

TOWN OF CONCORD PLANNING BOARD
Town Hall

February 1, 2022
7:00 p.m.

ITEM # 1:

The meeting was called to order by Planning Board Chairman Karl R. Lux, at 7:00 p.m.

ITEM #2: Roll Call

Present:

Karl R. Lux, Chairman
Bruce Luno
James Jozwiak
Joseph Edbauer
Julie Zybert
Raymond Hilliker
Michael Cochran

Also Present:

Darlene Schweikert
Clyde Drake, Council Liaison
Thomas Roberts, CEO
Scott & Stephanie Bacon
Steve Buckley

ITEM #3: Citizen Participation

There was no one for Citizen Participation.

ITEM #4: Comments from Council Liaison Drake

Councilman Drake had no comments at this time.

ITEM #5: Approval of Minutes

a) January 4, 2022– J. Edbauer made the motion, seconded by J. Zybert, to approve the Minutes as presented. All in favor. Carried.

ITEM #6: Buckley Application

Chairman Lux asked Mr. Buckley to update the Board on his application. Mr. Buckley noted that he would like to have the parcel rezoned. CEO Roberts had called him after the January meeting and discussed changing his application to a Special Use Permit Application. Mr. Buckley’s concerns for the future, if he does a Special Use Permit, and he sells the property or his children inherit it, that it could be possibly revoked; there could be different laws in the current code that changes over the course of time. There have been a lot of changes of the past few years and he doesn’t want to be in a position with a Special Use Permit when there is already commercial property/industrial property on his road. Mr. Buckley understands the Board’s comments about other avenues coming into his property. All his other ventures are at other locations. He is not asking for commercial zoning because he wants to bring a construction company there or

part of his garbage company. He doesn't have enough room as it is; in his mind he feels he will be maxed out with what he has. Square footage wise he is well within the limits. If the rental/wedding venue takes off and he decides to have a full-time florist there and wants to sell roses for Valentine's Day, he doesn't want to be told that that is not in his Special Use Permit so rezone will allow him that. A florist would go hand in hand in the application of the venue, he does not want to be pigeonholed. If it is a matter of a little bit extra leg work and a bit more effort on his end to do it now, he wants to proceed.

Chairman Lux advised that Mr. Buckley had noted previously that he wanted this done quickly. Mr. Buckley noted that if it is a matter of a month or three months; what is the time table to rezone. Chairman Lux noted at least three months if the Board would make a recommendation tonight. Mr. Buckley advised that he is in the position right now that if he knows the Town is working with him, he is ok because he is also working with the Erie County Department of Health. The Health Department is requiring a new well to be 200 feet from the septic system and has to become a public water service so he needs a UV system approved. If the rezone process takes two months to do it, start to finish, he is ok with that and he thinks it is more advantageous to do the leg work. He can get a survey and do the leg work now. Chairman Lux noted that one of the concerns of the Board is the fact that the one acre parcel itself sits between two SBL number parcels that Mr. Buckley and trying to describe that in a rezoning application. Mr. Buckley advised that if he blocks it out and transfers it out to another corporation, an LLC, it would get its own SBL number. Chairman Lux noted that it would be another SBL number in the middle of two other SBL number parcels. If he did that metes and bounds description of the parcel it would need to have a dedicated driveway easement in the deed. Mr. Buckley originally purchased the farmhouse, the land behind it is the parcel with the separate SBL# and if he put it with that parcel and would have egress because that parcel has road frontage at the south end of the parcel. He would have to work with a surveyor.

Chairman Lux asked Mr. Buckley how close the new building is to the parcels on the south. Mr. Buckley owns the SBL number 306.00-2-8 with the house on the dead-end road and the house is far away from the new building. There is an empty field of approximately four acres. The new building is north of the pond located on the Nussbaumer & Clarke November 5, 2018 survey. That ingress/egress road frontage is 29.31 feet on the survey. He is not concerned about getting that much zoned commercial, but if the Board is worried about getting it into one, he could take a portion out of his house lot and add it to the back SBL number and then rezone that. Chairman Lux was looking at it from the perspective that it is floating between parcels or even in one parcel that to have a quick response, the Special Use Permit section would work. There is no annual renewal. Mr. Buckley would not have to come back every year. No annual fee. Mr. Buckley noted that since he is working with the Health Department, if it one month for Special Use or two months for rezoning, it would not make that much difference. Chairman Lux advised that the Planning Board makes recommendation to the Town Board and then the Town Board would make a decision.

