

**Town of Florida
Planning Board Meeting
Monday, March 6, 2023
7:00PM**

MEMBERS PRESENT:

Stephen Viele, Chairman
Dan Roth, Member
Scott Marshall, Member
Peter Rea, Member
Charles Saul, Member
John Hutchison, Member
Nicholas Armour, Deputy Chairman
Jayme King, 1st Alternate
Cindy Shultz, 2nd Alternate
Michael Crowe, Attorney

ABSENT:

I. Call to Order

A meeting of the Town of Florida Planning Board was called to order at 6:59pm, by Chairman Stephen Viele.

II. Pledge of Allegiance

III. Adoption of the Agenda

Motion was made by Charles Saul and seconded by Nicholas Armour to accept the Agenda; all members present in favor and passed. None opposed.

IV. Adoption of Minutes

Motion was made by Peter Rea and seconded by Charles Saul to approve the minutes of the February 6, 2023 meeting. All members present in favor and passed. None opposed.

V. Correspondence

1. Letah Graff presented a letter of comment regarding the Wedding Venue before the meeting started.

VI. Business

1. Marjorie Heacock – Subdivision of land on Bullshead Road

Steve Viele read through SEQR Parts I, II & III.

MOTION was made by Dan Roth and seconded by Scott Marshall to declare that based on the information provided in SEQR Parts I & II this action/project will have no significant adverse environmental impacts and therefore a negative declaration issued and no environmental impact statement is needed. All members present in favor and passed. None opposed.

MOTION by Nicholas Armour and seconded by Peter Rea to approve Ms. Heacock's application for subdivision of lands on Bullshead Road. All members present in favor and passed. None opposed.

2. High River Energy Center – Subdivision of Land on Pattersonville Road

Javid Afzali, from Harris Beach was present to review the application. Attorney Michael Crowe counseled the Board that they had the discretion whether to hold a public hearing for this application or not. Chairman Viele polled the members of the Planning Board and they all said they did not think a public hearing was necessary for this as it was only needed due to a

technicality with public utilities needing their equipment on a separate parcel. It was agreed that SEQR would be reviewed at the April meeting and Javid will be bringing back the legal description and final survey for approval and signing as well.

3. Chris Persons – Subdivision of Land on Bullshead Road

Chris Persons was present to explain that he is parceling off approximately 3.187+/- acres which is donating to the Town of Florida Fire Department for their new fire house to be built on. He spoke about the fact that this has been a six (6) year project to secure land. Again Attorney Michael Crowe counseled the Board that they had the discretion whether to hold a public hearing for this application or not. The Board decided no public hearing was necessary and Chairman Viele read SEQR Parts I, II & III.

MOTION by Nicholas Armour and seconded by John Hutchison to declare that based on the information provided in SEQR Parts I & II this action/project will have no significant adverse environmental impacts and therefore a negative declaration issued and no environmental impact statement is needed. All members present in favor and passed. None opposed.

Dan Roth asked if there was a site and building plan available for review and Chris informed him and the Board that now that land was secured discussions with CT Male for the site and building plans would begin and the Fire Department would be coming back for that application at a later date.

MOTION by John Hutchison and seconded by Nicholas Armour to approve Chris Persons application for subdivision on Bullshead Road. All members present in favor and passed. None opposed.

4. John & Grace Kimber – Wedding Venue – Site Plan Review

Mr. Kimber was present and gave a brief overview of the project and stated that he would like to be able to do up to four (4) events per month.

Chairman Viele opened Public Comment at 7:37pm

Ken Aucompaugh – 500 McDougall Road – concerned about the noise and extra people coming out to the area. He lives next door and enjoys the quiet and privacy. He and his wife keep “farmers” hours; they go to bed at 9pm and get up at 4am. Concerned about the negativity that could happen if alcohol will be served. Kevin Aucompaugh agreed with his father.

Amanda Aucompaugh – 470 McDougall Road – countered Mr. Kimber’s claims that he notified his neighbors. It is an outside business that will be using the barn. Safety concerns with the extra traffic. Concerned about noise and emergency vehicles can take up to twenty (20) minutes to reach that area. There is a cemetery right next door. Parking in a field will create issues.

Walter Castiglia – 187 Scotch Church Road – concerned about the noise. Will this drive down property values because no one will want to live next to a venue such as this. Cars leaving at 10pm at night will create more noise.

