

TOWN OF CONCORD PLANNING BOARD
Town Hall

March 2, 2021
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
James Jozwiak
Joseph Edbauer
Julie Zybert
Karl R. Lux
Raymond Hilliker

Also Present:

Darlene Schweikert
Clyde Drake, Supervisor
Jeff Singleton, Code Enforcement Officer

Not Present:

Bruce Luno

ITEM #3: Citizen Participation

There was no one for Citizen Participation.

ITEM #4: Comments from Liaison Supervisor Drake

Supervisor Drake advised the Board:

(1) He continues to have conversations with Laurie Croft. A letter was sent requiring a geologist report; she called to see if the Town had a geologist in mind. She was advised that the Town does not want to be involved in choosing the geologist and that the cost to hire one could be expensive; she realizes the cost. They are looking into their options. She also asked if there would be anything else required by the Town after the geologist report and Supervisor Drake advised that he could not tell her that at this point. If the geologist report would come in with no issues, then the Town would be able to go ahead with the SEQR. She understands where the Town is coming from on this.

(2) He has received more calls on the horses on Route 240 (12400 Vaughn Street). There are six horses on the property and they lease approximately 4 acres that they lease. Everyone is worried about the horses. They are standing in mud, there's a shelter in there that is not big enough to hold six horses. CEO Singleton and Supervisor Drake have looked into the Law, the State Code as well, and it does not appear that there is a limit on how many horses that someone could have on this size parcel and we can't find anything in our Code or the State. J. Zybert asked if the SPCA had been contacted; yes, the SPCA has been contacted. CEO Singleton noted that our Code says a minimum of 4 acres for horses but it does not state how many horses you can have. L. Kelly

believes that this is not an issue for the Town; they should be calling the SPCA because they govern that. CEO Singleton noted that the Town does govern it because our Code says in R-Ag that you need a minimum of 4 acres, either owned or rented but there is no limit on the number of horses in our Code. J. Jozwiak said that residents should call the SPCA; will the Town then be limited how many chickens, horses, cows. CEO Singleton noted that the State has a recommendation of 1.5 acres per horse. J. Edbauer says the SPCA should step in. K. Lux noted that these horses were by the road but now they are moved to the back.

(3) He noted that CEO Singleton is here tonight to review the Code Changes that the Board reviewed last month; he hopes that this will be a civil conversation.

ITEM #5: Approval of Minutes

a) February 2, 2021– J. Edbauer made the motion, seconded by J. Jozwiak, to approve the Minutes as presented. All in favor. Carried.

ITEM #6: Mining Permits

a) Gernatt Pits: Middle Road-Vaughn/Gentner; Middle Road-Dewald; Zylinski Clay Mine; Waterman Pit; Wendel Pit

Chairman Kelly noted that these Mining Permit Renewals were tabled at the February Meeting. At that time, B. Luno questioned if the number of Gernatt pits is accurate; he believes there should be one more application; it could be that Gernatt has combined two pits on one renewal. The members asked Secretary Schweikert to contact the DEC to see what permits Gernatt has open with them; the approval of these renewals was tabled so that the DEC information could be reviewed. Secretary Schweikert emailed with Heather McNeil-Nazareth at the DEC. The Gernatt permits on file with the Town of Concord are:

Belscher Road Pit	Closed in 2018
Vaughn/Gentner	DEC #9043-30-0369
Middle/Dewald	DEC #9043-30-03609
Zylinski Clay Mine	DEC #9043-06-0511
Waterman	DEC #9043-30-0406
Wendel	DEC#9043-30-0978

Her response was: “Similar to your records, our database shows that the Belscher Road Clay Mine permit was closed/relinquished in 2018. Otherwise, there are 4 active DEC mining permits matching the sites you listed. The Vaughn/Gentner and Middle/Dewald mine areas are combined onto one DEC permit (Mine ID 90369; which is the same as your listed #9043-30-0369). We don’t have any other open/active Gernatt permits in Concord.”