J. Edbauer advised that there is a little bit of concern. With a Special Use Permit, it is meant for that use and there is a little bit of control for the Town and if it changes

into something else the Town will have input. Things change; a decision could be made in the future to bring your garbage business there. Mr. Buckley wondered if the Town could put language in a rezone application with restrictions; he has zero intention of going into that avenue nor does he want that for his neighbors. Ten acres with houses on it and everything else is not really enough to do a commercial big enough to do something. Chairman Lux questioned how it might affect resale if it were made one parcel and then rezone that little box out of it, how would that affect a sale? Mr. Buckley advised that he would have to sell it all as one; the property as whole would have the value. It is not just one or the other; he needs to rezone because of the use but he could have a \$500,000 and the barn is only worth \$300,000. He could sell it and the new owner could have birthday parties in there and get \$500 for rental vs. \$2,000 for rental. M. Cochran thought, like J. Edbauer said, that if Mr. Buckley were to sell it, or his kids take over, that changes your thought process; what you are saying here tonight. That person could do whatever they would like if it were zoned commercial; that would be one of his concerns. There is not really not a recourse to the Town if it is zoned commercial. Mr. Buckley advised that he was asking for one acre rezone and the building will take all that acreage so what would be left? The one acres of zoning is building only. Chairman Lux noted building, parking lot, etc. Mr. Buckley noted that he thinks the parking lots can remain in R-Ag. R. Hilliker noted that for the scenario from a business perspective; won't you want every spot of that venue, anywhere there could be a customer or guest, to be on their own parcel owned by a LLC and insured and not on your personal property so it would be 100% separated? Mr. Buckley advised that he thinks it would all be in that LLC. He thinks it all has to be strictly for liability. R. Hilliker assumed that the rezoning would have it a parcel with its own driveway. Mr. Buckley does not have a problem giving it egress, sharing the driveway. There are two different ways into the place. If it needs to have a deeded right of way, that could be done. This could be drawn up by the surveyor. Chairman Lux noted that it is tougher for this Board to make a recommendation without actually knowing where it all sits and how to describe it to the Town Board. Mr. Buckley wanted to rezone one acre as a venue, the structure itself. Metes and bounds? R. Hilliker thinks it has to be divided with its own SBL number and that SBL number could be commercial. Once a parcel is deeded off the two current SBL numbers, the County will give the new parcel its own SBL number. Mr. Buckley questioned how many feet of a right of way would the Town want? The Board wasn't sure of this dimension. The current driveway back to the building is 16 feet. CEO Roberts thought it was 20 feet for fire restrictions for fire trucks.

Mr. Buckley mentioned that if it is easier and the members want, the entire property could be rezoned. For simplicity reasons, he was going to break the one-acre parcel out. He doesn't necessarily need the whole parcel rezoned, but if it simplifies the situation, he could do that. Chairman Lux felt that that would make it simpler to describe to include the two parcels attached to each other. Mr. Buckley wondered if he ever got rid of the venue, and it was going to be his garage and he wants to subdivide the lot, can he still do that? Or would he need to get it back to R-AG? Chairman Lux did not know the answer; that is where the Special Use Permit would come in handy.

