

Town of Ghent Planning Board Meeting Minutes

February 2, 2022

Meeting called to order by Chairman French at 7:01pm.

Present were Planning Board members Jen Stoner, Larry Machiz, Dan Barufaldi, Aaron Groom, Stephanie Lazar, Fern Fleckman, Chris Keefe, Code Enforcement Officer, and Matthew Cabral, Town Attorney.

Members of the public in attendance include Sam Chapin, and Cindi Elliott.

New Business:

Sam Chapin – 230 Falls Rd. LLC – 230 Falls Road, Ghent, NY - Tax ID # 73.-3-31 & 7.-3-79

Mr. Chapin explained his property has always been two parcels and will remain two parcels. However, he is asking that the parcel with the existing house become smaller to allow for both parcels to have road frontage.

Larry Machiz asked is the rear parcel had a preexisting right of way. Mr. Chapin did not recall there ever being a right of way. Chairman French indicated there was nothing present in the deed. Matthew Cabral, Town Attorney, indicated the survey does not illustrate there being one.

Matthew Cabral, Town Attorney, stated the operating agreement indicates Mr. Chapin and Mr. Ventura are the owners of the LLC.

Dan Barufaldi confirmed the zoning district is RRA-1. Chairmen French stated the parcel is in the C1 zoning district.

Dan Barufaldi asked if this was a preexisting non-conforming use or if the existing building is not a dwelling unit. Mr. Chapin confirmed that the existing structure is a dwelling unit. Chris Keefe, Code Enforcement Officer, confirmed the house was built in 1966. Chairmen French believes that area became commercial around the 80s.

Dan Barufaldi asked if the larger lot has a dwelling unit existing and if that parcel is also zoned commercial. Mr. Chapin confirmed there is no dwelling unit on the larger parcel and that both parcels are zoned commercially. Matthew Cabral, Town Attorney, stated the application is not enlarging the degree on non-conformity.

Dan Barufaldi asked if the 100' well setback was met by the property line. Chairman French stated the DOH will confirm where the neighboring wells are located.

Chairman French asked if the parcel could be sold as new residential property. Matthew Cabral indicated the existing residence parcel can be sold as a residential property, but the larger property will be subject to the C1 zoning rules and regulations.

Larry Machiz asked the applicant what the intentions are, if any, for the larger lot. Mr. Chapin indicated they have not yet determined how that lot will be used.

Larry Machiz asked what the surrounding properties are. Mr. Chapin and Chairman French confirmed the surrounding lots and their current uses. Chris Keefe indicated the parcels across the road are zoned residential.

Chairman French indicated the next step in this process would be for the Board to determine if they would like to waive the public hearing.

Larry Machiz would like to hear from the public.

Dan Barufaldi stated with residential across the street, he would be more inclined to hear from the public. However, this parcel is and has been commercially zoned and therefore he is unsure what the public would say that would alter the Board's decision.

Fern Fleckman believes there should be a public hearing. The neighboring residents deserve to know what is going on in their area.

Matthew Cabral, Town Attorney, indicated that any future use would be subject to special use permit and public hearing at that time, to evaluate the use and its impacts on the neighboring district.

Stephanie Lazar agrees with both Dan Barufaldi and Matthew Cabral.

Aaron Groom stated he didn't feel there are any material changes in the zoning and therefore doesn't feel there is a need for a public hearing.

Jen Stoner agrees as far of the commercial use of those parcels and the correlation of the public hearing. She asked how many acres total is the site. Mr. Chapin stated there are ~22 acres total. Jen Stoner confirmed that the small parcel will be 1.79 acres.

Larry Machiz further explained he doesn't want to predict what they may hear from the public.

Chairman French discussed the Planning Board's discretionary authority to waive the public hearing requirement pursuant to the lot line adjustment regulations. Chairman French sees this application meeting the intent of the regulations because any subsequent commercial use on this property would be subject to site plan and special use permit and therefore would have a public hearing associated with it, so he is in favor of the public hearing waiver.

Jen Stoner indicated she does not see any of the property owners of the surrounding lands listed. Does this information need to be indicated on the application? Matthew Cabral, Town Attorney, confirmed there is an abutters list. Chris Keefe, Code Enforcement Officer, confirmed the abutters list is 500' from both parcels.

Stephanie Lazar asked if the lot line adjustment is approved, is that new lot allowed to be subdivided in the future and is the lot with the existing structure sufficient at the size of 1.79 acres. Chairman French confirmed that other parcel could be subdivided again and would be subject to a public hearing. Those further subdivisions would still be zoned for commercial use. The minimum density is 40,000 SF and therefore the parcels meet the requirements.

Motion to waive the public hearing for the purposes of this lot line adjustment application made by Dan Barufaldi and seconded by Aaron Groom. Dan Barufaldi finds that the lot line adjustment does not significantly change the use of the land and any subsequent development of the land would require a public hearing in which the public could be heard.

All were in favor 5, opposed 2, motion carried.

Motion to classify this as a SEQR type two action by Dan Barufaldi second by Stephanie Lazar.

All were in favor 7, opposed 0, motion carried.

