

Planning Board Meeting

July 27, 2021 Minutes

Chairman Kozakiewicz called the meeting at town hall to order at 7:02pm.

Roll call:

Lynne Delesky — present

Fred Franko — present

Mike Voght — present

Roderick Gilmour — present

Karen Dutcher — present

Matt Cooper — present

Chair Al Kozakiewicz — present

Attendees: Steven E. Smith PE, Don Cropsey, Kyle Barrett Price, Town Clerk Linda Gilbert.

Chair Al Kozakiewicz said that James [McMartin Long] is going to be leaving as Clerk of the Board at some point in the near future and we are looking for a replacement.

Chair Al Kozakiewicz said, regarding the [P2021-05](#) CAC Site Plan Review, the Board would first be making sure the things the Planning Board asked for were delivered: Number one, update the Site Plan to show placement of leach fields number 1 and number 2 such that they meet 200 foot separation requirements. He said this looked like this has been done. He asked if any Board member disagreed. He said number two, update the Site Plan to show leach field number 3. He said he could not find leach field number 3.

Steven E. Smith, PE said that the applicant had eliminated leach field number 3. He said the wells were moved around.

Chair Al Kozakiewicz asked if this was sufficient to meet the needs.

Steven E. Smith, PE said that it was sufficient to meet the needs of the plan. He said that whomever was designing the leach fields for the future phases would know what the criteria were. He said that there's not going to be much more development on the site than what was shown on the Site Plan.

Chair Al Kozakiewicz said there were probably going to be questions on the board on that topic. He continued with the remainder of the requested items: Update Site Plan to show location of connections from buildings to septic tanks and leach fields. He said it looks like that has been done. He asked the Board if there was any disagreement.

Rick Gilmour said that the Carriage House, Caretaker House, and Lodge it was not shown on top.

Steven E. Smith, PE said the buildings are not set in stone. He said that the applicant was not prepared to submit the architectural drawings. He said the exact connections could be put on there but, what he wanted to show is that the space is there for the leach field and for the flow. He said he has a proposed flow from each of the buildings and there is enough space in absorption field number two to provide that.

Rick Gilmour asked: for all of those buildings?

Steven E. Smith, PE said yes. He said there were notes on the drawing that indicate that.

Rick Gilmour said he had seen that.

Lynne Delesky asked if all the proposed buildings would connect to the field for the Carriage House and Caretaker House.

Steven E. Smith, PE said no, the Carriage House, Caretaker House, and the Lodge will all go to leach field number one. He said the cabins up in the northeast corner will go to leach field number two.

Chair Al Kozakiewicz said number four request was to place a note on the Site Plan indicating approximate square footage in each dormitory cabin and note compliance with fire code. He said that was done with notes numbers four and five. Continuing, he read: place appropriate setback lines on the Site Plan from lot boundaries and roads. He said he saw those there — those are done. Continuing, he read: add letter addendum to SWPPP noting that future modifications of the plan to accommodate additional structures is not expected to require any impoundments, catch basins, or drainage off site, including the use of culverts on public highways. He said that from what he has seen, that was done. He asked of the Board to make a determination as to whether or not the application is complete. He said that if somebody wants to make a motion, the Board could vote on it.

Steven E. Smith, PE added that Rick Gilmour had asked for drawings of the Carriage House and the bulk of the paper submitted are those drawings.

Karen Dutcher asked if the road would be twenty feet wide.

Steven E. Smith, PE said correct.

Karen Dutcher asked about the dirt trail.

Steven E. Smith, PE said that was the loop.

Karen Dutcher asked if they were twenty feet wide also.

Steven E. Smith, PE said there is a one-way loop that services the cabins. He said the dirt trails are just walking trails, they are not for cars or trucks.

Karen Dutcher said that the fire truck needs a twenty foot wide loop.

Steven E. Smith, PE asked Don Cropsey if he had gone over this with the fire chief.

Don Cropsey said that he did meet with Howard Dutcher and provided him with a plan by email, though he did not receive any response back. He confirmed that twenty feet wide is the correct width. He said if it needs to be widened, that would not be a problem. He said that would be done when that phase gets built, if needed. He noted that twenty feet is for two-way roads. He said the current proposal is for one-way traffic.

Chair Al Kozakiewicz asked the Board to hold the questions. He said he first wanted to determine if the Board has a complete application. He said then the Board could have a discussion and such issues might be a condition of approval, which he would want included in the minutes. He asked the Board whether it has everything it needs, as required by statute, to move forward on the application. He said he believes the answer is yes. He noted the Board has the SWPPP, applicant's answers to SEQR, all the information requested on the Site Plan, the referrals to other agencies. He thought the only action done so far was referral was to the Fulton County Planning Board.

