

Minutes for the Ticonderoga Planning and Zoning Board Meeting held on January 4, 2024, commencing at 6:00 p.m. in the Community Building Conference Room

Present: Chairman Dr. W.D. McTyier, Walt Lender, Mike Powers, Ben Leerkes, Tonya M. Thompson, Town Clerk

Absent: Don Meserve

Others: Zoning Officer Dave Burrows, Jim & Shari O'Bryan, Joe Vilardo, Lois Gunning, Kaitland Kubat, Joe & Alicia Vilardo (Jr.), Rich White, Attorney John Silvestri, Bill Ball

Chairman McTyier welcomed everyone and opened the meeting with the Reciting of the Pledge of Allegiance.

Site Plan Review

Vilardo Inc. 170 Lord Howe Street (150.42-3-40.000) New 8 Unit Motel Building

Mike Powers recused himself from this application.

Mr. Vilardo explained that in partner with the DRI grant, they would like to put in a two-story, eight (8) unit building on the property; efficiency Units. The Parking lot will be extended, but no new curb (road) cuts will be made, they will stay as they are. It is the same style as the other unit that is already on the premise.

Resolution #1-2024PZB brought by Walt Lender, seconded by Ben Leerkes to declare a complete application for Vilardo Inc. 170 Lord Howe Street (150.42-3-40.000) New 8 Unit Motel Building. **3 – Aye, 0 – Nays. Carried.**

Resolution #2-2024PZB brought by Doug McTyier, seconded by Ben Leerkes to deem no public hearing is necessary for the Vilardo Inc. 170 Lord Howe Street (150.42-3-40.000) New 8 Unit Motel Building application. **3 – Aye, 0 – Nays. Carried.**

Resolution #3-2024PZB brought by Ben Leerkes, seconded by Walt Lender to declare a negative declaration seeing no significant Environmental Impact for the Vilardo Inc. 170 Lord Howe Street (150.42-3-40.000) New 8 Unit Motel Building application. **3 – Aye, 0 – Nays. Carried.**

Resolution #4-2024PZB brought by Ben Leerkes, seconded by Walt Lender to approve the complete application for the Vilardo Inc. 170 Lord Howe Street (150.42-3-40.000) New 8 Unit Motel Building project. **3 – Aye, 0 – Nays. Carried.**

Mike Powers re-joined the meeting and Walt Lender excused himself from the remainder of the meeting at 6:08 p.m.

Bondesen III – 48 Black Point Road (150.67-5-10.000) 24'x24' addition to Garage

Mrs. Thompson explained that she received a message from Mrs. Bondesen apologizing for the late call and reported that they will not be in attendance of this meeting. She also added in her

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message that they are putting the garage application on hold for now and they were sorry for the inconvenience.

Mrs. Thompson suggested that Zoning Officer Mr. Burrows reach out to get something in writing from the Bondesen's.

Resolution #5-2024PZB brought by Doug McTyier, seconded by Ben Leerkes to table the application for Bondesen III – 48 Black Point Road (150.67-5-10.000) 24'x24' addition to Garage Until the February 1, 2024, meeting. **3 – Aye, 0 – Nays. Carried.**

Public Hearing

Zoning Interpretation – O'Hara Estate – 216 Putts Pond Road (138.4-1-58.100)

The Town of Ticonderoga Planning and Zoning Board will hold a public hearing on January 4, 2024, at 6:00 p.m. in the Community Building's Basement Conference Room, at 132 Montcalm street, Ticonderoga, NY, regarding the following application:

Appeal of a Zoning Determination concerning property located at 216 Putts Pond Road, Ticonderoga, New York, owned by Estate of Charles O'Hara;
The applicant is Rick White.

Jim O'Bryan noted that he looked over the application for the variance for Mr. White. His family is here tonight because we are direct neighbors across the street from where they want to put in the facility to do manufacturing. This has been going on over there for a while anyhow and we have known about that.

Mrs. Thompson interrupted to make it clear what this hearing is on tonight. This is not an Application for a Variance; this is an Appeal of a Zoning Determination by our Zoning Officer. There is not an application for a Variance in front of this board right now.

Mr. O'Bryan asked Mr. Burrows for an explanation on his determination. That may be the right way to start this.