Motion to approve the application as it is compliant and in keeping to the comprehensive plan and does not alter the use of the land significantly and it is consistent with our zoning laws by Dan Barufaldi second by Jen Stoner.

All were in favor 5, opposed 0, abstained 2, Larry Machiz & Fern Fleckman, motion carried.

Cynthia Elliot – Wesley & Patricia Coon – 160 Solar Heights Road, Ghent, NY - Tax ID #92.0-02-39.112 & 39.20-74

Cindy Elliot explained the adjustments to this new map include, various notes for clarification, referenced the key map, change to the title to indicate Lot Line Adjustment, and the addition of the courses 1-10. There are three pieces of ground that are involved. The applicant is asking to take 3.84 acres and add that to the backland of 14.76 acres, yielding 18.60 acres. In addition, they are asking for 1/500th of an acre to be added to the parcel of the existing home of the Coons from the western parcel. Lastly, they are asking for a secondary access to the dwelling due to the topography, all of which are blacktopped. Confirmed the parcel is in an RRA-1 zoned district. In summary the applicant is essentially asking for the adjustment of the lot lines between the lands that Wesley Coons owns, in order for the sale of his dwelling.

Larry Machiz asked whose well is on the lot line. Cindy Elliot confirmed it is Mr. Testa's well and currently it doesn't sit on the property line, it sits on Mr. Testa property as of 2016.

Dan Barufaldi wanted to confirm the small southeast corner of the 1.06-acre parcel is not creating an adjustment to Mr. Testa's property line by in fact this is how it currently exists. Cindy Elliot confirmed that is correct.

Dan Barufaldi asked about the 49.86' frontage. Cindy Elliot confirmed this is a pre-existing condition and indicated by the reference map note #2. She understands this does not meet the present code but indicated she is not seeking to adjust this area.

Stephanie Lazar confirmed the second entrance to the proposed parcel for sale goes through the Coons land. Chairman French indicated this second driveway currently exists. Cindy Elliot confirmed both questions to be true.

Larry Machiz asked if there is maintenance agreement in place or prepared for the secondary driveway. Cindy Elliot stated there will be a maintenance agreement, but it will be solely done by Mr. Coon.

Chairman French asked Matthew Cabral if the secondary easement access point would need to be part of the action for the lot line adjustment. Matthew Cabral indicated it would not, as it is a private right of way that is being separately conveyed. The parcel has its egress to Solar Heights Road already.

Dan Barufaldi asked if the access to the 18.6 acres is from Solar Heights Road. Cindy Elliot confirmed that is correct and it is 37 feet on the road, 30' feet wide and it is existing. Matthew Cabral, Town Attorney,

confirmed it is a pre-existing, non-conforming frontage and a lot line adjustment wouldn't increase the degree of non-conformity.

Larry Machiz asked if there is a law for the addition of land to a parcel that is undersized to its entrance and that not being classified as an expansion of a non-conforming use. Matthew Cabral, Town Attorney, explained it is not a non-conforming use, but rather for purposes of the lot line adjustment we are asking if it increases the degree of non-conformity of the non-conforming lot and in his view, it does not increase the degree of non-conformity because there is no further reduction of the frontage at its entrance.

Chairman French indicated he is unsure if the property has the ability to be subdivided in the future. Chairman French does not want to indicate that this parcel is subject to a single dwelling, but rather that it would be based on the density that will remain per the code by this action.

Motion to waive the public hearing for the purposes of this lot line adjustment by Larry Machiz and second by Dan Barufaldi.

All were in favor 7, opposed 0, motion carried.

Motion to classify this action a type two action requiring no further SEQR review by Aaron Groom and second by Dan Barufaldi.

Fern Fleckman asked about the wetland information indicated on the application. Cindy Elliot explained the form generates this area, number 13, automatically. There are no wetlands on this parcel or any of the adjustment areas. Matthew Cabral, Town Attorney, explained this wouldn't be an issue due to the action the board is taking.

All were in favor 7, opposed 0, motion carried.

Motion to approve the lot line adjustment as presented by Larry Machiz and second by Jen Stoner.

All were in favor 7, opposed 0, motion carried.

Old Business:

Clinton Whittemore – MacHayden Theater Inc. – 1925 Rte. 203, Ghent, NY - Tax ID# 65.1-53

Chairman French indicated this application is deferred to the next meeting. Matthew Cabral, Town Attorney, informed the Board there will be a public hearing by the ZBA this month, but no decision will be made. County decision should be made prior to the Planning Board meeting in March.

Review of Minutes

Revised per planning board comments.

Motion to approve January 2022 minutes as amended by Dan Barufaldi and seconded by Stephanie Lazar.

In favor 7, opposed 0, motion carried.

Other Business:

Chairman French and Matthew Cabral, Town Attorney, clarified posting of materials 24 hours prior to meeting. If an applicant information were to come in during that 24-hour period, the board can consider it. Larry Machiz asked if that 24-hour is intended to apply to the applicant. Matthew Cabral clarified it is intended to the apply to the boards through the Open's Meeting Law.

Chairman French had a conversation with the supervisor regarding training and will continue the conversations. Dan Barufaldi confirmed every member will be at 6 hours of training this year.

Motion to adjourn by Dan Barufaldi, Second by Fern Fleckman, All in favor