

**Minutes for the Ticonderoga Planning and Zoning Board meeting held on
April 4, 2024, commencing at 6:00 p.m. with Public Hearings on Chilson Properties LLC;
Anthony Mazzotte LLC and Singer**

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

Absent: Walt Lender and Don Meserve

Others: Damon Geiser, Robert Goetsch, Kristy Mason, Jody Bevilacqua, Mark Wright,
Dave Burrows, Zoning Officer

Chairman McTyier opened the meeting with the Reciting of the Pledge of Allegiance.

Public Hearing

**Chilson Properties LLC – NYS Route 22; Multi-Family Units Development – Special Use and
Site Plan Review**

Chairman McTyier noted that Mr. Easton is not present tonight; he did reach out to let the board know that he would be unable to attend the meeting tonight. The public was still invited to speak.

Damon Geiser asked if anyone had done a study of the infrastructure for the water, sewer and drainage systems before this development is put in? Back when the Best Western was put in there were issues with the sewer system that had some upgrades done to it to handle the flow out of that building. Is it increased enough to handle another 50 to 60 units?

Chairman McTyier stated that this is in the process right now of being evaluated, it is one of the big things being addressed.

Mr. Geiser stated that there was an issue with Park Avenue having a problem with the sewer system. Of course, if they tie into Walmart, there is a problem there on St. Clair that floods, if you tie on to North Wayne, that sits in the dip down there where Anderson lives, there is a problem with the sewer system down there when they put in extra from the hospital with the apartment housing and the raw sewage started coming to the surface of the land down there. So, that whole section down there has major issue and is that going to fall back on the taxpayers to rectify.

Chairman McTyier again stated that this is one of the things that we are investigating, before we proceed with the project.

Mr. Geiser next brought up the water source, for a project that big of a 50 unit you have to have at least three hydrants up there, if there was a structure fire up there. Are any of the water mains capable of handling something like that, it would have to be at least a 12 or 14 inch water main to handle the volume that the trucks can pump. Is there anything close to that in that section up there. He thinks 3rd Avenue is only like a 4" line that goes through there, Park Avenue used to be a self sufficient water source that goes through a 2 or 3" main that ran up through there. Where are they going to be able to draw enough water for the building and for fire suppression if it is

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needed and is that going to fall back on the taxpayers for any of these upgrades to put in this unit? There are enough taxes right now that is in Ticonderoga that the locals are about tapped out. It can't keep falling back on the taxpayers, 2 or 3 years down the road, that all of a sudden, we have to upgrade because we don't have sufficient amount of flow either on the water or on the drainage. Those are things that need to be addressed to make sure that everything is viable to withstand that.

Chairman McTyier agreed and noted that this is going in the minutes. He hopes that Mr. Geiser is at the next meeting in May. Your comments are well taken.

Mr. Geiser stated yes, and his last comment is what is this going to do to the property value of everybody that lives up there? Is it going to drop the property values or is it going to raise them. Now that there is going to be a "major housing development" there is that going to drop down on personal properties of all the people up there retired, are they going to take a hit?

Chairman McTyier stated that these will be presented to the developer and again expressed the importance of coming to the next meeting. They need to be addressed – thank you.

Kristy Mason inquired if there would be any tax breaks. She did start to read some information on this and she apologies for not being as informed as she should be but are there going to be any tax breaks given to the development company that is building and how is the income going to come into play as to who these apartments are for and how is the application process going to work.

Chairman McTyier asked if Ms. Mason had come to any of the other meeting because most of this was explained at that time?

Ms. Mason stated no, she had started to read about this and again she apologizes that she is not better informed.

Chairman McTyier stated that the developer can answer these and asked that Ms. Mason please come to the next meeting.

Mrs. Thompson noted that there are minutes from the first two public hearings that were held and he did address who would be eligible, such as moderate income. There are explanations in the minutes.