K. Lux made the motion, seconded by J. Edbauer, to recommend to the Town Board to approve the renewal of the five Gernatt mining permits. All in favor. Carried.

ITEM #7: CEO Singleton-Code Changes

Chairman Kelly advised CEO Singleton to proceed with his Code changes. CEO Singleton noted that these are just ideas to make money for the Town with problems that he has been facing. Chairman Kelly asked if he heard that correctly, are these changes to make money for the Town? CEO Singleton said no, not to raise money but the problem is people are not complying all the time and he is getting phone calls that residents want to do this or that and he tells them the price and procedure. People are building without permits and just pay the double fee. There is no deterrent. In all the changes he brought up, there are steps that residents could have done something in many days/years which is not being done and he has nothing. Chairman Kelly asked if he had the authority to go out as CEO? CEO Singleton said he does but there is no Court right now and the Town is limited to a maximum of \$250 per Court case. CEO Singleton noted that often gets the Town Clerk, the Assessor, his secretary and himself involved in matters and he is driving around. He feels that the Town may be losing money. Are we enforcing enough? There are bad contractors that he has to deal with; they are taking advantage of people. He had a list of 50 complaints and he took the ones with the most complaints to bring to the Planning Board. CEO Singleton noted that money was the wrong thing to say; it's more of a compliance matter. Chairman Kelly and CEO Singleton had a discussion about how the Court is enforcing the law for the Town if there is no Court; eventually the Court will catch up on the Court matters once they are able to open. A summons could be written today but the CEO would not have a return date or case number to put on the ticket. CEO Singleton has about eight on his desk right now that need a Court date. J. Zybert asked what other Courts in Erie County are doing and CEO Singleton said the same thing; they are all piling up. CEO Singleton noted that this is not because of COVID; these ideas came before COVID; over the last 3-4 years accumulation. K. Lux advised that short of the fee schedule, he does not know another way to do anything. CEO Singleton noted that some of his cases are misdemeanors and these are only good for a year; after a year, what would he do? Get an extension? Or do they disappear?

K. Lux suggested CEO Singleton go through the changes one by one.

1. Permit for permanent backup generators/and require an inspection/testing done by a certified electrician. Fee for permit \$50.00.

CEO Singleton noted that there is nothing in the NYS Code that says you need a permit. The reason this should be done is that you are tapping into the gas line, propane line, electric; if it is not done properly, who is liable? The Town is. K. Lux noted that residents have to contact National Fuel or NYSEG and pay a fee to make that connection. J. Jozwiak asked if he was looking to inspect where it was going to go and then have Commonwealth inspect and then the CEO would make sure that they got the electrical inspection. Then the CEO would give them the Certificate of Compliance from the Town when all is inspected. J. Jozwiak noted that this is the way for the Town to make sure the

paperwork is done; he has no problem with this. R. Hilliker feels that what is most important is that someone like Commonwealth approves it. CEO Singleton advised that he has a list in his office of certified electrical inspectors in his office. R. Hilliker noted that the fee is \$100 in East Aurora and K. Lux noted that it is \$200 in Canandaigua. The members discussed the amount of this fee. J. Edbauer suggested \$75 and the members felt that fee was fair. CEO Singleton noted that he wants to do this for safety and following the Code. R. Hilliker noted that in East Aurora, they require that he submits the exact model spec sheet for their file; that way when the inspector came out, he read the specs for that specific model. The members suggested to the CEO that he require this spec sheet.

K. Lux made the motion, seconded by J. Jozwiak, that there be a permit for a permanent standby-backup generator and require an inspection/testing done by a certified electrical inspector; with a permit fee of \$75. All in favor. Carried.

2. Permit for any storage unit (shipping container, semi-truck, old box, etc.) Fee for permit will be based on square footage of storage unit.