B. Luno questioned the occupancy of the building. Mr. Buckley noted that currently the building occupancy is 90 people because of toilets (unless he has port-a-potties). Square footage he could have 400 people. When the project is done, he wants to be able to host 250 people maximum. J. Jozwiak noted that the fire hall can hold 255 but most weddings now are 100 people. Mr. Buckley advised that everything that he is basing on with Erie County Department of Health is 250 people. R. Hilliker's recommendation would be that if Mr. Buckley wanted to have a Special Use Permit and then if he wanted to rezone, to come back to the Planning Board with a parcel, a layout showing exactly what the plan was, and then the Planning Board could review it. Chairman Lux doesn't think that the Special Use Permit stops Mr. Buckley from having it changed but it gives him more time to have it done correctly. Chairman Lux thinks that Mr. Buckley has to take his whole parcel and make it C-2. Put the two parcels together. The members reviewed the Nussbaumer & Clarke Survey which had the new building "sketched" in. Chairman Lux asked Mr. Buckley what his thoughts were about that plan, to get this project rolling? Mr. Buckley advised that he is ok with that. As far as the rezone, ultimately the only thing that needs to be rezoned would be the structure. He thought parking could remain R-Ag. Chairman Lux thought that if he was making it for a commercial application that everything that makes up the commercial application would have to be in that boundary and zoned C-2. Mr. Buckley thought the Code book said parking lots could be R-Ag but if that is not the understanding, then he would have to do the entire piece of property because the well has to be over in the vacant four acres to get the distances; the septic is in between there so that entire area has to become C-2. Lot line to lot line would need to be rezoned. Chairman Lux noted that he would have to take the two parcels and make it one. J. Jozwiak questioned leaving the two houses in commercial and Chairman Lux noted that it would have to be in the commercial. R. Hilliker questioned why they wouldn't be broken out as their own parcel. Mr. Buckley did not think he would have enough road frontage if he wanted to break the houses off. Chairman Lux said just to get Mr. Buckley rolling, the Board can recommend a Special Use Permit because the rezone will take a while. The Board would like to see Mr. Buckley combine the two SBL number parcels and turn it all into C-2 from north to south. The zoning to C-2 does not change his tax rate; housing can be in C-2. Mr. Buckley noted that if the parking lot, septic and well, then it has to be lot line to lot line. Chairman Lux asked if the Board would like to make a recommendation for a Special Use Permit for now and then Mr. Buckley can keep working on the rezone application. The Special Use Permit would not have to be renewed; there is no annual cost; the only time it is affected is if he discontinues the use of it for a year then it has to be redone. Mrs. Bacon asked how the Board would know if he didn't continue use? Chairman Lux noted that if he moved away or nobody used it. J. Jozwiak noted that as long as it is used once within a year, it would be fine. R. Hilliker suggested the Town could ask for a copy of a rental agreement showing it was used once in a year.

Mr. Buckley provided the Board with the Special Use Permit application. The rezone application will be kept as an open matter and the \$500 will be held by the Town. Mr. Buckley submitted the Special Use Permit application and the \$100 fee. M. Cochran made the motion, seconded by J. Jozwiak, to recommend a Special Use Permit and Mr. Buckley will work on the rezoning to commercial for the whole property. J. Zybert

questioned if the rezone should be to C-T (Commercial Tourist) and not C-2. She thought C-T would be more restrictive. J. Edbauer asked Mr. Buckley if he had talked to his neighbors yet and he has not yet.

J. Edbauer asked if there should be a square footage on the rental venue? Mr. Buckley stated that right now the building is 4000. When he makes it bigger, he can be 9000 without sprinklers so that number will be the end. Minus a car port or something but that does not need a sprinkler. CEO Roberts asked the Board if they needed to put restrictions on that this Special Use Permit is pending his sprinklers making Code with the NYS Fire Board exemption. CEO Roberts believes the NYS Fire Board will grant the exemption. J. Edbauer said the motion should also state that he must follow all the local, county, state and federal regulations. The motion was restated: M. Cochran made the motion, seconded by J. Jozwiak, to recommend a Special Use Permit to Steve Buckley at 11655 Moore Road, for a rental venue, approximately 9000 square feet and that everything that is done must meet our federal, state, county and town codes. All in favor. Carried.

Mr. Buckley confirmed with the Board that he needs to go the surveyor and combine the two properties and at that point, plot the new building on the survey. Chairman Lux advised with the dimensions off of the side lots; distances from the other buildings on the lot. Mr. Buckley will then deliver it to Town Clerk Schweikert to get on the agenda again for the Planning Board. Chairman Lux noted that Mr. Buckley should also look to see how this will affect his house and nail all the details down; make sure that he is satisfied with how the whole plan will come together; discuss the plan with his attorney. Mr. Buckley noted that if it is all commercial that doesn't pigeonhole him down the road to separate it.

Chairman Lux asked if there were any other questions. There were none. Mr. Buckley thanked the Board and left the meeting at 7:38 p.m.

