

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

May 1, 2017

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

Absent:

Town Counsel: James Gascon of Costello, Cooney, and Fearon

Town Engineer: Jason Kantak of TDK Engineering (absent)

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 May 1, 2017 at 7:00pm.

Due to the July 4th holiday, the Chair, Michelle Bingham, made a motion to change the July meeting to Thursday, July 6, 2017. 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

Edward & Gina LaPlant, 3671 Slate Hill Road – special permit

A continuation of a public hearing was held to request construction of an accessory building. The ZBA is holding a meeting on June 17, 2017 to discuss accessory buildings and Mr. LaPlant advised that he would wait for a decision on his project until after that meeting.

**Richard and Pauline Herald, 2691 Slate Hill Road – front yard variance/
special permit**

A continuation of a public hearing was held for a front yard variance and special permit. Mr. Herold advised that the garage would actually be 4' farther from the property line than originally requested and he will come into our office to change the paper work. He stated that he has no paperwork for an easement for the NYSEG pole or power lines. The building will be located north of the pole and will meet the required 15' clearance. Jerry Wickett advised that this project will be sent to OCPB for review.

David Card, 4000 Rockwell Road – special permit

A public hearing was held for a special permit for a 17' X 17' pavilion. The secretary, Karen Cotter, read the legal notice into the minutes. The project would be located next to his existing pool and provide shade for the area. The Chair, Michelle Bingham, asked if anyone would like to speak in favor or in opposition to the project and there were none. 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

Jerry Wickett made a motion to approve the project as presented as a public hearing was held and there was no opposition to the project and it is 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 David Card for a special permit in a Residential 1 zone to allow him to construct a 17' X 17' pavilion.

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 May 1, 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 is 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

There was additional discussion regarding activities that are taking place on this property. Town Attorney, Jim Gascon, provided a confidential review on what is allowable and what falls in the parameters of our zoning regulations. Mr. Abbott sent an email to our office on April 27, 2017, with a list of activities that are taking place on this property. Mr. Abbott was advised that his site plan and special

permit were approved for a nursery operation only. The other activities on site are not approved. There was discussion among Mr. Abbott, the ZBA and Town Attorney as to what constitutes a nursery. Mr. Abbott stated that he has ordered 200 new trees that are balled and in burlap. In the past he has ordered trees and sold them before they are placed in the ground. Michelle Bingham stated that when you talk about a nursery you think that the product will be grown on site not somewhere else. If you aren't growing them then it would be more of a landscaping business. Jim Gascon stated that the use is not consistent with what our regulations are. Mr. Abbott has stated that he purchased the majority of the plantings/trees and brings them in from another site to sell. They are not grown on site. Chris Christensen reminded Mr. Abbott that he is approved for a nursery only and landscaping is not an allowable use on his property.

In regards to the timber operation, Matt Abbot advised that all the logs come from parcels that he owns – over 250 acres on 9 different parcels. He transports them to the Bishop Hill location and cuts them into firewood. Mr. Abbott's argument is that this is an allowable agricultural use and his property is the agricultural zone. He feels he should be allowed to bring the logs to that site to cut up for firewood. Jim Gascon stated that Mr. Abbott is not a farmer and farmers can produce timber only as a secondary income. Mr. Abbott asked if he could request some type of variance and he was advised that he would not meet the criteria for a use variance.

From the audience - Roger Trombley, 4357 Clark Terrace, stated that any interpretation can be changed, he feels that Mr. Abbott should be allowed to bring in the logs and cut them on that location. John Fiumara, 3736 Bishop Hill Road stated he doesn't have an issue with the project.

Jerry Wickett made a motion to request a legal interpretation from the Town Attorney. The proposed resolution can be reviewed at the June meeting and we can choose to accept it or not. 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

Bishop Hill Ventures, 3995 Bishop Hill Rd. – zoning interpretation

Attorney Andrew Leja, was present to represent the project. Packets from the attorney had been submitted and reviewed by the Board. Mr. Leja stated that the mine was open in the early 60's and continued through 1994 when Bob Harrison passed away. At that point a third party contractor mined the property until the mid 2000's. They have paid reclamation fees to the DEC. In 2011 the property was given to the children and in 2013 an application for mining and SEQR was presented to the DEC. The same was done in 2015 and 2016. The family would like to continue to mine the gravel and slope it. Mr. Leja submitted that this qualifies as a pre-existing non-conforming use. They would continue to mine the gravel and then reclaim it for use in agricultural/residential. Jerry Wickett asked how long it would be mined and they weren't sure – maybe several years – depending up the situation and what use there is for the gravel. A third company contractor will be used. There's no additional depth – they will stay within existing contour and excavation. There will be no blasting – it's all loose gravel. Jerry Wickett stated that if it is determined that it can't be mined they should still have to reclaim it. Jim Gascon suggested that this project be held over to June for a public hearing to determine what the uses were and if this is still considered an active mine. We will ask the applicant questions and they will need to present evidence in respect to use of the property. Mr. Leja was in agreement but would like the questions in advance and in writing. Chris Christensen wanted to make sure that it was understood if approved they could only mine within the boundaries of that lot and could not go onto another parcel – even if that parcel is owned by the applicant. Bill Branson, 2103 Lawrence Road and Tim and Katie Finlan, 2142 Lawrence Road was present and had concerns on restarting the mine. Jim Gascon will contact with Mr. Leja with questions and this project will carry over to the June meeting.

Skaneateles Ski Club, Route 174 – discussion

Garrison Gomez and Heather Niland were present to represent the project. They stated that the ski hill is struggling to maintain membership and they are looking to find ways to fundraise. In the past 20 years they have held a fall festival with bands, in the past three (3) years they have had snowmobile races, downhill ski racing and last year they started motocross. There was discussion regarding available parking, the safety of people walking from the Lions Club and parking on

-pg6-ZBA
May 1, 2017

Route 174. Some of these activities are not consistent with the ski hill that is located in a Residential 1 zone. The Board needs to look at the impact to the neighborhood, safety and the noise level. We understand the need to fundraise but it needs to be an allowable use in the zone. The applicant will need to submit a site plan as well as a special permit and appeal the compliance order. They will complete and submit paperwork to the June meeting.

Charles & Laurie Stevens – special permit /site plan

See Planning Board minutes

Discussion –

Town Supervisor, Karen Pollard, would like to revisit the solar panel issue. The PB/ZBA members will check availability for the May workshop meeting and advise if a joint meeting can be held.

The April minutes stand as distributed.

The meeting was adjourned at 10:00 PM

Respectfully submitted,

Karen Cotter
Secretary