CEO Singleton knows that the Planning Board had discussed this topic years ago; they have become a problem. These are being advertised on the internet/facebook; they are going to be around and they are ugly. His recommendation is to do something with it like the Town does with a shed because that is what people are doing with these. They are using them to store stuff. K. Lux asked CEO Singleton if he wanted this to be added to the shed section or create something new. Fees are already in there in the shed section. CEO Singleton noted that once the wheels are cut off, they are sheds. CEO Singleton noted that with the wheels are they would be unregistered vehicles. CEO Singleton also advised that other towns usually have placement of these as well; no one wants these in the front yard. R. Hilliker feels that this should be included in the shed section and the fees are already there. J. Edbauer questioned how this would work for the ones that are already here; grandfathered. J. Jozwiak advised that we can't make them get a permit after the fact unless they want another shed and then maybe the Town could go back on it.

L. Kelly would like to table this until next month to go over the fee schedule. CEO Singleton asked if this meant square footage fees. Chairman Kelly noted that is his opinion; the members will review the fee schedule. J. Edbauer would also like to review this matter a bit more. K. Lux made the motion, seconded by J. Zybert, to table this until next meeting. All in favor. Carried.

3. Campgrounds-yearly inspection with a fee of \$150.00.

Chairman Kelly asked how many campgrounds are there in the Town. CEO Singleton noted that there are two: Grottanelli and another one that is not active. There is another issue on Abbott Hill Road. CEO Singleton noted that NYS Law requires 50 acres to be a campground and if there is 50 acres, it is exempt from a permit and there can be a campground and it can't be stopped. J. Edbauer questioned if this is handled by Erie County? CEO Singleton noted that Grottanelli never follows the rules; there are tents up there that need to be inspected by the CEO per NYS Code. The members questioned if this meant all tents (graduation/family picnics) and CEO Singleton said it did. CEO Singleton will provide the members with that NYS Code information. It is difficult to print off but he will try. CEO Singleton has a NYS representative to talk with and to verify NYS Codes.

K. Lux made the motion, seconded by J. Edbauer, to table this until next month. All in favor. Carried.

4. Code Enforcement Office should have the x-hunt app which cost is \$29.99/yearly.

CEO Singleton advised that this should not have been on the list; this is a budget matter. He understands that it is not 100% accurate but it would be helpful for property lines.

5. Permit Renewals-if a renewal is not obtained, when needed, fee should be doubled. A possible charge of \$.50 per square foot and/or structure torn down.

K. Lux asked if the CEO would be happy if this read, "Permit Renewals-if a renewal is not obtained, when needed, fee should be doubled." CEO Singleton noted that the problem is that people are just paying the \$100. He is not sure that the building is safe and up to Code because he has not been inside. The CEO sends letters before the current permit expires and he is often ignored. J. Edbauer said to write an appearance ticket. Issue a stop work order. CEO Singleton advised that he doesn't know if the building is finished or not. He has caught some of these cases and have brought them up to today's Code and now they are paying taxes on the improvements. It is not up to the contractor to get the permit; it is the homeowner is solely responsible by law. If a contractor comes in, he mails the permit to the homeowner and gives the contractor a copy. The current fee schedule says you pay double the permit fee. If you get people who do it illegally or it's too close to the line, he needs more backing to tear it down. Other towns make people tear them down. K. Lux feels that that should not be done until after a matter would go to Court. CEO Singleton has also seen towns make people move