Letah Graff – 156 Langley Road – could not attend but left a letter for the Planning Board which Chairman Viele read out loud. She supports the venue. This would be a good facility for residents to use for events as well. Does not think traffic or noise would be a big problem and the regulations support it. Feels the Town is over-regulating residents. The letter will be included as an addendum to the minutes.

Tom Nelson – 829 Pattersonville Road – expressed concern that this is a very rural, agricultural use area and would be in stark contrast to the uses occurring at this time. Questioned if the Kimbers would lose their agricultural exemption. The road is approximately a land and ½ with poor shoulders. Concerned about high volume of traffic. Parking concerns in a dirt field and

parking is not allowed on the road. He did speak to Mr. Kimber and does not agree that this is a good plan. Concerned that it is not Mr. Kimber who will be running this business it is an outside commercial vendor. Concerned as well about emergency vehicle access.

Becca Countermine – 511 McDougall Road – read a quote from Mr. Kimber that was published in the Amsterdam Recorder and stated that he told ½ truths. The business that will be using the barn is part of a national franchise and it will not be Mr. Kimber and his wife running it. She also mentioned the lawsuit in Saratoga County and how it came about and the issues that that venue had.

Lynn Keith – 541 McDougall Road – spoke in favor of the venue. Does not think four (4) or five (5) parties a month is too many or a big deal.

Dale Countermine – 511 McDougall Road – historic cemetery right next door. The entry to the field for parking will be right across from their house and driveway. Concerned about alcohol use and the amount of people who will be attending. Also concerned about trash, noise and the fact that farmers drive farm equipment up and down the road and it is very narrow.

Sara Cornett – 5615 St Hwy 30 – shared written comments with the Planning Board from the grass roots group Alliance for Florida Farmland. The group supports the project as an appropriate means of growth within the Town and listed some suggested conditions that could be attached to an approval to help make the project more agreeable to residents. The letter will be included as an addendum to the minutes.

Albert Graff – 156 Langley Road – is involved as an active member of the Town of Florida Fire Department and he shared with the Board that the Fire Department has had no previous issues accessing the roads near the Kimber's project. Many events held in the Town have had cars parking in fields with no issues and the property has good access for the fire department should they be needed.

Vanessa Curry – 6244 St Hwy 30 – there are many events at the Town Hall on the corner of Fort Hunter and Dunlap Roads with no traffic issues. There are multiple farm stores in the area that have cars going in and out all the time with no issues. Will the venue be alcohol free? Could the Board set the hours of operation to keep night time disturbance to a minimum?

Joe Ambrosio – 470 St Rt 160 – Route 160 can be a dangerous road. Where McDougall and Route 160 join people have driven off the road into the field across the road due to speeding. Would not want the traffic.

Jake Krohn – 6702 St Hwy 30 – sees the genuine concern from the neighbors. This venue could bring people out to the Town who might not have thought to come to the Town of Florida. This could bring new residents and new people to visit and shop at the small businesses in the Town. The Garden Bug has had large events and people have parked on Fort Hunter Road with no issue. He suggested the Board and the residents give the Kimbers an opportunity to show how they could mitigate the issues raised and to work with them to come up with solutions.

Chairman Steve Viele stated that public comment on the Kimber Wedding Venue will be left open while the Planning Board has their discussion.

Joe Goode of Complete Weddings and Events spoke to the Board about the fact that he would be controlling the music and lights. He acknowledged that while he is part of a franchise he alone controls what happens at events. He does not want to cause trouble between Mr. Kimber and his neighbors. A sound test was done on site to see how loud the music would be and how far the sound would carry.

John Kimber asked if he could address the public's concerns and Chairman Viele, after consulting with Attorney Crowe, allowed him. Mr. Kimber said he does not want to run a large

