

July 18, 2016

The regular meeting of the Town Board of the Town of Clifton Park was held in the Town Office Building at 7:00 p.m., Supervisor Barrett presiding.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Present: Councilman Whalen  
Councilwoman Standaert  
Councilman Romano  
Councilwoman Walowit  
Supervisor Barrett  
Town Clerk O'Donnell

Also Present: Town Attorney McCarthy  
Mark Heggen, Comptroller  
Steven Myers, Director of Building and Zoning  
John Scavo, Director of Planning

MOTION BY Councilman Romano, seconded by Councilwoman Walowit, to approve the minutes of the July 5, 2016 meeting as presented.

**ROLL CALL VOTE**

Ayes: Councilman Whalen, Councilwoman Standaert, Councilman Romano  
Councilwoman Walowit, Supervisor Barrett

Noes: None

**MOTION CARRIED**

**ANNOUNCEMENTS AND COMMUNICATIONS**

Supervisor Barrett congratulated the Not So Common Players on their production of "Damn Yankees".

The Supervisor displayed the logo for the hospitality initiative created by Ashley Seifert, a student in Sally Way's art class. He said over there were over 20 submissions. He noted the town will be just shy of 1000 hotel rooms by 2017. Supervisor Barrett stated the other logo submissions will be used at different times. This hospitality legislation is awaiting the Governor's signature. He thanked Sally Way and Ashley Seifert for their efforts.

Peter Bardunias, President of the Chamber of Southern Saratoga County, commended Ms. Way and her art class, noting they are learning to be professionals.

**PUBLIC HEARING, 7:05 PM (7:15 PM)  
TO CONSIDER A REZONING REQUEST AT  
ENGLISH ROAD AND ROUTE 9**

The Town Clerk read the Notice of Public Hearing as published in The Daily Gazette on July 11, 2016.

Supervisor Barrett said this request has come from Connie Lake Properties. He explained last year the crowds were too large to be safe at The Mill, resulting in excessive noise and cars parking along Route 9 and English Road. Parking regulations have been enforced and events this year have been a little different in a "positive" way. He stated the town will not accept responsibility for geography and enforcing any codes outside the town jurisdiction.

Matthew Chauvin, Attorney representing Connie Lake Properties, LTD, owners of The Mill, displayed a map of the property showing the subject existing gravel area and garage. Owners are requesting a zoning change from R-1 To B-4A for a section of a parcel, referred to as lot 1, with existing gravel parking area and garage, noting an application to subdivide would be submitted for the remaining piece to build a residence for the owner or family member. He described zoning designations of The Mill properties in the Village of Round Lake. There will be substantial buffering in the form of planting, sound proofing, additional retaining walls and berming to be discussed with the Planning Board. Mr. Chauvin stated there will be no band stand. He said a berm and thick vegetative plantings, evergreens, and mature trees will be placed all the way back. He believes this new parking designation will be an improvement to the public health and safety issue.

Supervisor Barrett said if changes are made and this goes to the Planning Board and receives site plan approval all preexisting non-conforming uses and all gray areas go away. Mr. Chauvin replied this is correct.

Supervisor Barrett said everything is cleared on the site now. Mr. Chauvin said the plan is for approximately 55 parking spaces. He continued at this time there is limited parking, particularly with patrons wanting to sit outside. He explained the entry off of Route 9 and ultimately out on English Road is a much safer way to handle the flow of traffic on the site.

Responding to Councilman Whalen's question, Mr. Chauvin said there is a commitment not to site the band stand in the town of Clifton Park. The Village of Round Lake has passed an ordinance that would require a permit for siting and in addition, a site plan review and approval process to have a band stand in the village so at this time there is no plan.

Responding to Councilman Whalen's question, Mr. Chauvin said at this point in time the subject area will remain gravel.

Councilwoman Walowit asked how many homes are on English Road and the distance from the area. Mr. Chauvin he didn't know the number of homes. Councilwoman Walowit said she has heard cans and bottles have been found on English Road and asked if there will be policing. Supervisor Barrett said it had to have been difficult to police large crowds.