Clerk said he does not § 239-m refer until the Planning Board declares the application complete.

Chair Al Kozakiewicz asked Clerk if the Adirondack Park Agency needs to see the application.

Clerk answered yes, he would be making a referral to APA.

Chair Al Kozakiewicz said he did not think he'd left anything off the list.

Motion: Fred Franko moved to declare the application complete.

Rick Gilmour seconded the motion.

Chair Al Kozakiewicz asked if there was any discussion — any Board member who thinks the application is not complete: the Board would discuss that.

No Board member spoke.

Chair Al Kozakiewicz said none heard.

Roll call vote:

Lynne Delesky — yes

Fred Franko — yes

Mike Voght — yes

Roderick Gilmour — yes

Karen Dutcher — yes

Matt Cooper — yes

Chair Al Kozakiewicz — yes

Chair Al Kozakiewicz said he was trying to go through the calendar in his head. He asked the Clerk if the time-critical one was the Fulton County Planning Board.

Clerk answered yes, the next deadline was August 10 and the Fulton County Planning Board would meet on August 17.

Chair Al Kozakiewicz said that if the Board voted tonight, it would be conditional on there being no objections from the Fulton County Planning Board. He said if there are any objections, the Caroga Planning Board is supposed to take them into consideration in the Board's deliberations. He said if need be, the Planning Board could overrule any objections of the Fulton County Planning Board by a super-majority. He said that typically the Fulton County Planning Board doesn't have any objections. He said he didn't expect any in this case either. He said that if the applicant leaves here tonight with the Planning Board's business complete, there would be at least one hurdle that the applicant would have to cross.

Steven E. Smith, PE said his understanding with respect to the Adirondack Park Agency was that Caroga had local jurisdiction and that as long as Caroga adheres to its own zoning, the APA was not involved.

Chair Al Kozakiewicz said yes, you'd think that, this is New York State. He said he did not think the APA had grounds to object.

Clerk said this application has complications because of wetlands.

Chair Al Kozakiewicz said the Board would defer to the APA to make sure it isn't an issue. He said he didn't think this was an issue, but the APA would look at it. He said any transaction involving wetlands, the APA would look at it.

Town Clerk Linda Gilbert said she had a question.

Chair Al Kozakiewicz recognized her.

Town Clerk Linda Gilbert questioned the order that the Planning Board was handling this application.

Chair Al Kozakiewicz said the only public objections were that the application was an unauthorized use and those objections were not correct.

Town Clerk Linda Gilbert then said the meetings were not publicly announced.

Chair Al Kozakiewicz said the meeting reopening date was announced at the time of adjournment and it was on the website.

Town Clerk Linda Gilbert stated her other procedural objections.

Chair Al Kozakiewicz addressed Town Clerk Linda Gilbert's procedural objections.

Lynne Delesky noted that there was a well number one and two number two wells.

Steven E. Smith, PE said it should not have appeared twice. Steven E. Smith, PE inspected his Site Plan. Steven E. Smith, PE acknowledged that there were mistakenly two number two wells.

Several Board members and Steven E. Smith, PE reviewed the Site Plan and discussed a label for well number two that had not been deleted from this version of the Site Plan.

Lynne Delesky said the well number two marked with a "W" in the circle is the incorrectly denoted well.

Steven E. Smith, PE confirmed same and he said the well number two without a "W" is the correct well.

Fred Franko said the well denoted by being in the center of the radii is the correct one.

Town Clerk Linda Gilbert asked if the parcels were combined.

Don Cropsey said there were two parcels and that both parcels were purchased by the Veghtes and both were donated to Caroga Arts Collective, Inc. and if they are still two parcels, it is simple process to merge. He said that it was the intent of the applicant to have them be a single parcel. He said that if the Board needed the applicant to say on the record that the parcels would be merged, they would do so.

Chair Al Kozakiewicz said yes.

Don Cropsey said, on the record, the applicant would file with the Sole Assessor to merge the two parcels.

Chair Al Kozakiewicz said his personal opinion would be to make that a condition of the approval.

Don Cropsey said that it should be a condition of the approval.

Chair Al Kozakiewicz asked if the Board had any objection to that condition [merging of the two parcels, [68.17-2-1](#) and [68.17-2-2](#), that had been previously documented on the website]. There was no objection stated.

Chair Al Kozakiewicz asked about the items marked “trail”.