the building. CEO Singleton also noted that he does not have a way to get on the property to see the work being done. J. Edbauer noted that if the homeowner asks the CEO to leave the property, he needs to leave. Chairman Kelly noted that this is Permit Renewals and our fee schedule says double the fee. CEO Singleton asked what his next step would be? J. Edbauer feels that all he should do is enforce the law and give it to the Judge for them to decide. CEO Singleton advised that he would not know if what they did was legal if he does not get on the premises; how does he make them comply with the Code? Chairman Kelly noted that he apologizes but this section reads that if a renewal is not obtained when needed, the fee should be doubled. What does that have to do with inspections? CEO Singleton questioned how he would get on the property to see if it was done? It could have been finished in a month and never told him so that he could give them a Certificate of Compliance. People are not doing the renewals. R. Hilliker noted that the double fee is a deterrent. J. Edbauer noted that is already in the fee schedule. CEO Singleton noted that it is not a deterrent; they are just not paying. J. Jozwiak noted that if they are not paying \$200, then they would not be paying \$500 or whatever the increased fee would be. CEO Singleton noted that he is trying to make sure things are safe and he does not know if they are safe; that is his issue. Isn't that his job? J. Jozwiak just doesn't see how doing more than double is going to get you more compliance. R. Hilliker feels that at that point the CEO should write the summons and send it to Court. CEO Singleton advised that without the Certificate of Compliance/Completion it does not go to the Assessor to be added to the tax roll and if they are not at full assessment the Town is losing money. CEO Singleton noted that to send matters to the Court there is a lot of paperwork to be done besides the appearance ticket; a supporting deposition is also required.

6. Unregistered Vehicles-letter sent giving notice that you have 14 days to remove all vehicles or obtain. If after 14 days vehicle (vehicles) has/have not been removed or registered, a charge of \$10.00 a day until issue is resolved.

CEO Singleton noted that in NYS Code, it is 30 days. You are allowed one unregistered vehicle. Our Code is less restrictive and we can't be less restrictive than the NYS Code. Our Code says two but you are only allowed one. It has been like that for a few years now. He is asking for an additional 14 days for a total of 45 days; it would be \$10 a day. He has one matter in Court from his predecessor where there are 14 vehicles. Maybe this fee could be a lien on their real property taxes. K. Lux said he was confused; the CEO gives them 30 days. CEO Singleton says when he writes a letter, he gives them 30 days to comply. CEO Singleton would like 45 days in case someone is on vacation or out of town. K. Lux feels that the CEO could show that leniency without changing the Code due to weather or travel, illness. CEO Singleton thinks that the max is \$250 fee. R. Hilliker thought that this meant the CEO wanted to go from 30 to 14 days. K. Lux can't understand why you would give them more time. J. Edbauer asked if there was any difference with farm vehicles. CEO Singleton noted that their full income is farming; it can't be 10% of their income. If the vehicles go on the road, they need farm plates and need to be registered in some way. If they are on the property, no. There are only certain

vehicles that can be registered as a farm vehicle. Chairman Kelly noted that there are places in Town where people are not farming even though they have acreage and they have vehicles on their property. CEO Singleton noted that they have to be registered as farm vehicles according to the law. Chairman Kelly said, "or you are going to write them a ticket?" CEO Singleton answered, he can, yes. After which Chairman Kelly said he can't. CEO Singleton then responded that it is his discretion; he is the governing body for the Code. CEO Singleton noted that it depends how the tickets are written. If there are 14 vehicles and he writes one ticket then the max fine would be \$250 or he could write 14 tickets with supporting depositions. K. Lux questioned how we would collect \$10/day if they won't pay it? CEO Singleton noted that it would go to Court and the Judge would see that he wrote a letter. This would make it an easier case to win. If you get a lawyer in there, everything could get ACD'd (Adjourned in Contemplation of Dismissal) and thrown out. J. Edbauer asked if the town attorney could look into this. CEO Singleton noted that he is the Town Prosecutor. Supervisor Drake noted that the Town Attorney is the substitute Prosecutor. The Town Prosecutor is an attorney in their firm. K. Lux asked how you would implement this. Would the \$10/day be for one summons or one vehicle? CEO Singleton noted that it would be per case number. K. Lux would rather raise the \$250 to \$500. Chairman Kelly noted that that would go back to our fee schedule. J. Jozwiak noted that this would make the CEO's life easier.

K. Lux made the motion, seconded by J. Jozwiak, to table this until next month to look at the fee schedule. All in favor. Carried.

7. Any work being done without obtaining a permit is subject to a permit fee being doubled/fee of \$.50 per square foot/possible tearing down or movement of the structure.

