use the current form to approve Chad Butts permit from the last meeting. Member Gray seconded the motion. With members in favor saying “aye”, none opposed and Member Butts abstained. The motion was carried 6,0,1.

Adjournment

The meeting was adjourned at 9:15pm.

Lindsay M. Andersen, Recording Secretary