Don Cropsey said the lines marked “trail” are walkways to the buildings. He said he and Fire Chief Howard Dutcher had talked about the trails.

Chair Al Kozakiewicz said it looks like it was about 150 feet to the farthest cabin from the nearest road. He asked if the road needed to be twenty feet wide.

Don Cropsey said the applicant had not yet decided that yet, but when he spoke with Fire Chief Howard Dutcher [NY Fire Code](#)

[§ 503](#) of the Fire Code does require the road network within the facility to comply with the document he was holding. He said that the NYS Fire Code has minimum standards. He said some of the standards are based on what the local fire department's needs are. He noted that Karen Dutcher referenced the weight limit for the truck. The base of the roadway will comply with the needs of the Fire Department. He said the applicant does not want to build a road that doesn't support the equipment.

Chair Al Kozakiewicz said that takes all the fun out of it.

Don Cropsey said there were a couple other components. He said there was a width component so that the vehicle can maneuver through the site. He noted that Karen Dutcher had mentioned the overhead clearance. He said that [NY Fire Code § 503](#) of the Fire Code clearly states the height of the highway must be 13 foot 6 inches minimum. He said the applicant was obligated to comply with those requirements. He said there's no way around that. He said the applicant is stating for the record that the applicant will comply with [NY Fire Code § 503](#) access roads.

Chair Al Kozakiewicz asked Karen Dutcher if that was sufficient to meet her concerns.

Rick Gilmour said the Code Enforcement Officer will make sure of it.

Chair Al Kozakiewicz said to not count on Code Enforcement being omniscient. He said that he would prefer that it be read into the record that the Planning Board looked at it; had discussion about it; had acknowledged that there is a standard that has to be met; and, that the applicant agreed to meet the standard.

Don Cropsey asked to add to that the applicant's request tonight is simply for phase one.

Chair Al Kozakiewicz said he understood that.

Don Cropsey said the cabins and the lodge are phase two and phase three. He said the Board would get another bite at the apple. He said that when the applicant was ready to do phase two, the applicant would be coming back.

Chair Al Kozakiewicz said he did not want to say he didn't want the applicant back. He said the idea was to see the entire plan, looking forward, so the Board understood the entire scope of what the project was. He said his view was that if the applicant gave the Board enough detail to say, yes, it looks good and, the applicant is not, in phase two, deviating substantially from what the applicant had proposed, he saw no reason for the applicant to come back for a Site Plan Review.

Don Cropsey said that was perfect.

Chair Al Kozakiewicz said that if phase two comes up and the Code Enforcement Officer says it doesn't look anything like the Site Plan, then the applicant would need to be back before the Planning Board.

Steven E. Smith, PE suggested that should be a condition of the approval. He said most Planning Boards will say that if you get an approval and you don't do it in one or two years, you have to come back and get it approved again. He said that because some of the Site Plan was so nebulous that he would suggest reading into the record that it needs to be reviewed.

Chair Al Kozakiewicz said he thought Steven E. Smith, PE phrased it just fine and if the applicant is willing to do it, he is willing to indulge the applicant.

Matt Cooper said his two cents were that the Board should segment phase one as an item and when the other phases start, the Board would review them.

Rick Gilmour said the Board is approving a vision of a plan that could evolve in the future.

Chair Al Kozakiewicz asked if there was anything else from the Board.

Lynne Delesky asked whether the Caretaker's House was a proposed structure.

Steven E. Smith, PE said yes.

Lynne Delesky said she saw a thousand gallon tank and a 500 gallon pump tank. She asked for confirmation that those items pictured are not there now.

Chair Al Kozakiewicz asked if they were being built as part of the first phase.

Don Cropsey said they have to be built as part of the first phase.

Rick Gilmour said he had asked previously that the applicant draw some lines to that structure so that the Planning Board could see where they would be located.

Lynne Delesky asked if all of that was going to go into leach system number one.

Steven E. Smith, PE confirmed that.

Matt Cooper asked if the Caretaker House was not part of phase one.

Rick Gilmour said it was not part of phase one.

Don said there will be a tank that will handle the effluent from that building.

Don Cropsey said that in answer to Lynne Delesky's question, there will be a tank that will handle the effluent from that building and, initially it will have to be pumped.

Lynne Delesky said but not yet.

Don Cropsey confirmed, not yet. He said they were not proposing that building in phase one.

Rick Gilmour asked about the loop in the driveway.

Don Cropsey said there would be a loop to accommodate fire vehicles, so that when they come in off of State Highway 10, they are not going to go to a dead-end.

Matt Cooper confirmed that there would be a loop.

Chair Al Kozakiewicz asked if elevation lines were two foot increments.