The public hearing was opened for comments from the audience at 7:38 p.m.

Peter Sheridan, Village of Round Lake Building Inspector, presented a letter from Village Mayor Dixie Lee Sachs, dated July 18, 2016, requesting the rezoning request be denied. This letter to be made part of these minutes, attached. He read the resolution passed by the Village of Round Lake Planning Board on July 13, 2016 opposing the rezoning of the parcel, attached, stating this would constitute illegal spot zoning. Mr. Sheridan said the Round Lake Fire Department has said this creates a health and human safety issue. He stated this facility currently operates at capacity and there are concerns that this parking area will encourage more people and occupancy load will increase. Mr. Sheridan continued part of The Mill property is Land Conservation with a DEC 100 foot buffer and has been cleared and graveled, however, the Village Board let it go since they felt the safety of the patrons was important, but this can be renege and enforced. Regarding the additional parking and additional patrons Mr. Sheridan said this will increase the occupancy load.

Town Attorney McCarthy said the Village of Round Lake has jurisdiction to control occupancy loads and that was enforced last year. Mr. Sheridan responded they prefer not to write more summons and continuing to go to court.

Supervisor Barrett said he doesn't see the correlation between parking closer to the site and enforcing amount of people in a building. Mr. Sheridan responded it is felt increasing the parking will increase the number of patrons.

Mr. Sheridan reported the Round Lake Town Attorney says this is spot zoning. Councilman Whalen asked what the legal basis is that this is spot zoning. Town Attorney McCarthy said he has not heard from the Round Lake Town Attorney making a legal argument on spot zoning. Supervisor Barrett asked Mr. Sheridan to send any information he may have to the Clifton Park Town Board and Town Attorney for review.

George Bielkiewicz, Farm to Market Road, spoke in favor of rezoning the property. Noting he frequents the establishment and has attended many fund raising events at The Mill. He said he sees a need for extra parking for safety reasons.

Stephen Sabella, Route 9, noting he lives about 100 feet from The Mill, stated it is a well-run establishment, is a good neighbor and this proposal will make it safe for people to park.

Victor Aristov, English Road, stated the noise was “horrible” but this year is much better. He asked the Town Board to not rezone the property.

Joann Liebert, English Road, 24 year resident of English Road, expressed concern that in previous years the road had turned into a race way with snow mobiles at 2:00-3:00 am and motorized vehicles on the bike path. She said English Road has become a speed way and a cut thru to Ushers Road. Ms. Liebert asked if there will be a guarantee of no bands. She said this year has been quiet and doesn't understand the need for rezoning and adding 55 more parking spaces.

Supervisor Barrett said live music brings larger crowds but doesn't think more parking spaces will bring more people and as long as the noise ordinance is being enforced and the band stand not allowed this shouldn't return to previous years because of extra parking spots. He stated there will be no decision this evening and will wait to hear from the Round Lake Town Attorney.

Peter Bardunias, town resident and President of the Chamber of Southern Saratoga, commended The Mill owner, Wayne Beale, for his events, noting he is a good neighbor. He said the buffering will allow the town of Clifton Park to have some control over the property.

Jim Connors, Barclay Street, spoke in favor of the rezoning, noting it is important to get the parking off of Route 9 area. He said this is one of the best establishments and enjoys the outdoor venue and visiting with friends. He said he is in favor of buffering being maintained and of The Mill's outdoor music and entertainment. Mr. Connors stated the area is perfectly suited for the zoning change.

Mark Schuddekopf, Lace Lane, expressed appreciation for the bike trails, Dwaaskill Nature Preserve and parks in town. He stated just because there will be no band stands doesn't mean no bands. Mr. Schuddekopf asked that the zoning be left as is as it will eliminate the problem of music and noise pollution. He said the change in zoning seems counterproductive to what the Open Space Committee supports. Supervisor Barrett responded the noise ordinance will be enforced.