scale commercial wedding operation. He lives right next to the barn he wants to use and has young children. He does not want events to go beyond 10pm. He will not be applying for nor serving liquor. The events will all be catered and the caterer will be responsible for monitoring and serving alcohol. If events should turn rowdy he will stop them. The field is level and is approximately 3 acres. Parking can be rotated if needed should it get wet. The soil is the type that drains well and has no standing puddles after rain. He is willing to put up ropes to designate a parking area that can be moved to prevent overuse of one spot in the field. He is aware that the farmers use liquid manure and people need to understand that they can expect to have farm smells if they come out to the country for a wedding. He did send a letter to his immediate neighbors in December with his contact information on it and he recognizes their concerns and wants to work to mitigate them. Dave Kietzmann farms the land around the house and barn and he is done spreading by May. Mr. Kimber stated that he would not want loud music disturbing his family either. He has young children who like to use the pool they have and play in the backyard. There is clear sight at the end of McDougall looking both directions on Route 160. Mr. Kimber also stated that he would work to coordinate events if there is a funeral on the same day. In regards to the agricultural exemption he receives, it is not a tremendous discount and does not affect anything he is going to do. Mr. Kimber also explained that he was in contact with Paul Slansky (Fire Code Inspector) and Tim Miller (Building/Codes Inspector) and Paul went out to look at the building and grounds for fire truck access. Tim went out and did an inspection and told Mr. Kimber what he had to do for building safety and Mr. Kimber complied. The lawsuit in Saratoga County is not the same as this venue. Mr. Kimber again reiterated that he does not want to hurt his neighbors. If the events become a serious issue and/or out of control then he will stop.

Ben Neidl, attorney for the Kimbers spoke about the different allowed uses and special permitted uses in the Town's Zoning Ordinance. Alcohol serving is very regulated and the caterer is responsible for controlling that. If the Planning Board sets conditions and they are not met or kept up with then violations can be cited and tickets issued. Mr. Kimber does not want major issues with his neighbors. This will not change the character of the neighborhood as he is only repurposing the barn, he is not building another structure or changing the structure. John Hutchison asked if either of the alternates on the Board had any input. Chairman Viele asked what the capacity of the building is. Is it 150 people? Could the Board limit how many people could be in attendance? Attorney Mike Crowe explained how to use public comments and concerns to shape the questions from the Board and set the conditions. If there are concerns regarding number of guests and noise then the number of people allowed could be limited. Also have to use occupancy code to set the legal limit. The barn cannot hold 200 people and tables and chairs. Kim Graff stated that the Fire Department could assist with a count for occupancy per fire code. How will Mr. Kimber clean the mud from the roads if the field gets saturated and cars drop mud? 10pm should be the latest for events to end. Scott Marshall stated that he drove up to the McDougall Road and there is a slight grade, not a sharp corner and that the road was clear from both directions on Route 160. Chairman Viele pointed out that Mr. Kimber would be unable to dump the garbage from this venue at the Town refuse site because only household trash is allowed at this time. Mr. Kimber and Mr. Goode stated that the caterer will be responsible for disposal of trash or Mr. Goode would take trash to his own business dumpster. Peter Rea asked alcohol and who will be responsible for drunk guests. Discussion over liability and responsibility. Town will not be held liable. Civil liability should be the caterer, business owner, bartender. Lengthy discussion over the soil type on site and how well it drains. Peter asked for clarification of the number of lights and what they would look like to the neighbors when they are all turned on at night. Mr. Kimber and Mr. Goode stated that about one dozen light trees will light up the parking area sufficiently. The engineer hired

did the placement on the new plan set. Peter also asked how the sound study was done and how the starting decibels were determined and where the other test spots were picked and how far away they were from the source. Discussion between Mr. Goode and Mr. Rea about the differences and Peter Rea asked for a more comprehensive analysis since this is big concern from the neighbors and he is concerned as well. Mr. Goode stated that the music would not go above 80 decibels. Attorney Crowe said if parking was a concern could a parking attendant be on hand to assist with getting cars into spots and then out to the road after the event is over. John Hutchison asked about the neighbors having the option to have an event shutdown early if things get out of control and they are unhappy with the noise etc. Attorney Crowe explained that if a situation occurs then the Zoning Enforcement Officer can be called to document the complaint and observe the situation and if after so many complaints, that are verified, the Kimbers can be sited and penalized for non-compliance with conditions set. Spirited discussion between Mr. Kimber and John Hutchison. More discussion regarding restrictions and how loud music can get and what decibels would be appropriate or a nuisance to the neighbors. Chairman Viele spoke about setting a limit for violations and after so many violations the permit can be revoked. The violations need to be justified. He also asked if the Planning Board could come to the sound test to hear and witness and Joe Goode and John Kimber said they would welcome that. The question was asked if Mr. Kimber would be willing to put some gravel down to help mitigate possible mud in the field and he did not want to alter the field in such a way that it couldn't be used for farming in the future. John Hutchison said if this is not a commercial operation then events should not be held every weekend. Cindy Shultz asked about how it would be handled in the future should the business take off. Who would hold insurance? Mr. Kimber would have a rider on his own insurance policy for the day of events. Chairman Viele said how many events per month could be a stipulation. He also pointed out that even if the events end by 10pm the noise may continue as people leave and the caterer packs up. Nicholas Armour asked who will regulate the venue and make sure the conditions are being followed. What happens if another barn owner wants to do the same? How do you set conditions for one but not set for another? Attorney Crowe explained that each application is looked at separately. One application will not be the same as another. Chairman Viele asked if anyone has any other concerns they think need to be answered. Mr. Kimber is concerned that the Board keeps asking him for more each time he comes. He pointed out that the Town has no noise ordinance. Peter Rea wants an official sound study done to see what that says. Items that are needed for next meeting: *Occupancy load, decibel study by 3rd party, light placement and how it affects the neighboring homes.* Public comment will be left open until the aforementioned items are done and turned in to the Clerk for forwarding to the Planning Board or five (5) days before the next Planning Board meeting, which would be Wednesday, March 29, 2023, on April 3rd. Only written comments will be accepted until March 29, 2023.