Zoning Officer Dave Burrows explained that his determination is that there was a manufacturing process that was happening at this facility. It is a rural residential zoning district which does not allow for manufacturing or a service business type. That is why he has determined that this is not allowed. It is allowed in a service business district but not a rural residential district. Manufacturing is allowed in light industrial district only, not in rural residential and that is why he stated that it was a non-allowed use.

Mr. O'Bryan explained that he looked over the form that is currently before this group and there are a couple of things in it. He found that on the form it talked about distances and set back distances from county road as well as state lands. He can't speak on state lands, but he has known this property for over 40 years, he has lived across from it almost that long. What the application states, some of that is true that Mr. O'Hara did indeed run a trucking business, he has

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at one point, when he first moved there, he had three old trucks that he hauled pulp wood with and then he got down to two trucks and then bought one brand new truck to go into the asphalt business. He was hauling asphalt and other aggregates with it. He never saw him once have garbage trucks there, never once did he see him pulling a garbage truck with his, so he is not sure about that. Also, distances; on the back corner is state land and you have wilderness area behind those properties there, he can't say it abuts this without looking at the deed map, but what he does know is that it is marked off on the application that it is not on a county route and it is on a county route. The garage, the fabrication shop is within 100 feet of that road, County Route 39, that is the road we live on. More disturbing than that is the fact that he saw there was an inference of racial bias put on that application. It names two town officials as making that claim. He would like to hear what that was because if it had anything to do with him and in his position in this Town, his next move has to talk to his administrative law judge because that affects his office and he does not take that lightly. His manager, his boss, who is the Supreme Court Justice would then open up an investigation into that so he would like to hear that tonight and resolve that issue.

Chairman McTyier stated that we are talking about this project; he does not believe that this is the right venue for this.....

Mr. O'Bryan stated that it is noted on that application, he thinks it is the right venue...

Attorney John Silvestri can address this, just to put Mr. O'Bryan at ease. It has nothing to do with you.

Mr. O'Bryan appreciates that. Still there were issues there, the problem is this, he realizes this is about jobs and all jobs are important in a town like ours. We are a small Adirondack Village, every job is important and he understands that, but jobs are only important when they don't impact others, especially with the value of other people's property or the quality of their life. In this case, at least one incident we had to have them stop because they were sand blasting a whole trailer bottom and he was concerned because they were in pretty poor shape and did they have lead paint. He went over to talk to the two gentlemen who were there, they could not talk to me. They explained to him that they did not speak any English, so he went looking for Mr. O'Hara because Tony is his neighbor and he couldn't find him, he did then leave a message for Mr. White and he does give him credit, he came up either that very night or the next day and they talked for a while and he told him what he say and he said that they shouldn't be doing that because the cloud of what the particulate matter was that they were taking off was going across the road in the wind and affecting his mother-in-laws house where they had to close all the doors and windows. That is what he is concerned about, you know that it wasn't lead paint. Rick assured him that three of those trailers were 1986 vintage, which you would expect that they wouldn't have any lead paint on them, but he does not know that without testing it. So, there have been issues. Big trucks are pulling in and all kinds of equipment is coming in and stuff and when we do this, there is a reason why we have groups like this; this board, there is a reason why we have industrial parks. That is where, in a Town like ours, we are trying to really manage ourselves in what we do and how we develop. That is where we put in industrial, we put it where it doesn't affect others and either devalue the property or the quality of life and we work from there to make it so there are good jobs for everyone. He understands that, but in opposition

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of wanting a manufacturing across the street from us. Absolutely not on Putts Pond Road, that is a pristine, rural area and like he said we are right on the boundary of the wilderness there on the Pharaoh Lake. Thank you.

Chairman McTyier thanked Mr. O'Bryan.