Jody Bevilacqua read in the minutes, because Damon said about the fire hydrants and things like that, it may be an 'L' shape, but when are they going to know if it is going to be that extra 'L' shape for retail section? Are we going to agree to that and then they say, oh, we are going to have this retail, jobs, and then they retract that and they don't. Or they say they do and try to add it afterword and we have to adjust. Is this something that will be set in stone prior to this going forward, that part was gray in there and she was wondering.

Chairman McTyier stated that there are still answers that we need to get from them.

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Mr. Leerkes asked if she was talking about the daycare section that was mentioned.

Mrs. Thompson did note that the application stated retail/daycare in that section of the building.

Ms. Bevilacqua asked what kind of retail it was in the minutes about retail.

Chairman McTyier stated that this public hearing is for questions or comments from you all and they will address the questions that are document in these minutes, but again he encouraged everyone to come to the next meeting.

Mr. Leerkes noted that this area is zoned for commercial, so we would have no grounds to reject a retail space.

Ms. Bevilacqua read that it says income based housing, not Section 8. So, that will be an absolute, 100% no, that they will not be allowed in there. No Section 8. She is saying that it could be and then they have a vacancy and then they need to get it filled and they start bringing in Section 8 and then downhill everything goes.

Mr. Powers stated that they were pretty adamant that it was not Section 8.

Chairman McTyier stated that this is why we are leaving this public hearing open, there are a lot of questions being asked and people need to come and bring these comments, but they are being noted in the minutes and they will be able to read them. We will leave this public hearing open until next month and everyone is welcome to come back to attend. Thank you.

Public Hearing

Anthony Mazzotte LLC – 174 Lake George Avenue (150.43-9-25.000) - Appeal of Zoning Determination

Chairman McTyier opened the public hearing.

Robert Goetsch stated that there is an apartment at this location in question and it has been there for over 13 years and there hasn't been an issue and suddenly now it has become one. That is the reason why we are asking about this. Quite some time ago it was a restaurant, but for the past 13 years it has been an apartment. He does not know when the rule came about to turn around and say no apartments on the first floor, he doesn't know if this was previous to that or no.

Chairman McTyier stated that the Law has been in effect since 2011. It can be a certain percentage and it has to be the business owner.

Dave Burrows, Zoning Officer, reiterated this. The exception to the law is whoever is running the business downstairs on the main floor can stay in a downstairs apartment; also, 60% of the

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floor area has to remain business and there may be a third stipulation. Even so, that livable section still needs Site Plan Review.

Resolution #17-2024PZB brought by Mike Powers, seconded by Doug McTyier to close the Public Hearing at 6:12 p.m. **3 – Ayes. 0 – Nays. Carried.**

Chairman McTyier explained from his interpretation of this, the date ... the new law was in place.

Mr. Burrows stated yes, the current owner purchased the property in 2013 and that was after this law was passed. He knows there was some question as to at the time the Code Enforcement Officer had written a letter to National Grid stating that the electric was being changed from commercial into residential for that unit, but there was no Certificate of Occupancy was ever issued for it in the file. He is not sure how this happened and this was the only thing that really stood out and that was what Mary Mazzotte is basing her appeal on.

Mr. Goetsch stated that now, it would be the financial hardship to turn it over into commercial space?

Chairman McTyier stated that there is a lot of difficulty with that, is that this was the law when it was purchased and it can not be a self-created hardship.

Mr. Goetsch stated that this is where the confusion is, when he talked to Bill Ball – he is not saying it wasn't a law then, but Bill Ball recognized that it was an apartment and seemed to be ok with that. He did ask Bill to be at this meeting, but with his situation right now, that was not going to happen.

Chairman McTyier stated that what we are looking at is the law, it was in place when the person bought it, this is pretty cut and dry to him.

The board agreed.