Steven E. Smith, PE said yes.

Chair Al Kozakiewicz asked the applicant if they knew sewage does not run up hill.

Steven E. Smith, PE said there were drop boxes and the leach fields are not all on the same level: they are sequentially lower.

Chair Al Kozakiewicz said leach field number one straddles three contours, which would be a four foot drop. He noted that the feed is coming in from the bottom. He said the important thing is the elevation of the base that the pipes sit on.

Chair Al Kozakiewicz asked if there was anything else from the Board.

There was no response from the Board.

Chair Al Kozakiewicz said that if somebody were to make a motion, the Board would be voting to approve the Site Plan for the Caroga Arts Collective, Inc. He said the immediate approval is for phase number one. He said that future phases two and three to be reviewed again in the future. All aspects of all the roads, including future phases, are to meet [NY Fire Code § 503](#) of New York State Fire Code in terms of load bearing capacity, height, and width.

Lynne Delesky reminded the Chair that the lots need to be combined.

Chair Al Kozakiewicz said the parcels — and he would leave it to the Clerk to later on be read into the record the actual parcel numbers.

Lynne Delesky said the parcels to be merged are [68.17-2-1](#) and [68.17-2-2](#).

Chair Al Kozakiewicz said that either there could be further discussion or somebody could make a motion.

Motion: Fred Franko moved to accept phase one submittal with stipulations as noted.

Lynne Delesky seconded the motion.

Chair Al Kozakiewicz asked if there was any further discussion before proceeding to a vote. Hearing none, he asked the Clerk for a roll call vote.

Lynne Delesky — yes

Fred Franko — yes

Mike Voght — yes

Roderick Gilmour — yes

Karen Dutcher — yes

Matt Cooper — yes

Chair Al Kozakiewicz — yes

Don Cropsey submitted a copy of the relevant [New York State Fire Code § 503](#).

Chair Al Kozakiewicz said that this still has to go for § 239-m with the Fulton County Planning Board and they will meet on August 17. He said one of the stipulations is that there is no adverse finding. He said the Board forgot a step. He said that the Board needed to go through SEQR. He said he would ask the Clerk to fill out the header information. He said he expected to find a “no” declaration. He said the Board had to go through the questions to ascertain and, in theory, the Board should have done this before voting. He said the vote to approve was contingent on not having any adverse findings in the SEQR. He started reading from a form other than the intended SEAF Part 2. He instructed the Clerk to just record the answers to the SEAF Part 2 questions.

The Clerk said he had SEAF Part 2 PDF in front of him.

Chair Al Kozakiewicz asked the Clerk to fill out the PDF as the Board goes through the questions. He started to read, but it was again not from SEAF Part 2.

The Clerk said that the Short Environmental Assessment Form is all they need.

Chair Al Kozakiewicz found SEAF Part 2 and proceeded to read the [SEAF Part 2 & 3 \(PDF\)](#) questions to the Board. The Board's answers are recorded in [p2021-05_seafparttwo.pdf](#)

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

Chair Al Kozakiewicz answered “no” and the Board did not object.

2. Will the proposed action result in a change in the use or intensity of use of land?

Rick Gilmour said “small”.

Matt Cooper said “moderate to large”.

Chair Al Kozakiewicz asked if there was any further discussion.

Don Cropsey said to the Chair that if the Board answers “Moderate to large impact” then the Board needs to look at what the applicant does to mitigate those impacts.

Chair Al Kozakiewicz said he believed the Board had already done that with the review of the application. He said that for the sake of discussion, without objection, specify “Moderate to large impact”.

There were no objections.

3. Will the proposed action impair the character or quality of the existing community?

Chair Al Kozakiewicz said he thought “no”, because it was in line with the Comprehensive Plan.

Rick Gilmour said yes, in a good way.

Chair Al Kozakiewicz said “impair” doesn’t mean good.

Rick Gilmour asked that the question be read again.

Fred Franko said no, it is not going to impair.

Chair Al Kozakiewicz said it sounded like the consensus is “no”.

4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?

Chair Al Kozakiewicz said that was a legal item and he knew the answer was “no”.

5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?

Fred Franko said the answer was “no”.

Matt Cooper said it was, but not every day.

Mike Voght agreed.

Chair Al Kozakiewicz reminded Matt Cooper that the question was about an “adverse change”. He said it was obvious that there would be a change, but what is being asked is whether it is an “adverse change”.