Lois Gunning brought in pictures for the board to see of the manufacturing. All of these pictures were taken from her driveway and they explain and talk about and show the actual work that was going on there. She would like to address a few of the items that were included in Mr. White's appeal that she does not feel are correct. The first one is the detailed description of the project and he lists trucks and trailers, welding and cutting of steel and that is true. It was also sawing, grinding, construction, moving equipment with machinery, loud, dusty and environmentally unhealthy for the stuff that went into the air, as well as a danger to the road traffic, which is right on a turn exactly as it comes up in front of that driveway to that business. He next says that there are no violations as to the property in zoning and she is not going to address that because Mr. Burrows has made his recommendation and that is fine with her. The present status is also mentioned as not applicable, that is simply not true. He, as the pictures will show, that the preparations are going on for further activity with continued semi-truck delivery as late as December, the first part of December. The pictures will also show that the parcel and garage are within 500 feet of a county route and our property as well. The next section on the back is the zoning information, under the language, he says that a home occupation should be grandfathered in to the existing shop. It is our opinion that this is not a home occupation, nor is it eligible to be that. Because the commercial activity is much different from the operation that was run by Charles O'Hara. He stored and fixed his own trucks in the garage, drove it himself daily and went out to a job. There was never any disturbance, there was never any complaints, it was a beautiful home and it was run like a home and his personal business of driving a truck, and that is all there was to that. The interpretation of Zoning under that item, the pictures will show that the parcel has been tremendously altered, although Mr. White says it hasn't been. From the spring of 2023 to October there were two to four workers, four to five days a week from about 7 a.m. to 4 or 5 o'clock in the afternoon. Most days. The extra two, there weren't really four there most of the time there were two, but they were delivering or shipping out material that they were going to sell if the two more were there. The contract to buy, she has a copy of that in your packet and it says there is a contingency on the contract, so if Mr. White is saying that he has to complete the contract, that is not true because the contingency means he has to have permission to have that business there. Thank you very much for listening.

Chairman McTyier thanked Mrs. Gunning for her time.

Attorney John Silvestri stated that they have asked Bill Ball to come to testify about, because it seems like the primary issue is what kind of use did O'Hara make of the property. So, we have Mr. Ball here to testify as to what that use was.

Bill Ball stated that he is familiar with this property from way back in the 70's when he worked for a company that used to deliver gas up there and he always had vehicles there it was a commercial operation, he didn't just use them for his own hauling, he used them for delivering

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other products he believes. Basically, that is what he is saying, there has always been a commercial operation up there since the 70's.

Mr. Silvestri asked if Mr. Ball if he has any knowledge of Mr. O'Hara doing any welding, any grinding any truck repair. Do you have any recollection of that.

Mr. Bill remembers going up there and he was fixing stuff, he was welding stuff like that. He was up there quite often and there was always something going on.

Mr. White explained that he has been operating out of that property for over two years now, we are a construction company, we build homes and docks and stuff like that around Lake George. We currently store all of our construction equipment there, such as the loader and excavator when it is not being used, the trailers, ladders, everything associated with a construction company. We move things in and out of there as needed and a lot of times they would just stay on the job site when we are busy. They are not in and out of there on a regular basis. We also bring in material that we need sometimes that we have to store to get ready for jobs ahead of times and then we would haul it out on a trailer. His estimate, and we probably have some payroll records that we can bring forth, is that 75% of the time we are not there at all. If we need something assembled or brought out, we would go get it, assemble it and bring it out. IF we were welding or something on a dock or something we would weld that. We did have several to do this fall, we did those and now we haven't been there since those were completed until they go in then we will haul them out and put them in. We are not open to the public, we do not have displays, we do not have people coming there to look at things. It is a small operation of what we are doing for the docks, just the welding and grinding he feels is the complaint and we did have a complaint about the sand blasting that was going on and he wasn't aware that the wind was blowing it anywhere, we immediately addressed that and took care of that situation to make sure nothing was going. The trailer was a 97 or mid 80's it is newer. We were working on our own equipment at that time, it had nothing to do with docks, that was our own trailers that we were trying to rehab. That had nothing to do with the welding or grinding of anything being manufactured, we were repairing that and he agrees there was dust blowing and the wind was blowing and when he became aware of it, he rectified the situation immediately. We have been very cautious to try to be a very good neighbor. We don't get a ton of deliveries there, once in a while we might get a delivery. It is not like trucks are in and out of there every week. Sometimes there are no trucks at all. For months, especially in the winter, we do not get a lot of stuff in and out. Usually, we get maybe three deliveries over the summer and maybe some steel deliveries if there are some things that we need. Once in a while a lumber delivery. We have looked at other locations, we don't plan on expanding anything there, we haven't added to any driveways or anything. Everything that we have done is already there. There is no room in any of the industrial parks in Ticonderoga to move. There was a suggestion about the Hacker boat facility because that may have been for sale, but that is also on a rural, residential lot, so that is not an option either because it is not zoned properly. There is not very many options for us to expand so if we want to expand we would have to find a location and have it approved or leave the town. Like he said, they do not plan on expanding from what we are now and 75% of the time we are not even there. A lot of the equipment that Chuck welded on, his trucks, his trailers, other people's trucks and trailers and most of the time they were working out there late at night, if something was broke, he was a trucker, he had to get it fixed and keep going. We don't work

