

**TOWN OF POMPEY PLANNING BOARD MINUTES  
OCTOBER 16, 2017**

The Town of Pompey Planning Board meeting was held on Monday, October 16, 2017. In attendance: Chairman Sue Smith. Members: Dan Bargabos, Robert Neufang, Roy Smith, Carl Fahrenkrug, John Shaheen and Kevin Coursen. Attorney Jeff Brown and Town Engineer Steve Snell were also in attendance.

Chairwoman Smith called the meeting to order at 7 pm. followed by the Pledge of Allegiance.

Correction to September minutes that the motion to adjourn at 8:20 was not included. Motion by R. Smith, seconded by R. Neufang to approve the minutes as corrected. All in favor.

**POMPEY MALL REDEVELOPMENT**; Public hearing of a Site Plan Application for the Pompey Mall located at 7330 U.S. Route 20. Don Neugebauer and Engineer Ed Reid were present.

Chairwoman Smith asked if the comments made by the Town Engineer Steve Snell had been addressed?

Ed Reid stated that since the last meeting they have worked with the State DOT regarding the eastern exit being closed off. They are in conformance with the request. We will be using the same signage, but it will be moved. He then passed around a brochure with pictures of what the new building will be, minus the dormers shown in the picture. The color will be red.

Don Neugebauer stated he has to decide if it will be the conventional doors or a sliding door. There will be two cupolas on top. The siding will be red with a white metal roof. The siding will be metal.

Town Engineer Steve Snell stated he did comment on the lighting plan and storm water grading. There were no changes to the well. Steve asked about what type of material will be used on the retaining wall?

Ed Reid stated that Steve's comments on the lighting were sent to the company that is doing the lighting. It will be pre fab concrete block and will work with Don and Steve on it

Kevin Coursen had a comment on Part I of the SEQR form. Part I, question 2 should have the DEC listed because it will require a permit for the petroleum bulk storage.

Part II of the SEQR short form was then completed.

Motion by K. Coursen, seconded by C. Fahrenkrug for a negative declaration for SEQR. All in favor.

Motion by J. Shaheen, seconded by K. Coursen to open the public hearing.

Chairwoman Smith then asked the members of the audience who wished to speak to please state their name and address and only speak to the Board.

Victor Russo, 2516 St. Rt. 91 wanted to see a picture of the building. He then asked if there was a time frame for the beginning and ending of the project and will it stay open?

Chairwoman Smith stated that the existing building will remain open until the new one is completed.

Don Neugebauer said that he first gets the site approval, then the building permit and then order the building. He hopes to get started by the beginning of January, finish it in March. It will be business as usual, then move into the new building. The new pumps will be in between where the old building and old pumps are. Anticipate one day for the store and up to two weeks for the tanks.

Richard Bertrand, 2599 Cemetery Road asked how large is the building?

Don Neugebauer stated that the new building will be 4500 square feet. The current building is 1400 square feet.

Chairwoman Smith stated that there will be 4 fuel islands with more room straight on.

Motion by S. Smith, seconded by J. Shaheen to close the public hearing. All in favor.

Motion by K. Coursen, seconded by R. Smith to approve the Site Plan for the Pompey Mall Redevelopment at 7330 Rt. 20 based on a map by Ed Reid Engineering dated 9/29/2017, Tax Map Nos. 021.-03-02; 021.-03-03.1, contingent upon items addressed by Town Engineer dated 10/13/2017 being completed and completion of Ag Data Form. All in favor.

**LANDS OF JEAN PTT & KJACQUELINE DOUGLAS AS TRUSTEES:** Public Hearing of a 2 lot subdivision on the northwest corner of Delphi Falls Road and Pompey Hollow Road. Nell Ziegler was present.

It is two lots, Lot #1 is 16.1 acres and Lot #2 is 8.0 acres. They are breaking off Lot #1. There are Federal Wet lands on Lot #1.

The Board then completed Part 2 of the SEQR Form..

Motion by S. Smith, seconded by K. Coursen to approve a negative declaration. All in favor.

Motion by C. Fahrenkrug, seconded by R. Neufang to open the public hearing. All in favor.

There were no public comments.

Motion by S. Smith, seconded by J. Shaheen to close the public hearing. All in favor.

Motion by C. Fahrenkrug, seconded by J. Shaheen to approve the subdivision Lands of Jean Pit & Jacqueline Douglas as Trustees based on a map by David Vredenburg, dated 7/25/2017. All in favor.

**SCOTT SCHAAL:** Public Hearing for Site Plan Approval for landscaping/farm/nursery business on 3210 Gardner Road. Andrew Leja, attorney was present. Mr. Schaal is out of town.

Attorney Andrew Leja stated that this is the continuation of his preliminary discussion with the Board Site Plan approval from the last meeting. He has copies of the updated plan.

Chairwoman Smith stated that this is a unique Site Plan application and the Planning Board lawyer, Jeff Brown will explain.