Don Cropsey said that if the Board looks at what the applicant has proposed, the applicant is going to clear the entrances, add a second entrance when the big stuff starts to happen. He said there would be multiple ways to get in and out. He said the impact on existing travel infrastructure would be minimal, when the Board looks at the improvements that the applicant has proposed.

Matt Cooper said he looks at Dollar General and there was a DOT study for the Fire House and Dollar General and the town has had four accidents during the summer. He said the traffic study was done, but because of that, the town has had accidents there. He said that is real. He said while it would not be every day, it was going to raise the vulnerability of an already vulnerable intersection.

Rick Gilmour said there would be more traffic than there was.

Chair Al Kozakiewicz said he was looking for consensus from the Board on the answer.

Rick Gilmour said “small”.

Matt Cooper said “small” because it is not every day.

6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?

Chair Al Kozakiewicz he thought it was an immaterial question for this application, but the answer would be “no”.

7. Will the proposed action impact existing:
a. public / private water supplies?

Chair Al Kozakiewicz said that none that didn't already belong to the applicant.

b. public / private wastewater treatment utilities?

Chair Al Kozakiewicz said that none that didn't already belong to the applicant.

8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?

Fred Franko said “no”.

Chair Al Kozakiewicz said he was not aware of anything.

9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?

Chair Al Kozakiewicz said nothing that wouldn't ordinarily fall under the review of the Adirondack Park Agency anyway, so the Board is not aware of anything.

10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?

Chair Al Kozakiewicz said he thought that was addressed in the application.

Don Cropsey said that is why the applicant did a SWPPP.

11. Will the proposed action create a hazard to environmental resources or human health?

Chair Al Kozakiewicz said “by all means”. He said those were all the questions. He said the one question that was “moderate to large” was:

2. Will the proposed action result in a change in the use or intensity of use of land?

Chair Al Kozakiewicz started read from SEAF Part 3 and then asked the Clerk to read.

The Clerk read from Part 3 of [SEAF Part 2 & 3 \(PDF\)](#):

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant.

Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Chair Al Kozakiewicz said that is where he would suggest the Board go back to the question number 2 because he believes the answer is that were the project to be something of a more intense nature, for example, building warehouse, were it that kind of project, yes it is a large impact, but the applicant is mitigating it by some other action, such as purchasing some off-site property and donating that as parkland. He said that in this particular case, he is thinking to explain why the Board thinks the impact is no or minimal. He said it might be along the lines of that it fits into the Comprehensive Plan of the town, that it is an anticipated use of the land, or something along that nature.

Matt Cooper said that was one way to look at it, but how he looks at it is that it was a residential use piece of property, roughly ten acres, and now the applicant is turning it into “Commercial Use” that is going to have roadways through it, additional entrance, dormitories, and educational facility. He said that if that wasn’t major, he did not know what is.

Chair Al Kozakiewicz said he would like to hear from the rest of the Board.

Mike Voght said he agreed.

Rick Gilmour said he thought it was a smaller impact. He said Kyle Barrett Price explained to the Board how there weren’t going to be that many people and at one time, that the applicant wasn’t really planning to have venues there. He thought it was going to be

a small impact. He said he did not know what the definition of small or large impact was.

Matt Cooper said it was a residential use.

Rick Gilmour said that if you put a warehouse there, then he would say “yes” that is going to be a large impact. He said this is not going to be that.

Kyle Barrett Price spoke of the earlier use for events and as a fresh-air camp for kids from New York City.

Matt Cooper interrupted saying when was the last time it was used in that manner, fifty, sixty years ago.

Chair Al Kozakiewicz said he wanted to do this fairly and accurately and he wanted to ask for a vote from the Board on what the answer to question number two should be. He said that before he asks for that vote, he wanted to hear if there’s any more discussion on the matter.

Fred Franko said that the way that is worded, it is the determination if the Board needs further justification to fill out that Part 3. He feels the applicant has done a fair job of minimizing the impact, whatever it may or may not be. The applicant has already handled that particular part of the question.

Lynne Delesky said it is a different use. She said it isn’t going to be a residence anymore. She said this is good. She said we have something positive coming into the community.

Karen Dutcher said depending the size of the event, there could be shuttle.

Matt Cooper said it was on the Site Plan.

Rick said Kyle Barrett Price addressed that: the chances of that happening were very slim and if it did happen, it would be once or twice. He said it wouldn't be every day or every week or every month. He said it was going to happen once or twice.

Matt Cooper said that the Board puts it in as a large or medium and the Board has already addressed it with the narrative, fill out Part 3 with the narrative that shows that the Board did an honest assessment that says there is a large impact and here are the mitigating things that have been done.

Rick Gilmour said he thought small impact was a much better description.