ITEM #7: Bacon Rezone Application

Chairman Lux asked the Bacons to address the Board. Mrs. Bacon noted that they have 44 acres on Abbott Hill Road with an acre of that being on the north side and 43 acres on the south side. The one acre on the north side and about 4 acres of the other side are zoned R-1 currently and the rest is all C-R and they are requesting that the one acre and the 4 acres be rezoned to C-R to keep it contiguous with the Kissing Bridge C-R property. They would like it all the same zoning so that there is no differentiation between the zones on the property. Chairman Lux asked if this was two SBL numbers? Mrs. Bacon advised that it was one SBL number but when they purchased the whole property, the deed left off the one acre across the street. That one acre has been transferred to their name now but it has a second SBL number because of that error; the Assessor's Office never fixed it on their end so it is now two SBL numbers. Chairman Lux asked the members if they had any questions. M. Cochran noted that it made sense. J. Jozwiak asked them if they knew why it was R-1 to begin with; Mrs. Bacon stated no. The funny thing is that the four acres (about 4.3 acres) of the other side and it's a weird

triangular. Mrs. Bacon had researched the town's records because part of the area is zoned R-12. At some point in 1996, Mark Halter from Kissing Bridge came to the Planning Board and said that he wanted to rezone some land but there is nothing in any of the Planning Board or Town Board Minutes as to why or what lands. There were minutes stating that a Public Hearing was scheduled but there are no Minutes from any meeting. Mrs. Bacon showed the members the parcels on the Assessor's Map and explained the current zoning. The Bacons have also purchased an additional third of an acre behind the one-acre parcel which is already zoned C-R. Everything in Holland Land Company Lot 47 is C-R; and Lot 48 is R-1. The neighboring parcel to the one-acre parcel is the Water District lands. Chairman Lux asked the members if they were familiar with the location of these lots because the four-acre parcel is part of the bigger parcel of about 43 acres so it will be another one of those where you describe an SBL number but only the northern portion of it. Lot 47 lands are already zoned C-R. R. Hilliker noted that we can just say the whole thing. Chairman Lux said it could just be doubled up again. Mrs. Bacon noted that it so confusing because what is around Bridgetop it says one thing in one area and another so making it all C-R would clear it up. The SBL number for the one acre is 275.20-1-16.1 and the approximate 43 acres on the other side is 275.20-1-16.2. Mrs. Bacon noted that the owners of Kissing Bridge are actually really happy and excited and have been working with them on this project. Chairman Lux stated that it has two SBL numbers: one of them includes the whole parcel (275.20-1-16.1) and the other one includes just the northern part of it (275.20-1-16.2) but the Board would just describe it with the two SBL numbers.

Mrs. Bacon asked the members to look at the zoning map because it is confusing. If you look at where it says R-12 where Bridgetop subdivision is, there is a tiny little triangle under there that says "2". If you look at the legend, the "2" states that in 1997 the zoning was changed from C-R to R-Ag. This is where Mrs. Bacon can't find anything that says why or what happened. They don't know what can be done. If they have someone who wanted to buy a lot up there to put a house, but if we make it C-R up there; does that make that not possible? But is it even possible because it is not certain what the zone is? The tax rolls do not show the zoning information for each parcel. There is no documentation in the town files as to why that would have been changed on this date and confirming the zoning. The Bacons own everything ten feet off of the houses around Bridgetop. J. Jozwiak noted that if there is no documentation and nobody knows his suggestion would be just say that you want this changed. Mr. Bacon questioned that if down the road, Kissing Bridge prospers and it is a big ski resort and they decide they want to build more pedestal homes or little houses near that subdivision would that cause a problem? Since it appears it is R-Ag right now, that already causes a problem because it would need to be 1.5 acres. Mr. Bacon stated that they would have to come back for a rezone on that portion at some point. J. Jozwiak stated that that would be the easiest. Do a blanket rezone right now and then if they want to do something, they come back. J. Jozwiak made the motion, seconded by R. Hilliker, to rezone SBL number 275.20-1-16.1 and SBL number 275.20-1-16.2 to C-R. All in favor. Carried.

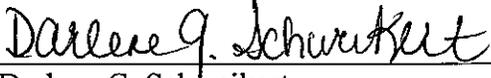
Mr. and Mrs. Bacon thanked the Board and left the meeting.

ITEM #8: Business from the Members

1. CEO Roberts advised the members that he is in the process of obtaining quotes to update the Town's Zoning Map which are 20 years old. He will see what the cost would be to make the maps digital and easier to use. Once CEO Roberts has all the information, he will discuss with the Town Board. The funding for this may not be available in the 2022 budget.

ITEM #9: Motion of Adjourn

J. Jozwiak made the motion, seconded by J. Edbauer, to adjourn the meeting at approximately 7:58 p.m. All in favor. Carried.



Darlene G. Schweikert
Planning Board Secretary