Susan Thompson, English Road, home adjacent to the property, reviewed a 2015 NYS Department of State decision, Rogers vs. Village of Tarrytown, on spot zoning. She said this has only been discussed for 13 days. Town Attorney McCarthy responded this has been ongoing for more than a year. Ms. Thompson replied there has not been enough time for everyone to look over and examine the proposal. She reported over an acre of trees have been removed and there is no guarantee the band stand will not be back.

Town Attorney McCarthy said he has reviewed court cases and appeals and doesn't believe this is illegal spot zoning as this parcel is immediately adjacent to an existing restaurant use which historical photographs show has been used in conjunction with the business for decades. He continued with the health and safety concerns brought out and the buffering that the plan will call for it is a well-developed plan. He said he has reviewed the town Conservation Plan which speaks to the Route 9 corridor as commercially zoned with commercial entities. Ms. Thompson believes the parcel is in violation of the space and bulk standards. She doesn't believe the buffering is right. The parcel has dual zoning as it was given an area variance in 1997 on tax maps as residential but discovery from Director of Building and Zoning Myers is called dual zoning.

Supervisor Barrett said he has no idea when a decision will be made as it is up to the Town Board after further research.

Cindy Brown, Pebble Beach Drive, commented this is a beautiful outdoor area and spoke in favor of The Mill as a gathering place and enjoys the music. She said the additional safe parking is important.

Everyone was given an opportunity to speak in favor of or against the proposal and no one else wished to be heard. Supervisor Barrett declared the public hearing closed at 8:30 pm.

Supervisor Barrett would like to see additional legal information from the Village of Round Lake. He said if anyone would like to meet with him to discuss this in further detail to please call his office. He doesn't expect a decision to be made by the next Town Board meeting on August 1<sup>st</sup> but updates will be given at future Town Board meetings.

PUBLIC HEARING, 7:10 PM (8:33 PM)  
TO CONSIDER A LOCAL LAW AMENDING  
SECTION 208-71(B)(2)

The Town Clerk read the Notice of Public Hearing as published in The Daily Gazette on July 11, 2016.

Supervisor Barrett explained when the Town Center zoning was adopted it seemed reasonable to require five acres for a PDD in the zone, however, after review it appears the requirement does not allow for maximum flexibility when considering PDD application. The proposed legislation eliminates minimum area requirements for a PDD in the Town Center area. He stated the 10 acre minimum still stands in areas outside of the Town Center zone.

Supervisor Barrett acknowledged a letter dated July 18, 2016, from Donald MacElroy, DCG Development, in support of the proposed legislation, attached.

The public hearing was opened for comments from the audience at 8:36 p.m.

Everyone was given an opportunity to speak in favor of or against the proposed local law and no one wished to be heard. Supervisor Barrett declared the public hearing closed at 8:38 p.m.

Councilman Whalen stated this is consistent with Town Center zoning plan and will give town board maximum flexibility over the years.

PUBLIC PRIVILEGE ON RESOLUTIONS

No one wished to be heard.

Resolution No. 179 of 2016, a resolution correcting the employment step of lifeguards at the Clifton Park town pools.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilman Whalen.

WHEREAS, a step adjustment is necessary for several guards, reflecting their start and rehire dates for the pool season; and

WHEREAS, the Supervisor recommends changes to the employment steps of the following lifeguards as listed below:

Name	Pool	Step	Rate	Org. Hire Date	Lump Sum Payments
Jordan Call	Country Knolls Pool	3	\$9.00	6/20/2014	\$31.31
Stephanie Morgan	Country Knolls Pool	3	\$9.00	5/25/2014	\$39.38
Brett McCarthy	Country Knolls Pool	4	\$9.25	7/1/2013	\$25.75
Amy Robinson	Country Knolls Pool	3	\$9.00	8/12/2013	\$40.00
Hannah Mowry	Country Knolls Pool	3	\$9.00	6/20/2014	\$48.19
Elizabeth Digman	Country Knolls Pool	3	\$9.00	8/13/2013	\$58.75
Leah Constable	Locust Lane Pool	3	\$9.00	5/24/2014	\$30.13

Now, therefore, be it

RESOLVED, that the Clifton Park Town Board hereby authorizes the correction of the employment steps for the above employees as they were listed in Resolution No. 95 of 2016, and be it further

RESOLVED, that they be paid the corrected rates for the 2016 pool season, and retroactively with lump sum payments, authorized as listed, to be paid from lines A-7152-E4690 (Locust Lane Lifeguards) and SP5-7151-E4690 (Country Knolls Lifeguards).