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at night, once in a while he is up there messing around with stuff on a weekend or something if he is organizing something, that is it. Our hours are basically, once in a while it may be 7:30 but basically it is 8 to 5. He knows a lot of the stuff is contained in the shop, but once in a while it may be in front of it. We do have enough room for a truck to pull in and turn around so we are not creating any road hazard, but at one time he believes there were five trailers operating out of there, Chuck had quite a few people working for him and he did haul trash and had trash trailers sitting there, he found that out from Tony that he used to back them in there and they used to stink bad in the summer. He is not here, but that is what he was told by his son.

Shari O'Bryan did not sign up to talk, but she is Jim's wife and Lois daughter and Jim has lived there since they have been married which is a long time, but she has lived there all of her life and the difference, a clear difference is, Chuck O'Hara lived in the house with his family, he built this garage because he got into the tractor trailer trucking business, but he lived in the home and he worked on his trucks and obviously came home every night to his home and drove his truck home and if it needed repairing he repaired it. She walks by this house every single day and it is clearly a manufacturing business. It is quiet right now, but it is clearly a manufacturing business. There are piles and piles of steel, there are welding going on pretty much every single solitary day through October and that is our objection. We have places in the Town for businesses, clearly it is not at Rick White's home on Black Point Road, he is trying to put it on Putts Pond Road which is also a residential, rural area and that is how we want it to stay. We don't want this manufacturing business, it is loud, it is dusty, there are trucks coming and going and there is welding on a continuous basis and that is the difference.

Chairman McTyier thanked everyone and this is our job as a board we have to make this decision.

Mr. White added regarding the comment that Chuck lived at the house and he worked there, the house is under contract for us to purchase it; there is no contingency on this meeting on whether we buy it or not, so the sale just hasn't gone through yet, we are just waiting for the survey to be completed. He does not know what paperwork they have saying that we may not buy it, this will be his primary residence. We are going to be moving there to run the operation out of there and that is why we are purchasing the house, we wanted a house with some acreage. He does have a house on Black Point Road right now and we do not have acreage and for many years, where he is now was a summer home and we are going back to that and possibly rent to recover some of the costs of the taxes on the water. What we are looking for is the continued use of that shop in a fashion like it was kind of used for before. We are there less than Chuck was, we are just storing our construction stuff and occasionally welding, very similar to what he did.

Attorney John Silvestri is here representing Mr. White and it might be subtle nuance, but this is not somebody who is manufacturing widgets for sales, this is somebody fabricating things for use in his construction business, it is not manufacturing a product for public consumption, he is fabricating things for use in his construction business as opposed to what Chuck used to do which was to repair and weld and grind trucks for his trucking business. In that sense, it is pretty much the same type of thing going on. It is not manufacturing in the sense that he is manufacturing garbage pails or anything else for public consumption.

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Mrs. Gunning stated she is sorry, but he is manufacturing in that area..

Chairman McTyier stated that we understand.

Mrs. Gunning continued to say that it is summer where they are working most of the time and we don't have air conditioning and there is so much dust and dirt on her windows, we can't even open the door to get air in half the time, nor the windows, because of the noise and all of that.

Chairman McTyier understands and reiterated that this is not a hearing for a variance or anything like that, this is simply a hearing for us to interpret the zoning.. He appreciates everyone for coming, we have a pretty good picture now. The board reviewed the pictures submitted, the zoning map and the zoning law.

Mr. Powers asked Mr. Ball if he believed this property has run like this since the 70's.

Mr. Ball said yes.

