

The Town of Marcellus Zoning Board of Appeals
24 East Main Street
Marcellus, New York 13108

March 6, 2017

Present: Chairperson Michelle Bingham , Jerry Wickett,
Chris Christensen, Ron Schneider, Kathy Carroll

Absent:

Town Counsel: James Gascon of Costello, Cooney, and

Town Engineer: Jason Kantak of TDK Engineering

Codes Officer: John Houser

The Zoning Board of Appeals of the Town of Marcellus met in regular session in the Town Hall for the Town of Marcellus, located at 24 E. Main Street, Marcellus, New York, on March 6, 2017 at 7:00pm.

Tuscarora Golf Club, Howlett Hill Road – special permit

A continuation of the public hearing for a special permit to allow expansion of the parking lot was held. (See Planning Board minutes for additional information and resolutions on the subdivision and site plan) Hearing no further questions, Michelle Bingham asked if anyone would like to make a motion to close the public hearing. Ron Schneider made a motion to close the public testimony and the public hearing. Jerry Wickett seconded and the motion carried with the following vote:

Jerry Wickett - aye

Michele Bingham – aye

Chris Christensen - aye

Ron Schneider – aye

Kathy Carroll – aye

The Chair then asked if anyone would like to make a motion on the project. Jerry Wickett made a motion to approve the project with the Town Attorney drafting the resolution and it will be reviewed at the April 3, 2017 meeting.

Chris Christensen seconded and the motion carried with the following vote:

Jerry Wickett - aye
Michele Bingham – aye
Chris Christensen - aye
Ron Schneider – aye
Kathy Carroll – aye

James and Edith Seymour, 4537 Northeast Townline Road – special permit

A public hearing was held for a special permit to allow a 50' X 56' garage/accessory building to be constructed. The secretary, Karen Cotter, read the legal notice into the minutes. It will meet all setbacks and be located so that it will not be visible from the road or neighbors. The building will have two (2) overhead doors, underground electric, no heat and mercury light on the outside. This is to be used for personal storage only as well as their garage. No business shall be operated from it. The Chair, Michelle Bingham, asked if anyone would like to speak in favor or in opposition to the project. Ken Phillips spoke in favor of the project and there was no opposition. Hearing no further questions, Jerry Wickett made a motion to close the public testimony and public hearing. Chris Christensen seconded and the motion carried with the following vote:

Jerry Wickett - aye
Michele Bingham – aye
Chris Christensen - aye
Ron Schneider – aye
Kathy Carroll – aye

The Chair, Michelle Bingham, asked if anyone would like to make a motion on the project and Jerry Wickett made a motion to approve the 50' X 56' garage/accessory building at the location on the submitted map; there was one (1) person in favor of the project and not opposition; no business shall be operated from the garage/accessory building; and it's consistent with the neighborhood.

Chris Christensen seconded and the motion carried with the following vote:

Jerry Wickett - aye
Michele Bingham – aye
Chris Christensen - aye
Ron Schneider – aye
Kathy Carroll – aye

The request of James and Edith Seymour for a special permit in a Residential 1 zone to allow them to construct a 50' X 56' garage/storage building.

The Zoning Board of Appeals of the Town of Marcellus met in Regular Session in the Town Hall of the Town of Marcellus, 24 E. Main Street, Marcellus, NY, on March 6, 2017, commencing at 7:00pm, local time at which time and place the following Resolution was moved, seconded and passed.

WHEREAS: The applicant is located in a Residential 1 district: and

WHEREAS: There will be no undesirable change in the character of the neighborhood or detriment to nearby properties: and

WHEREAS: The use shall be consistent with and subordinate to the principal use and may not be carried on independently of the principal residential use: and

WHEREAS: The special permit is used for the use specified on the application. Any change of use is subject to approval by the Zoning Board of Appeals: and

WHEREAS: The special permit conforms to side yard, front and rear setbacks.

THEREFORE BE IT RESOLVED that said special permit be granted upon the following condition:

1. Applicant must apply for a building permit that grants permission for construction.
2. The building is for personal use only.

Matt Abbott, 3739 Bishop Hill Road – Zoning Interpretation/Site Plan Modification

Mr. Abbott is requesting a zoning interpretation regarding a violation notice he received from the Codes Office for being in violation of his site plan. He is stating that his project is an approved use in an agricultural zone and should be allowed. Chris Christensen advised that the land use is approved for a nursery only. This was approved in 2008 under a current site plan and special permit. There has been no planting of trees/shrubs as was originally approved. Mr. Abbott stated that he is buying plantings in bulk and selling them to his customers. At times he plants some of the purchased burlaped wrapped trees on site (until he can plant them at customers property) but he is not growing anything at that location.

Mr. Christensen stated that when Matt Abbott originally came before the ZBA to request a special permit he presented a plan for a nursery. We were told that plants/trees would be grown on site, everything would be stored in the newly requested building and only one (1) trailer would remain outside. It was clearly understood that this approval was for a nursery and not a landscaping business.

The following was discussed regarding the new firewood/logging business Matt Abbott is proposing:

- He has logs delivered and dropped off at the site. They are being sold for firewood. According to Mr. Abbott this falls under agricultural use. He owns 250 acres of forest at a different location and that is where the logs come from. The tops of the trees are processed for firewood
- Mr. Christensen stated logging/firewood is not a nursery and that is what is approved for that site. Bringing the logs to your site that is not part of this property is not part of a nursery operation.
- We need to see if there is a mechanism to be able to approve what he is requesting – we are not sure that is an allowable use.
- Mr. Abbott stated that the property is in an agricultural zone and this falls under agricultural use.

- If a sign is requested a permit will be required and meets our ZBA regulations.
- He stated that he is complying with all DEC regulations
- Presented a definition for Silviculture – The growth and cultivation of trees.
- He has heat in the existing building
- There is a septic system for the building
- He states that he is not a saw mill but is a firewood processor. He owns the saw that is being used and it is portable.
- Mr. Christensen asked why he doesn't saw the firewood on the logging site and Mr. Abbott replied that he wants to do it where his business is located and because his logs won't be stolen.
- Mr. Abbott stated he can provide letters from neighbors saying there is no issue with noise or sawdust.

Several additional questions were asked:

- Do a percentage of the logs you are using for firewood have to be on site? In this instance he is logging from land he owns or leases - at a different location – and trucking them to the Bishop Hill location to be processed. Does that fall under the farming regulations?
- This site is approved for a nursery and cutting of firewood does not fall under a nursery.
- If he is transferring logs and reselling them at a different location is that a logging or timber operation?
- Matt Abbott stated that he is confused. He feels that the two (2) businesses are the same and should fall under the nursery operation and believes it qualifies as agricultural use.

Jim Gascon stated that he needs to research as to whether this is actually a use that could be considered part of the nursery business. Mr. Abbott should submit a narrative or list of what he is actually using the site as and what is being done on it. Should also discuss general storage, parking, is he still selling cars on the site? Mr. Gascon will provide information for the April meeting.

-pg-ZBA
March 6, 2017

The February minutes stand as distributed.

The meeting was adjourned at 9:30 PM

Respectfully submitted,

Karen Cotter
Secretary