

TOWN OF CONCORD PLANNING BOARD
Town Hall Auditorium

May 5, 2020
7:00 p.m.

ITEM # 1:

The meeting was called to order by Planning Board Chairman Lawrence J. Kelly, Jr., at 7:00 p.m.

ITEM #2: Roll Call

Present:

Lawrence J. Kelly, Jr., Chairman
Bruce Luno
James Jozwiak
Joseph Edbauer (arrived 7:25 p.m.)
Julie Zybert
Karl R. Lux
Raymond Hilliker

Also Present:

Darlene Schweikert
Clyde Drake, Supervisor
Jeff Singleton, CEO

ITEM #3: Citizen Participation

There was no one for Citizen Participation.

ITEM #4: Approval of Minutes

a) March 3, 2020 – J. Jozwiak made the motion, seconded by K. Lux, to approve the Minutes as presented. All in favor. Carried.

The April 7, 2020 Meeting was cancelled.

ITEM #5: Demolition Permit Form

CEO Singleton would like to add language to the Demolition Permit to clarify the size of the building to be demolished (size; feet long; feet wide would be added). This will assist the CEO to determine which building will be demolished. This information is also important to the Assessor's Office so they can remove the correct structure from the tax rolls. K. Lux made the motion, seconded by J. Jozwiak, to recommend to the Town Board to all modification of the Demolition Permit Form to include the size of the building. All in favor. Carried.

ITEM #6: Open Burn

CEO Singleton noted that this is two-fold. In our Code it states that he would be called to a fire to investigate probable cause. What is not in our Code is open burning. CEO Singleton related his experience with a fire in the Mortons Corners Fire District. The Fire Chief called him because the department had been waiting for over two hours

for the DEC and they were unavailable. There was a trooper on site but he refused to write a ticket. A Fire Marshall was eventually called to write a ticket. CEO Singleton advised that he talked with the DEC and advised that he would call the DEC first but as a Constable he could write a ticket. The problem for the Town is that in the future, the next CEO may not be a Constable and he would not have the authority to write a ticket so he would like to see the Town Code changed to add open burning to the Code so any future CEO could write a ticket for open burning if the DEC is not available. CEO Singleton had provided the charges that he would like included as part of our Code; see the attached.

B. Luno noted that the DEC has never bothered agricultural. If a person is burning garbage or starting a forest fire or brush fire, that is not good. If you burn within the law, CEO Singleton would not write a ticket. CEO Singleton noted that as Constable he could write tickets so he is not looking for the authority to do this, he is asking that the CEO position be able to do this. J. Zybert does not understand the urgency of writing a ticket. If someone has a fire and a ticket is not written until a few days later, why is that a problem? CEO Singleton advised that if it is a misdemeanor, he would have a year to write a ticket but the Fire Chief controls the scene and this is the time to get in there to see what is going on when the Fire Chief has the control and decides who can be on site otherwise the CEO would be trespassing. It is good to get in there right away. As of right now in our Code the CEO does not have the jurisdiction to write a ticket for fire. Chairman Kelly noted that the Open Burn Law is a DEC Law controlled by the State. R. Hilliker asked if a local police officer could write a ticket. CEO Singleton noted that the sheriff or state trooper could but they do not; he does not know why.

CEO Singleton noted that this does not matter right now since he is a Constable but in the future. Chairman Kelly felt personally that he would like to wait on this until the future. K. Lux asked how many of these matters would there be in a year. CEO Singleton said a handful. If he gets a complaint, gets out of control, burning garbage, then something needs to be done. Chairman Kelly noted that the fire department could be called. Dispatch is open 24/7 and they could call DEC. CEO Singleton noted that he does not have to be called, that does not matter to him. He is looking at the future; there are already 9 things that CEOs already get called for by law. As CEO he would not get called for a grass fire per Code but he would as a Constable and he could go write the ticket. Chairman Kelly advised CEO Singleton that he doesn't need the Planning Board then. CEO Singleton noted that if the Planning Board doesn't want to make this change in the Code, he will write a letter to the Town Board. Chairman Kelly asked if the members had anything else. J. Jozwiak advised that if it is for the future so many things change. From his experience the Fire Chief normally takes care of this; in Springville Fire Dennis Dains and Mark Gentner have strong presence so their matters have been dealt with pretty swiftly and normally the fire company and the police work together. In his humble opinion is to go with what the current Code for now. K. Lux asked CEO Singleton once he gets notified by the fire departments if something is happening, what is the next step. CEO Singleton noted that he met with the Village CEO and fire chiefs and made up a list of what CEO Singleton should be called for by NYS Code, not Town Code. There are 9 different matters. Once he receives a call, he works with the fire