Chair Al Kozakiewicz said he would ask the Clerk to call the roll on voting on whether or not the answer to the question number two should be small "yes" or a "no" is a large impact:

Lynne Delesky — yes

Fred Franko — yes

Mike Voght — no

Roderick Gilmour — yes

Karen Dutcher — no

Matt Cooper — no

Chair Al Kozakiewicz — yes

Chair Al Kozakiewicz said that avoids extra work and he believes the Board has done everything on the checklist. He said the applicant was excused, and the applicant was all set to go except for Fulton County, Adirondack Park Agency, and any building permits. He asked for a motion to adjourn unless there was something else.

Lynne Delesky said the first item of business tonight the Chair had said that the Clerk would not be the Board's Clerk anymore. She asked if that was his choice.

Clerk said it was not his choice.

Lynne Delesky asked why the Board was getting rid of the Clerk, and doesn't the Board have the option to vote.

Chair Al Kozakiewicz said no, it was the Town Board's decision.

Clerk said that was not correct.

Lynne Delesky said that she thought the Planning Board should have a say as to who is the Clerk. She said the Clerk does a very good job.

Chair Al Kozakiewicz said he did not disagree that the Clerk has been very diligent and hardworking over the years. He said the last meeting, to him, was a crisis in confidence with the cohesiveness of the Board, based upon the Clerks actions. He said the Clerk went behind the back of everybody basically, and was lobbying for a particular outcome. He said if he was just the Clerk it probably wouldn't be that big of a deal: he would be pissed, but not that pissed, but the Clerk is also a Town Board member. He said that was already kind of a conflict of interest or could be construed as a conflict of interest. He said his opinion is that if the Clerk sits there, records the minutes, does all the filings, then it is not a big deal, but once the Clerk starts actively engaging in lobbying other members, the Clerk has crossed the line. He said that at that point he did not have confidence in the Clerk anymore to do the job of Clerk and he asked about replacing the Clerk. He said he was even going to do the job himself, but he was not allowed to. He said that the way it sits right now is that at some

point the Town Board is going to have a vote on what to do, but he has been told that before that happens, the Planning Board has to have somebody to replace him.

Lynne Delesky said she would hope so.

Clerk said that was incorrect. He cited and read aloud Consolidated Laws of New York [TWN § 271\(2\)](#):

...The planning board shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made therefor by the town board for such planning board.

Chair Al Kozakiewicz said that he did not believe the Planning Board had such authority. He said that's not according to the town attorney. He said that's regardless of the Clerk's opinion.

Clerk said it was not the Clerk's opinion: the Clerk was reading from Town Law.

Chair Al Kozakiewicz said he knew that, but the town attorney says that's not the case, so he doesn't know. He said he simply wanted to inform the Board, so that if the Board knows of anybody, please bring them to his attention and otherwise there is nothing for the Board to do right now.

Clerk asked to speak again.

Chair Al Kozakiewicz said "reluctantly, yes".

Clerk said as a Public Officer, under his oath of office (as a Town Board member), if the Planning Board has already made a decision, he should inform the Planning Board that the Planning Board has deviated from the law. He said that was his obligation. He said it was not a choice: it is an obligation. He said he was not going behind the Chair's back to influence the outcome of a decision the Board was about to make: the Board had already made it.

Chair Al Kozakiewicz said the Board had already made the decision, but the Clerk was lobbying to overturn it and the Clerk didn't file the decision notice.

Clerk said there is no decision notice.

Chair Al Kozakiewicz said the Board made a decision.

Clerk attempted to explain the procedure for a subdivision, but was cut off by the Chair.

Chair Al Kozakiewicz said he was not going to go through a trial here. He said he just wanted to explain why he had gotten to this point and that was it. He asked for any other discussion from the Board.

Lynne Delesky said she thought it was really going to be hard to find a Clerk. She asked how many times did the Chair ask the Clerk about the process. She asked if the Chair was going to find somebody else who has that knowledge.

Chair Al Kozakiewicz said no.

Lynne Delesky said good luck.

Fred Franko said all this was predicated from Zoning Board of Appeals Chair Douglas Purcell.

Clerk said yes.

Chair Al Kozakiewicz said no. He said he was as at loggerheads with Zoning Board of Appeals Chair Douglas Purcell as he is with the Clerk.

Fred Franko said that being said, as near as he could tell the Clerk and ZBA Chair were right.

Chair Al Kozakiewicz said no, the Clerk and ZBA Chair were not and he knows there is not unanimity on the Planning Board about that, but when he reads the plain language in the statute, the ZBA Chair and Clerk were not right.