ROLL CALL VOTE

Ayes: Councilman Whalen, Councilwoman Standaert, Councilman Romano, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 180 of 2016, a resolution accepting easements from VanVeghten Construction, LLC for a future multi-use pathway, highway improvements and a common ingress/egress and utility easement.

Introduced by Councilwoman Walowit, who moved its adoption, seconded by Councilwoman Standaert.

WHEREAS, as a condition of approval of the project at 380 Ushers Road, VanVeghten, 4-lot subdivision, (SBL 259.-3-11), the Town of Clifton Park Planning Board required that the applicant convey a 15 foot wide easement for a future multi-use pathway and utilities relocation; and

WHEREAS, as a further condition of approval, the Planning Board also required a common ingress/egress and utility easement be conveyed; now, therefore, be it

RESOLVED, that the Town Board hereby accepts the conveyance of a 15 foot wide easement for a future multi-use pathway, highway improvements, a common ingress/egress and utility easement; and be it further

RESOLVED, that these conveyances are expressly conditioned upon receipt of an approval by the Town Attorney of all necessary documents, including review of the recorded deed in the Saratoga County Clerk’s Office, provision of the title report, provisions for payment of all taxes, recording fees, and assessments which are acceptable to the Town Attorney; and be it further

RESOLVED, that there be appended to the within resolution a copy of the recorded conveyances after they have been filed with the Saratoga County Clerk.

Director of Planning Scavo reported the Planning Board approved a four-lot subdivision with a single driveway access.

ROLL CALL VOTE

Ayes: Councilman Whalen, Councilwoman Standaert, Councilman Romano, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 181 of 2016, a resolution adopting Local Law No. 5 of 2016, a local law amending §208-71(B) (2) to eliminate minimum area requirements for PDD designations within Town Center.

Introduced by Councilman Romano, who moved its adoption, seconded by Councilwoman Walowit.

WHEREAS, by Local Law 4 of 2015, the Town Board enacted Town Center Zoning designations for the Exit 9 area; and

WHEREAS, Town Center zoning provides for more flexible, form-based zoning determinations for businesses, landowners and developers within the Town Center area; and

WHEREAS, Local Law 4 of 2015 contains a five acre minimum acreage requirement for Planned Development Districts within the Town Center area; and

WHEREAS, the Town Board solicited public comment on a proposal to eliminate the minimum acreage requirement for PDD consideration within the Town Center area on July 18, 2016; now, therefore, be it

RESOLVED, that Local Law No. 5 of 2016 is adopted, amending §208-71(B) (2) of the Town Code, as attached; and be it further

RESOLVED, that this amendment is effective immediately and the Town Clerk is directed to publish notice thereof.

ROLL CALL VOTE

Ayes: Councilman Whalen, Councilwoman Standaert, Councilman Romano, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

PUBLIC PRIVILEGE

Richard Yaco, Pico Road, presented his proposed development plan for the 32 acres of school property that is for sale behind the library and to the south of Route 146, attached. Supervisor Barrett stated he thinks it is a great idea but premature as to what might be done with the land. He continued the town is interested in the land and perhaps will own it at one point at which time the town would embark on a very lengthy and comprehensive public planning process as has been done with other plans.

Jim Baisley, Barkwood Drive, said he doesn't think the school should be selling the 32 acres as it might be needed in the future. Responding to Mr. Baisley's question as to major owners within the Town Center, Supervisor Barrett said DCG, Shenendehowa School District and Windsor Development.

MOTION BY Councilwoman Walowit, seconded Councilman Whalen, to adjourn the meeting to the next regular meeting or any other meeting necessary for the conduct of Town business.

Motion carried at 9:04 p.m.

Patricia O'Donnell  
Town Clerk