Mr. O'Bryan stated that there was no garage until the early 80's; and the difference is Mr. O'Hara had trucks, he hauled pulp, we say that and there was no problem, he was not there running a business manufacturing on site, as was said he was leaving in the morning with his truck and coming back in the evening. He worked in that garage many, many times with Chuck, he welded in there many, many times with Chuck. He would take care of his farm equipment there and we were just good neighbors all of us and that is the difference. He was there and yes, he did have trucks and yes, he got down to one truck, two – he did work in that shop and he will stipulate to that, but he was not manufacturing things, he wasn't impacting our lives, the quality of our lives across the road from him. That is the difference. He is sure Mr. Ball did deliver oil up there, he was always an outside worker and he worked hard.

Chairman McTyier does not believe there is any grandfathering to his, it is whether it fits into our law and that is where we are right now, the interpretation of the Zoning Officers decision.

Mr. Leerkes feels it is pretty clear what a home occupation is. It has to be associated with the house. The definition is very clear.

Resolution #6-2024PZB brought by Ben Leerkes, seconded by Mike Powers to close the Public Hearing at 6:41 p.m. **3 – Aye, 0 – Nays. Carried.**

Mr. Powers read from the Zoning Law Section 5.7 on Home Occupation, to be considered a home occupation, the business must meet the following criteria. If the criteria is not met the business shall be deemed commercial use rather than home occupation. The Home must be the primary residence of the person conducting the home occupation. In No way should the appearance of the structure be altered or the occupation be conducted in a manner which would cause the premises to differ from its residential character by the use of colors, materials, construction, lighting or emission or sounds or vibrations. No use shall create noise, dust, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance in excess of that created by a resident. No outdoor display of goods or materials used in the home occupation

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shall be permitted. No more than one commercial vehicle used in conjunction with the business shall be parked on the property.

Mr. Powers continued with what bothers him is in one way or another this has been commercial and almost continually used commercially, which is what bothers him. If someone was just putting this in, then absolutely not, but it has been more or less continuously used...

Chairman McTyier interrupted and apologized but we are dealing with an interpretation here. Those are things to look at for a zoning variance and that is not what we are here to do.

Mr. Powers is basing this on that section as a home occupation. The board discussed a bit further and decided it cannot fit a home occupation.

Resolution #7-2024PZB brought by Doug McTyier, seconded by Ben Leerkes to uphold the Building Inspector's decision that a proposed commercial business of welding, sanding, grinding, and fabrication of steel to manufacture products at 216 Putts Pond Road, Ticonderoga, NY, Tax Map Parcel 138.4-1-58.100, is not a permitted use. **3 – Aye, 0 – Nays. Carried.**

Planning and Zoning Board of the Town of Ticonderoga

Resolution No. 7-2024PZB
Adopted January 4, 2024

Introduced by Doug McTyier
who moved its adoption

Seconded by Ben Leerkes

**RESOLUTION FOR A ZONING DETERMINATION FOR
PROPERTY AT 216 PUTTS POND ROAD, TICONDEROGA, NY
TAX MAP PARCEL 138.4-1-58.100**

Whereas, applicant Rick White has applied to the zoning and planning board for an appeal of a determination of the Town's building inspector dated October 27, 2023, finding that a proposed commercial business of welding, sanding, grinding, and fabrication of steel to manufacture products 216 Putts Pond Road, Ticonderoga, NY, Tax Map Parcel 138.4-1-58.100, is not a permitted use of the above referenced property; and

Whereas, the planning and zoning board held a public hearing whereat the applicant and all other interested parties were permitted to attend and voice comments on the appeal; and

Whereas, the planning and zoning board has reviewed the zoning law, zoning map and information submitted by the applicant and in the town's files and is prepared to render a

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determination on the appeal.

Now therefore, be it:

Resolved, that the planning and zoning board has hereby determined that a proposed commercial business of welding, sanding, grinding and fabrication of steel to manufacture products is not a permitted use on the property at 216 Putts Pond Road, Tax Map Parcel 138.4-1-58.100

; and be it further

Resolved, that based on the foregoing findings, the appeal of the applicant dated November 2, 2023, is denied.

Other Business

Resolution #8-2024PZB brought by Ben Leerkes, seconded by Mike Powers to accept the minutes from the December 7, 2023, PZB meeting. **3 – Aye, 0 – Nays. Carried.**

Meeting adjourned at 6:48 p.m.

Respectfully submitted, Tonya M. Thompson, Town Clerk