Attorney Jeff Brown stated that back in late 2000 the Town became aware of Mr. Schaal's existing business on the site. There was a dialogue of what was going on about the use. Whether it was authorized, did he have approval? The Town took no action at the time.

Later the Town was informed of a building being built on the site. The Town took no action for it to be addressed. Fast forward to 2016, a different Town lawyer and Town Code Enforcement Officer. In their opinion the use had changed and intensified, and it was determined not to be in compliance. The Zoning Board agreed in part and disagreed in part. It was decided it needed to go to Planning Board for Site Plan Review, so there is a record of what is there.

There are three options for the Board:

1. do a Site Plan understanding there may be some nonconforming components due to the unique fact that this is an existing business.
2. decide that a post operation review is inappropriate and decide not to conduct Site Plan review.
3. Need for any variances, could go back to ZBA for variances (set-back, use variance).  
If the barn is not in conformance, could go back to ZBA.

Kevin Coursen doesn't understand how the Board could send it back, there is not enough information on the map. Doesn't know how the Board could do a Site Plan review after the fact in fairness to the Town, public and also the applicant. Thinking of Skaneateles, a house was built without a permit and it was taken down. Also, he is not sure the ZBA has the authority to have the Planning Board do a Site Plan after the fact.

Carl Fahrenkrug suggested the Board would do its best with the information that we have.

Kevin Coursen said it is not our responsibility. It is the ZBA's responsibility. The Site Plan is before, not after. Don't agree.

Carl Fahrenkrug felt the Board should at least go thru the review.

Kevin Coursen stated that if this was a proposal, this map would be sent back. It doesn't have the correct information. To process the plan would be an injustice to the Board and to the public.

Dan Bargabos asked if the ZBA could do anything?

Attorney Jeff Brown stated that the ZBA has decided it is a permitted use and would like the Planning Board to conduct site plan review.

Attorney Andrew Leja stated that the ZBA decided it is a legal use. It was due the lack of a building plan, CO and Site Plan application that it was sent to the Planning Board. With all due respect, the mistake was not made by his client in 2006.

Kevin Coursen thinks it is incorrect to send to Planning Board after the fact for site plan review.

Chairwoman Smith stated that if we were looking at the Site Plan map we would need set-backs, topography, where business it actually operating, parking spaces, driveway dimensions. With this map we can't tell the set-back from the road.

Attorney Andrew Leja stated that they just followed regulations.

Kevin Coursen said that we need to address issues before we can go on. He wants it to go back to the Zoning Board.

Chairwoman Smith said if the building doesn't match set-back it would go back to ZBA. We also need hours of operation.

Carl Fahrenkrug asked the attorney if there is anything else for the Code Enforcement Officer to do given there is no approved site plan currently approved.

Attorney Jeff Brown said no.

Carl Fahrenkrug said that the constraints should be addressed by this Board.

Kevin Coursen stated that we are opening ourselves up for all sorts of problems because we don't have all the information. He has discussed this with other Planning Board lawyers.

Attorney Jeff Brown reiterated the three options; facing the Board.

Carl Fahrenkrug feels that we should move forward, open the public hearing and complete SEQR.

Attorney Jeff Brown said that the matter has been publically noticed for Planning Board to open the public hearing. Not sure that we have enough information to do a SEQR?

Dan Bargabos stated that we need the set-backs, driveways, lighting, etc. included on for the Site Plan. In this regard he agrees with Kevin.

Kevin Coursen believes we should not open the public hearing if we don't have correct map. The applicant before this one had to have a new map.

Attorney Andrew Leja did talk to Engineer Steve Snell for what was required. He takes issue with that. You have to decide if you have jurisdiction.

Chairwoman Sue Smith asked about the building permit and CO?

Attorney Andrew Leja said that yes, they now have them twelve years after building was built.

Bob Neufang said that he agreed with Kevin with regard to there being problems with the map. It is supposed to delineated on the map. He doesn't think it should go back to ZBA. There are several issues before we go any further.

Roy Smith said that somehow the business got started, it has existed and has expanded, and doesn't have anything against it. He would like to know why we are here? We should have heard from them before.

Kevin Coursen said that in April 2016 and August 2016 he received letters from Paul Valletta (neighbor) complaining about the noise, etc.

Code Enforcement Office Fred Hill said it started out as a nursery.

Attorney Andrew Leja said it was just landscaping originally.

Motion by K. Coursen, seconded by R. Smith that due to the fact that we don't believe justice can be done to the Site Plan Review after the fact, it is inappropriate to conduct a Site Plan Review.

Bob Neufang said that this has to come to a conclusion.

Carl Fahrenkrug said we don't want to leave the business unenforceable.

Kevin Coursen believes it will happen. It is inappropriate that it came to the Planning Board, send it back to ZBA. He has heard that they had a hard time with the review. Not saying it is going away. The way it came to us, it needs further review by the ZBA before it comes to the Planning Board.