K. Lux feels that this goes back up to #5 Permit Renewals. There is already a double fee on the fee schedule. R. Hilliker asked CEO Singleton that if we went by square footage, if someone was building a 2000 sq foot house you could ding them \$1000 rather than the double fee to deter this from happening. CEO Singleton said pretty much. There was discussion on double, triple or quadruple the fee vs. a fee per square footage. CEO Singleton has contact with the NYS area representative and this representative cannot come in to Town to help our CEO with these matters.

K. Lux made the motion, seconded by J. Edbauer, to table this until next month to look at the fee schedule: square footage vs. a specific fee. All in favor. Carried.

8. Home Occupation without obtaining a permit-\$100.00 fee for application and fee for not obtaining a permit could be up to \$500.00.

Chairman Kelly questioned what is a home occupation when so many people are working from home during the pandemic. This was discussed last month; J. Edbauer

works three days a week from home, is that Home Occupation? CEO Singleton advised that a home occupation is when it is not your main job. If you make barrettes and bracelets on Saturday and Sunday and sell them on eBay, that is a second occupation and it is a home occupation. CEO Singleton noted that a SEQR is required for a home occupation per the NYS DEC, even if it is a tax accountant. K. Lux thinks this needs to be discussed under a fee schedule.

K. Lux made the motion, seconded by J. Jozwiak, to table this until next month to review under the fee schedule. All in favor. Carried.

ITEM #8: Business from the Members

1. Supervisor Drake asked if it was illegal to have the resident sign on the permit to allow you to go onto their property? CEO Singleton doesn't know if it would stand up in Court. J. Edbauer noted that if he is asked to leave, you need to leave.

2. R. Hilliker questioned if it is legal to raise the taxes on the property for the improvement, or put a clause in the permit, that after the permit expires the taxes automatically raise to the full value. K. Lux thinks that would be an Assessor question. J. Jozwiak thought that a letter could be sent saying that you assume that this project is done. If it is not completed, please call the CEO. K. Lux questioned if the Assessor has the right to go on the property and J. Edbauer thought they could go only on the outside. J. Jozwiak noted that insurance companies can go on to properties. CEO Singleton had spoken with our Assessor and believes she said she takes pictures from the road.

3. J. Jozwiak thought it was helpful having CEO Singleton at the meeting tonight so there could be discussion and the members could see what the CEO was looking for in his requests. CEO Singleton will look up the tent code and provide the contact number for the area representative from NYS.

4. J. Edbauer noticed several "Vacinek" vehicles on Genesee Road near the golf course and wondered if a business is there. The owners of this property own a store front on Boston State Road in Hamburg. This is their residence.

5. R. Hilliker saw that a building collapsed at the corner of Belscher Road and Concord Road. The Town Highway Superintendent already notified the owner.

6. Chairman Kelly wondered if there had been any contact from the people who came in last month on the solar farm on Genesee Road. There has not been. He had attended a meeting with Supervisor Drake, Councilman Drozd, and Andrew Reilly at Wendel Companies regarding the updating of the solar law and comprehensive plan. There was discussion about what is the footprint of a project; it is the fenced-in area of the project. This definition should be included in our law; it will need to be determined where this information should go in the code/law. It should be included in the definition section. J. Jozwiak said that the state requires these projects to be fenced in so that area

needs to be the footprint. This language will be reviewed by Wendel Companies. J. Edbauer noted that it is the perimeter of the fence. R. Hilliker wanted clarification of the setbacks. Chairman Kelly noted if it is bordering a residence, the front is 100 feet; sides 30 feet; rear 80 feet. If there it is bordering a residential district, it is 200 feet. Supervisor Drake advised that Mr. Reilly will give us a whole new law. It will also include host community agreement vs. PILOT.

ITEM #9: Motion of Adjourn

J. Edbauer made the motion, seconded by J. Zybert, to adjourn the meeting at approximately 8:35 p.m. All in favor. Carried.



Darlene G. Schweikert
Planning Board Secretary