Fred Franko said well, there is not unanimity about that.

Chair Al Kozakiewicz said no, and he's sorry about that. He says he's literally reading plain language and he can't see a way around it. He said we are what we are today and some of it was his own fault: he's 100% sure he knows it.

Clerk asked if the Chair was presented with a survey of the complete parcel, ready for the Chair to sign.

Chair Al Kozakiewicz said the parts that the Board needed to see.

Clerk said that was not what the statute says.

Chair Al Kozakiewicz said the Clerk made a determination that the Board did not make.

Clerk said fine, the Chair has made it and the Clerk had an obligation to inform the Board and the Chair took umbrage at that.

Chair Al Kozakiewicz said if the Clerk wanted to call it that, yes. He said it was not any conversations between the Clerk and the Chair. He said the conversations between the Clerk and the Chair have always ended cordially and he hopes they always do end cordially.

Clerk said yes sir.

Chair Al Kozakiewicz said this was an instance that was one step over the line for him and he could not abide it going forward.

Lynne Delesky said “I think we all need to clean up our act — it is somewhat embarrassing to be on this Board.”

Town Clerk Linda Gilbert asked if the Board had an alternate.

Rick Gilmour said the Burt Wilson had told him that he wasn't going to be an alternate anymore and he should have mentioned it to the Chair.

Matt Cooper said his residency is questionable at the moment because he sold his house.

Chair Al Kozakiewicz said he did not know that.

Fred Franko said that procedurally he has some questions on this.

Chair Al Kozakiewicz said he would be consulted normally, but it has always been the privilege of the Town Board to appoint and remove Planning Board members and the Planning Board Clerk.

Clerk said that was done incorrectly. Regarding the Clerk position, it is [TWN § 271\(2\)](#).

Fred Franko asked about whether it was legal to rescind the parcel subdivision decision.

Chair Al Kozakiewicz said he didn't get an answer back from the town attorney yet: he thought there was a distraction. He said he needs to re-ask that. He said that at this point the application is beyond that. He thought it was 45 days.

Rick Gilmour and the Clerk both said 62 days.

Chair Al Kozakiewicz said he thought it was 45, but the application is beyond 62 days even, so the application is automatically granted no matter what we do.

Clerk said the application actually lapsed because the applicant had 62 days to file the Chair's signed copy of the survey with the County. He said that lapsed: the Chair didn't sign it. He said the application was dead.

Fred Franko said procedurally, the Clerk seemingly has some depth in that position. He said he did not know how the Board was going to fill that. He said he would be very cautious about throwing out the baby with the bathwater.

Clerk asked if he could apologize to the Chair.

Chair Al Kozakiewicz said no, it is not a matter of apology, it is a matter of trust at this point. He said he is not alone in this, that it does not set a good example. He said he's not going to feel like he's always looking over his shoulder in the future when something like that comes up. He said the Clerk needs to be divorced from the actual deliberations of the Board.

Clerk said the Board deliberated. He said he had one-on-one conversations with six Board members and it is his duty to report to them when they have deviated from the law.

Rick Gilmour said he did not think the Clerk needed to go to each Board member individually: the Clerk could have mentioned that.

Clerk said that was actually the problematic one. He said he bit his tongue during that meeting. He said he wanted to speak but he did not want to be shut down for interfering with the Board's process, so the Board made the decision it was making. He said he was astounded that it happened. He said the Board made the decision, but then it was his obligation to tell the Board members: "hey guys, you didn't follow the law." He said that the Chair could have signed the survey and it could have gone to the County and it all would be water under the bridge, but he said he did it after the fact. He cited the email exchanges with ZBA Chair Douglas Purcell.

Chair Al Kozakiewicz said that was a legitimate discussion between the Board and the ZBA Chair, but he has a problem with doing it via email for two reasons: number one, he doesn't think it is transparent enough even though he doesn't always want to always be transparent, but that's the law, and number two, he doesn't like heated discussions over text or email because the dynamic is not the same. He said he prefers meeting face-to-face. He said he does not want to get involved in litigating this now. He said he doesn't have any choice: it is like if an engineer wet-stamps a drawing, he has to believe they weren't corrupt when they did it. He said he has to have some evidence that they are. He said the Clerk's word is not sufficient.

Clerk said he was just quoting [TWN § 271\(2\)](#), not his own words, not his own opinions. He said it was online.

Chair Al Kozakiewicz asked if there was any other discussion on this from the Board.

Lynne Delesky said that at the last meeting the Chair said he would correct the 1250 square foot note in the Zoning Ordinance. She asked where the Board was with that.