Resolution #18PZB brought by Ben Leerkes, seconded by Mike Powers to uphold the ruling of Zoning Officers determination for the property of Anthony Mazzotte LLC – 174 Lake George Avenue; 150.43-9-25.000 property and deny the appeal for residential use on the First Floor building in the Central Commercial District. **3 – Ayes. 0 – Nays. Carried.**

Planning and Zoning Board of the Town of Ticonderoga

Resolution No. 18-2024PZB
Adopted April 4, 2024

Introduced by Ben Leerkes
who moved its adoption

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Seconded by Mike Powers

**RESOLUTION FOR AN APPEAL OF ZONING DETERMINATION FOR
PROPERTY AT 174 LAKE GEORGE AVENUE, TICONDEROGA, NY
TAX MAP PARCEL 150.43-9-25.000**

Whereas, applicant Anthony Mazzotte LLC has applied to the zoning and planning board for an appeal of a determination of the Town's building inspector dated September 15, 2023, finding that a proposed continuation of First Floor residence at 174 Lake George Avenue, Ticonderoga, NY, Tax Map Parcel 150.43-9-25.000, 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 applicant has argued that the first floor has been used as residential for the past 11 years but the board noted that the use commenced after the 2011 zoning law change by the Town Board that no longer allowed residential use on the first floor in the district where the property is located, with limited exceptions not applicable here; and

Whereas, the applicant raised concerns that a prior building inspector had approved the use, but the board noted that there is no certificate of occupancy or similar evidence, and even if there was, the error by a past building inspector cannot overrule the zoning law in effect at that time, and currently; and

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

Now therefore, be it:

Resolved, that the planning and zoning board has hereby determined that the use of the first floor at property at 174 Lake George Avenue, Ticonderoga, NY Tax Map Parcel 138.4-1-58.100 is not a permitted use under the Town's zoning law, and that even if the use was permitted by a prior building inspector in error, the use commenced after the 2011 zoning law amendment by the Town Board and is not a lawful use of the first floor under the zoning law as amended; and be it further

Resolved, that based on the foregoing findings, the appeal of the applicant dated February 21, 2024, is denied and the building inspector's determination affirmed.

Mr. Goetsch noted that now we need to ask for a variance.

Mr. Leerkes stated that this would be a use variance and it is almost impossible to get.

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Chairman McTyier noted that Mr. Goetsch probably is well aware of how hard a Use Variance is to get from him being on the Hague Planning Board. This involves all kinds of financial records and you have to really prove it.

Mr. Leerkes stated that this property was purchased with this law already in effect. It is a self-created hardship; you can't show anything to prove that differently.

Mr. Powers agreed, one of the criteria for a Use Variance is that the hardship cannot be self-created.

Chairman McTyier stated that you can try, but it is really difficult.

Mr. Goetsch will let Ms. Mazzotte know.

Public Hearing

Singer – 481 Baldwin Road (160.33-2-5.000) two story 440 square foot addition to an existing two story 1752 square foot structure - Area Variance and Site Plan Review

No one in attendance wanting to speak at the Public Hearing

Resolution #19-2024PZB brought by Ben Leerkes, seconded by Mike Powers to close the Public Hearing at 6:16 p.m. **3 – Ayes. 0 – Nays. Carried.**

Chairman McTyier drove by this site and the way he understands it, this is a house. The problem is this addition is right in the setbacks. The distance is to be 30 feet and it is right now within 10 feet.

Mr. Burrows spoke to say that it is not increasing the non-conformity, he is not getting closer or adding any more out of conformity. He is lengthening the building towards the other side which is still going to be within the setbacks.

Chairman McTyier's experience over the years is if the building is non-conforming and you expand that building this way, you are expanding the non-conformity. So, in other words, instead of 30' of non-conformity, this will give it 45' of non-conformity and his understanding is that is increasing the non-conformity.

The board agreed.

Chairman McTyier questioned his explanation for or the reason he is doing this which is to keep the building symmetrical? There is no issue with the property, there is plenty of room there, correct?

Mr. Burrows agreed.

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Chairman McTyier continued then there is plenty of room there to be conforming?