investigators to come up with the cause; he works with house displacement; works with the Red Cross and however else he could be helpful. He needs to determine if the building is structural sound or if it should be torn down. The importance of CEO Singleton being there is that it gets him into the structure; if there is a chimney fire sometimes, he can't get into the house because he wasn't called during the fire and the owner won't let him in. That results in the CEO taking the owner to Court. K. Lux noted that he is satisfied right now with our Code but if it happens a lot more then maybe this matter should be brought up again. Supervisor Drake noted that his concern is that if the State Troopers or the County Sheriffs are not going to do it, then it is up to the Town Constable to do it; the Planning Board can pass this or the Town Board can do it on their own. K. Lux feels that the Sheriff should be doing this since they are at every fire there is. Chairman Kelly thinks the Town should ask the Sheriffs for their support on this. Supervisor Drake advised that the Town has never signed off on anything to give control to the Sheriff, technically the Town is their own policing force. CEO Singleton noted that if the Town writes the ticket, that fine money would stay in the Town.

ITEM #7: Hemp Farms

This matter had been discussed at previous meetings. B. Luno was not in attendance at those meetings. He had heard that someone from Rochester was processing and selling at Shamel Milling. If it is being grown and processed locally, the Town would need to look at it much closer. As far as neighbor complaints that is something the Town cannot control since these are being handled by NYS. Chairman Kelly advised that he does not feel the Board has anything else to discuss on Hemp until someone approaches the Town and if it gets to that point, the Board may need to address this matter again. K. Lux reiterated that these are being controlled by NYS.

ITEM #6: Business from the Members

a) Chairman Kelly advised the members that the Josh Moritz submitted an Application for Business Permit for MTZ Unlimited located at 14214 South Cascade Drive. The business will consist of hot tub sales and service.

b) Supervisor Drake advised that yesterday Collins Supervisor Kenneth Martin delivered the Notice of a Public Hearing to the Town regarding a Special Use Permit Application to erect a telecommunications tower in the Town of Collins. The tower would be located near 5492 Route 39 which is located 161 feet from the Town's border with the Town of Concord. The tower height will be 150' feet plus 4' lightning rod and associated improvements on land owned by Garry Hammond. The Public Hearing is set for Monday, May 11, 2020 at 7:30 p.m. at the Collins Town Hall. This is just notification to the Town as required by law.

c) CEO Singleton had a conversation with Chairman Kelly regarding the fees for permits. CEO Singleton has noticed several buildings going up without a permit; garages and sheds. Since no permit application is being submitted, he is not seeing plans. He does not know the details of the building; the depth of the poles. The Town policy right

now is to have the owner pay double the permit fee and wonders if the Town should not be charging a fine for the construction without a permit and that the Town should have more authority. CEO Singleton asked the members to think about this issue. He notes that some towns make the owner take down the structure. In our Town, if the owner does not comply, his recourse is to take it to our Court. K. Lux wondered if NYS Code had anything regarding this situation and CEO Singleton said it did not; it is up to the individual town to set the fee. Discussion about whether the owner would pay the fee and any fine. This would then be up to the Court to decide. J. Jozwiak noted that the CEO should tell the Assessor's Office if something was built without a permit and was never inspected so that it is in their file for liability purposes. R. Hilliker advised that his construction company shows the building permit to the bank before they can get the first draw and to get the final draw, a Certificate of Occupancy must be presented. CEO Singleton noted that most of the structures going up without permits are sheds and some garages; he did find a house that never got a permit and is following up on that.