Chair Al Kozakiewicz said he had written the language, but has not yet sent it to the Clerk for inclusion in the draft Zoning Ordinance. He said that where we are is that he had a meeting with ZBA Chair Douglas Purcell, Town Board member James McMartin Long, and Town Supervisor Scott Horton. He said that the Planning Board would rather have Special Use Permit as opposed to Site Plan Review. He said he had to run that by at least the same people again because that's not what was agreed to in that room. He said the second thing was the terminology for what do you call it: a "stand-alone accessory structure". He said even though you could pick it apart, it is what it is.

Fred Franko asked for clarification.

Chair Al Kozakiewicz said it had to do with garages on an empty lot. He said basically taking anything that would normally be an accessory structure, like a garage. He said an accessory structure is subordinate to a primary structure. He said that in the case where there is no primary structure, and the applicant wants to build something that would normally be categorized as an accessory structure if there was a primary structure, it was decided to call it a "stand-alone accessory structure". He said this is a garage when there is no house or a greenhouse when there is no house.

Karen Dutcher asked if this was going to be allowed.

Chair Al Kozakiewicz said it is going to be under some kind of review. He said the consensus at that meeting was Site Plan Review. He said when he presented it to the Planning Board, the Planning Board wanted Special Use Permit. He said he is not

going any further until he consults back with the same group and make sure they are okay with that. He said he is not going to hide it from anybody, because they are the ones that are going to have to vote on it ultimately.

Fred Franko asked if he was talking about the Town Board.

Chair Al Kozakiewicz said at least two representatives of the Town Board.

Karen Dutcher asked who the Chair was talking about.

Chair Al Kozakiewicz said it was Town Board member James McMartin Long and Town Supervisor Scott Horton and ZBA Chair Douglas Purcell. He said he wanted to go back to the same people who helped craft the concept of what the Planning Board was going to do and tell them here's what the Planning Board decided, what do you think.

Clerk speaking as Town Board member James McMartin Long, addressing Karen Dutcher specifically, said he would represent the position of the majority of the Planning Board. He said Karen Dutcher's feelings have been very clear to him, and he would represent them.

Matt Cooper said that were he sees it as a big issue is with the wording of the 1250 square feet, because if you make it 1250 square feet or greater, then it becomes a principal structure but if you put up a 24 foot by 24 foot, it does not meet that requirement because of square footage, 576 square feet. He said that the reason we are getting the garages the size that they are is to meet that requirement. He said he did not think that people would build them that big, some would, but they wouldn't all build them that size if the requirement wasn't there.

Chair Al Kozakiewicz said he explained this at the last meeting, why the 1250 square foot language was in the Zoning Ordinance and why it is ambiguous and why it is open to interpretation. He said he wants to shut down the interpretation. He said what begat that was people making it over 1250 square feet so they can put it up on a lot without any review whatsoever. He said he would allow them some mechanism to put it on a lot with some review and shut down the 1250 square foot because those things shouldn't be primary structures anyway except only for the purpose of Adirondack Park Agency density calculations.

Fred Franko said that the one on 2215 State Highway 10 is already rusting. He said he would like to make a motion to shut down that whole process right now-- anybody else.

Karen Dutcher said any new ones.

Chair Al Kozakiewicz said the Planning Board does not have that authority. He said that has to come from the Zoning Ordinance which has to go through Adirondack Park Agency review and then adopted by the Town Board.

Clerk said it also has to go through Adirondack Park Agency and Fulton County, then go to the Town Board.

Town Clerk Linda Gilbert said that the Planning Board could make a recommendation.

Chair Al Kozakiewicz said the Planning Board could and he had the sense that the Planning Board already do recommend that.

Fred Franko said he would like that to be formal.

Chair Al Kozakiewicz said somebody make a motion.

Karen Dutcher said I will.

Fred Franko said he would second it.

Lynne Delesky asked what the motion was.

Motion: Fred Franko moved that the Planning Board recommends that there is a moratorium placed on any “Stand-alone Accessory Structure” pending final resolution of their classification and requirements in the Zoning Ordinance.

Karen Dutcher seconded the motion.

Roll call:

Lynne Delesky — yes

Fred Franko — yes

Mike Voght —yes

Roderick Gilmour — yes

Karen Dutcher —yes

Matt Cooper —yes

Chair Al Kozakiewicz — yes

Chair Al Kozakiewicz said that motion carries.

Rick Gilmour moved adjourn the meeting.

Matt Cooper seconded the motion.

All were in favor.

The meeting adjourned at 8:25 pm.