Mr. Burrows stated that he has a garage portion where his driveway comes in.

Mr. Powers noted that it could be redesigned to push this back 20 to 25 feet. It could be done.

Mr. Burrows agreed.

Resolution #20-2024PZB brought by Ben Leerkes, seconded by Doug McTyier to deny the Area Variance finding that if approved the Variance would increase the non-conformity already in existence for the Singer – 481 Baldwin Road (160.33-2-5.000) two story 440 square foot addition to an existing two story 1752 square foot structure project. **3 – Ayes. 0 – Nays. Carried.**

**RESOLUTION FOR AN AREA VARIANCE FOR
PROPERTY AT 481 BALDWIN ROAD, TICONDEROGA, NY
TAX MAP PARCEL 160.33-2-5.00**

Whereas, applicant Albert H. Singer Partners has applied to the Planning and Zoning board for an Area Variance for the property located at 481 Baldwin Road Ticonderoga, NY, Tax Map Parcel 160.33-2-5.000; 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

Whereas, the Planning and Zoning Board is prepared to render a determination on the Area Variance Application.

Now therefore, be it:

Resolved, that the Planning and Zoning Board has hereby determined that an Area Variance for property located at 481 Baldwin Road Ticonderoga, NY, Tax Map Parcel 160.33-2-5.000 be denied because the variance request is a substantial increase in non-conformity over what is allowed in the district, which will negatively impact the neighborhood. In addition, through re-design, the applicant can achieve the benefit sought, which is increase in improvements in its property, by some other method that causes less impact. The difficulty does appear to be self-created as the applicant seeks to increase its improvements which is not required, but elective by the applicant.

The board noted that the Site Plan Review will not be entertained due to the decision on the Area Variance.

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Discussion was held on the determination of the front of the home on the lake.

Site Plan Review

Dave Burrows – 2962 NYS Route 74 (138.4-1-12.100) - New modular home at new location/existing mobile home to be demolished

- Purchasing a Modular Home for existing Lot
- Does not require Site Plan Review, but is here because of his position with the Town
- Want to verify that he is not missing anything 1260 Square feet
- Full basement
- APA non -jurisdictional
- Lake George Park Commission non-jurisdictional
- New Septic
- Well will be drilled
- Garage is staying
- Existing trailer will be demolished after moving into the new home
- Building Inspector R. Peters will be doing the permits and inspections

Resolution #21-2024PZB brought by Ben Leerkes, seconded by Mike Powers to waive the public hearing for Dave Burrows – 2962 NYS Route 74 (138.4-1-12.100) - New modular home at new location/existing mobile home to be demolished. **3 – Ayes. 0 – Nays. Carried.**

Resolution #22-2024PZB brought by Mike Powers, seconded by Ben Leerkes to declare no significant impact on the Environmental Review process for Dave Burrows – 2962 NYS Route 74 (138.4-1-12.100) - New modular home at new location/existing mobile home to be demolished. **3 – Ayes. 0 – Nays. Carried.**

Resolution #23-2024PZB brought by Ben Leerkes, seconded by Doug McTyier to declare a complete application for Dave Burrows – 2962 NYS Route 74 (138.4-1-12.100) - New modular home at new location/existing mobile home to be demolished. **3 – Ayes. 0 – Nays. Carried.**

Resolution #24-2024PZB brought by Doug McTyier, seconded by Ben Leerkes to approve the application for Dave Burrows – 2962 NYS Route 74 (138.4-1-12.100) - New modular home at new location/existing mobile home to be demolished. **3 – Ayes. 0 – Nays. Carried.**

Other Business

Resolution #25-2024PZB brought by Ben Leerkes, seconded by Mike Powers to accept the minutes for the March 7, 2024, meeting. **3 – Ayes. 0 – Nays. Carried.**

Meeting adjourned at 6:30 p.m.

Respectfully submitted, Tonya M. Thompson, Town Clerk