Attorney Jeff Brown stated that the regulations are pretty clear. Approve or deny. The Zoning Board of Appeals has no authority to decide on site plan issues, such as hours of operation.

Kevin Coursen said he refuses to do one of the options Jeff gave us. He doesn't feel there is sufficient direction to perform our duties as the Planning Board. We need better direction.

Attorney Jeff Brown stated that one of the three options is that the Board decides not to act, then they would continue to operate.

Kevin Coursen thinks that the process goes back to Fred (Code Enforcement Office). It is flawed and needs further review.

John Shaheen again asked for definition on the three options before the Board.

1. conduct Site Plan. Address operation matters, hours of operation, but understanding there may be some non-conforming elements.
2. to refuse to conduct post operation Site Plan review. Will continue to operate.
3. Conduct Site Plan review, identify need for variances that will go to ZBA. Planning holds up Site Plan review process until issues are addressed.

Chairwoman Smith said there is a motion on the table. It will be an individual vote. Yes, in agreement, we will not look at it. No, will move forward with the Site Plan review.

Roy Smith – yes

Robert Neufang – no

Carl Fahrenkrug – no

Sue Smith – no

Dan Barbagos – no

John Shaheen – no

Kevin Coursen – yes

The motion was defeated 5-2.

Chairwoman Smith agrees this is a unique situation, but there are items that need to be addressed. She agrees we are largely agricultural and there are accessory issues tied into it, but there are rules in the Town.

Building, driveways, disrupting land need to be addressed. We can't turn our back on it. She has questions that can't be answered. She thinks a combination between 1 and 3.

This is unique and items need to be addressed and to complete the package it would need to go back to the ZBA.

John Shaheen said that there are issues with this map. He thinks there is a conflict with the applicant doing the map himself.

Chairwoman Smith said the issues with it for the sake of the Town need to be dealt with. We know we have approved. Then go and make changes. It needs to come back. If people make changes not approved, there are rules that need to be followed.

Attorney Andrew Leja said that this is not a statement kind of case.

Chairwoman Smith said that it has landscaping in the name.

Carl Fahrenkrug asked can we all agree that we need the set-backs on the map?

Dan Bargabos stated that we need a full blown Site Plan Review.

Engineer Steve Snell stated that there is no proposed land disturbance and as far as the storm water goes he has provided some comments. It doesn't mean he agrees with the applicant's response. The Board needs to decide. We asked for a survey map. This wasn't done by a licensed engineer.

Attorney Andrew Leja stated they thought this is what the Board wanted.

Engineer Steve Snell said that Pratts Falls Road is a county road. We need to know if the county approved the driveway. The Town Highway Superintendent needs to review the locations of the Gardner Road driveway to determine if the locations is acceptable.

Dan Bargabos said to let Steve say what we need to cover concerns. The summary is we need survey, structure, driveway permits, exterior lighting, set-backs.

Chairwoman Smith would like to see pictures of the building. In the narrative employees who work on site, are there people coming and going?

Attorney Jeff Brown said the Town currently has an agreement in place with applicant for hours of operation.

Bob Neufang asked how far is the well from the leach field?

Attorney Andrew Leja said they would show it on the map.

Dan Bargabos said to make sure the leach field is included and also the County Health approvals.

Attorney Jeff Brown said we need to re-notice the public hearing because we do not have enough information to open the public hearing.

Carl Fahrenkrug asked what about SEQR? Do we address if storm water is adequate?

Dan Bargabos said to wait to do SEQR.

Engineer Steve Snell said if they can provide how much land they disturbed. No regulation if already there. In looking at general drainage patterns there doesn't appear to be any significant impacts.

Attorney Jeff Brown stated that the Board could consider giving tonight's audience an opportunity to speak with informal comments tonight if they can't make next meeting.

Engineer Steve Snell asked that any future office space expansion, space for future greenhouses or landscaping expansion be shown also.

Attorney Andrew Leja said everything would be on the map. The growth has been from 5 to 15 employees. Right now they winter plants on site and then sell to customers for on site planting.

Chairwoman Smith asked that the lawn area is specified and other areas. Identify grass area as production area.

Attorney Andrew Leja said would show planting and production. A farmer is renting some land, not proposing a subdivision. He will show the business and agriculture.

Chairwoman Smith said in the landscaping, nursery business you get income from renting, but you don't need to show that. Right now look at unique site, how it is operated now, any future plans will need to come back to the Board.

Attorney Andrew Leja asked if need to show a snapshot of what is there now?

John Shaheen said to break out the rented land.

Engineer Steve Snell said he will put together additional details of what was discussed tonight.

Chairwoman Smith asked to get it to him as soon as possible. There were no informal public comments offered by the audience.

Motion by J. Shaheen, seconded by K. Coursen to adjourn at 9:15 pm.



Respectfully Submitted,

Darla M. Mawson, Secretary  
Town of Pompey Planning Board