d) Supervisor Drake distributed to the members the January 13, 2020 letter received from the United States Department of Agriculture with regard to Kevin Thie. The letter states: "To Whom it may Concern: This office has under compliance (agreement no. DWS-808-EAB) Buffalo Firewood, located at 10257 Emerling Road, Springville, New York. Buffalo Firewood is being regulated for the production of an agricultural product by the Department of Agriculture. They are in compliance with all USDA policies pertaining to the production of firewood and their kiln is certified." J. Jozwiak noted that this letter confirms that Mr. Thie is conducting a business. Chairman Kelly said that it's production; not growing the crop on premises and feels it is a business and cannot be done at the current location. K. Lux questioned if the Department is aware that logs are being brought in and questioned if the logs are being brought in from more than a 50-mile radius. K. Lux also noted that just because the Department of Agriculture says it is ok does not mean that it is ok with the Town. There was discussion about the corn drying business; Chairman Kelly noted that the Zittel premises is zoned Commercial. R. Hilliker advised that there is a difference between processing and production. CEO Singleton has not yet written up any violation notices to Mr. Thie on this matter. J. Zybert wanted to reach out to the USDA to get more information; present our side of the matter. B. Luno questioned if there are DEC violations because of the waste product from the wood. Is it being pushed into the creek? CEO Singleton will contact the USDA on this matter.

ITEM #7: Motion of Adjourn

K. Lux made the motion, seconded by J. Zybert, to adjourn the meeting at approximately 7:48 p.m. All in favor. Carried. Chairman Kelly advised that the next meeting is June 2nd.



Darlene G. Schweikert
Planning Board Secretary

Chapter 72. Fire Prevention and Building Construction

Article II. Administration and Enforcement

§72-11 Notification regarding fire or explosion.

The chief of any fire department providing fire-fighting services for a property within the Town of Concord shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel-burning appliance, chimney, gas vent or any open fire.

§72-18 Enforcement; Penalties for Offenses

F. New York Codes, Rules and Regulations

Official Compilation of Codes, Rules and Regulations of the State of New York
Title 6. Department of Environmental Conservation
Chapter III. Air Resources
Subchapter A. Prevention and Control of Air Contamination and Air Pollution
Part 215. Open Fires

- (1) 6CRR-NY 215.1 Definitions
- (2) 6CRR-NY 215.2 Prohibitions
- (3) 6CRR-NY 215.3 Exceptions and Restricted Burning
- (4) Penalties for Offenses --penalty not to exceed \$500.00.

Permit No. _____
Year _____

Town of Concord

Demolition Permit Application

Property Address: _____
SBL# (attach copy of tax bill): _____
Zone: _____
Applicant is: Property Owner Contractor Other _____
Name: _____
Address: _____
Phone No. _____ Day Phone/Cell No. _____
Signature: _____ Date: _____

Demolition:	Size:	feet long:	feet wide:	
Constructed of:	<input type="checkbox"/> Frame	Used as:	<input type="checkbox"/> Single Dwelling	<input type="checkbox"/> Shed
<input type="checkbox"/> Steel		<input type="checkbox"/> Double Dwelling	<input type="checkbox"/> Commercial Bldg	
<input type="checkbox"/> Concrete Block		<input type="checkbox"/> Multiple Dwelling	<input type="checkbox"/> Industrial Bldg	
<input type="checkbox"/> Brick		<input type="checkbox"/> Barn	<input type="checkbox"/> Restaurant	

- It is the owner/contractor's responsibility to notify all utility companies of the starting date.
- All open holes and excavations to be filled to grade with run-of-bank gravel or fill as approved by owner.
- Provide survey indicating building to be removed.
- All debris must be removed from site.
- Public road surfaces to be kept clean of site construction debris and mud.

Name of Contractor: _____ Phone No. _____
Workman's Comp. Ins.: _____ NYS Disability Ins.: _____
Address: _____