5. Elan Design Lab – Dollar General Fresh – Route 5s

Discussion with Marcie Weslock regarding conditions to be set for their draft site plan. The Planning Board agreed that *light pollution would be minimized, hydraulic docks will be installed and Dollar General would power wash houses on request if dust from construction impacts neighboring houses.* Marcie pointed out, again, that this site plan is draft and that they will be coming back for a final review as soon as the land purchase is complete and other studies and permits through NYS are done as well. The snowmobile trail will be moved farther down the road to other MCIDA lands per a conversation with the Town Supervisor, Ken Rose and Stephen Viele.

MOTION by Nicholas Armour and seconded by John Hutchison to approve Dollar General's conditional site plan; all present in favor and passed. No opposed.

6. New Leaf Energy – Draft Environmental Impact Statement Scoping Document:

David Strong, Lydia Lake and Stuart Mesinger were present Dave Strong gave a very brief summary of the project. The Town does have wind turbine use in its Zoning Ordinance. A variance was granted by the ZBA in December of 2021. Lydia Lake reviewed the site plan. Went over the wetlands location and the credits they are paying to DEC. Stuart Mesinger from LaBella associates explained the process of the draft EIS scoping document.

Chairman Steve Viele opened Public Comment for the Draft Scoping Document at 9:37pm:

Vanessa Curry – 6244 St Hwy 30 – asked for addition visual impact studies to be done from highest visual sites in the Town within a five (5) mile radius that weren't done previous. Updated bird and bat study done.

Sara Cornett – 5615 St Hwy 30 – asked for clarification as to Steve LeFevre's role for the Planning Board. More data on erosion and its effects, wetland effects and effects of run-off on well heads in the area. Frequent raptor and bird of prey sightings as well as bats and endangered birds; updated study on those as well. The MET mast has been up for some time; is there data available regarding that. What is the decibel level of the turbine compared to the decibel level at the proposed wedding venue.

Joe Wells – 318 Shellstone Road – asked for a decibel reading at his for the turbine. He is approximately 1 – 2 miles away. How far will the sound travel?

No other public comments were given and Chairman Viele, on advice of counsel stated that written public comments would be accepted by the Town Clerk via email, postal mail or in person until March 13, 2023. These would be reviewed at the April 3rd meeting.

VII. Any Other Business:

Chairman Steve Viele announced that the General Public Comment portion going forward will be removed from the Planning Board agenda to streamline the meetings. Any future public comments will be done during the item of business which requires public hearings and input from the public. Rules regarding this, and conduct during Planning Board public hearings and meetings in general will be posted on the back of the Agendas. There will be signup sheets at the door for anyone who wishes to speak during public hearings, each speaker will be limited to no more than 3 minutes, which those minutes cannot be shared by speakers, no one will be allowed to speak more than one time on an issue, people will be called upon in order they signed in on the sheet, no interruptions will be allowed or cross talk, people are asked to stay "on topic" during the public hearing, no outbursts will be allowed; ie. Clapping, booing, or any other interruptions.

VIII. Adjournment

A **Motion** was made by Nicholas Armour and seconded by John Hutchison to adjourn at 9:55pm; all in favor.

Respectfully Submitted
Emily Staley
Town Clerk

