



TOWN OF SOUTHPORT

1139 Pennsylvania Avenue • Elmira New York 14904

PLANNING BOARD Regular Meeting

**Monday, July 6, 2020
Meeting Minutes**

Minutes of a regular meeting of the Town of Southport Planning Board held at the Town Hall, 1139 Pennsylvania Avenue, Elmira, New York on Monday, July 6, 2020 at 7:00 p.m.

Board Members Present: Larry Berman
Dan Collins, Vice Chairman
Jacquelyn French
John Hastings
Jennifer McGonigal, Alternate
Chris Parsons, Chairman
Trish Peterson
Chad West

Board Member Absent: None

Others Present: Peter Rocchi, Code Enforcement Officer
Michelle Murray, Secretary

Others Present Remotely: Leslie Connolly, Town Attorney
Kathy Szerszen, Town Supervisor

Chairman Parsons called the meeting to order on or about 7:00 p.m. He asked if the Board Members had any comments, questions, concerns or corrections about the June 1, 2020 meeting minutes. Hearing no comments, the Board accepted the minutes as presented.

Next was review of the site plan amendment for John Zack to construct an enclosed outdoor patio for dining at Zack's Grill located at 1825A Pennsylvania Avenue, Pine City, New York tax map #127.00-1-15.213 zoned Commercial Neighborhood.

Mr. Zack explained his plan to build a 16 foot by 40 foot patio that will be used for dining. It will have a six-foot metal fence around it with no roof over the top. There would be an egress gate to exit the patio area. He would install a concrete barrier around the patio. Lights would be installed on the posts and use the existing lighting on the side of the building. He would not install speakers.

The hours of operation would be Sunday through Wednesday 7:00 a.m. to 9:00 p.m. and Thursday through Saturday 7:00 a.m. to 10:00 p.m.

There were no further comments from the Board. Chairman Parsons set a public hearing for Monday, August 3, 2020 at 7:00 p.m. or as soon thereafter as it can be heard.

Next was review of the site plan amendment of Charlie Todd to construct a 60 foot by 80 foot pole barn to operate a farmer's market and events center at Chamberlain Acres located at 824 Broadway, Elmira, New York tax map #99.18-5-18 zoned Commercial Neighborhood.

Mr. Todd explained his original plan was to build a 60 foot by 80 foot pole barn structure but now will build a polycarbonate greenhouse which is made of a rigid plastic. It will also be used for growing space. He will build a shed off the side of the greenhouse to be used for bathrooms and a kitchen for the farmers so that they are able to can their goods for sale. The kitchen will also be used for events. He talked about connecting to the sewer. He has permission from the AFI company next door to use their lot for additional parking. He will not install any new lighting. He will plant arborvitae for buffer.

The Board asked about the noise control and the building insulation. They talked about 40 on-site parking spaces and the comments from the Chemung County Planning Board regarding parking ratio. Mr. Todd needs to have a written agreement from the neighbor to use his property for parking. They discussed the buffer for neighboring properties. The Board asked Mr. Todd to bring images of what the building would look like to the next meeting.

Leslie Connolly, Town Attorney, explained that the Planning Board cannot approve just the farmer's market portion of the site plan because of segmentation of the SEQR and that it has to be done correctly. She explained that although Mr. Todd has been doing the events for several years, he is now formalizing the non-conforming use of his property.

The Board Members discussed changing the September meeting from September 14 to September 1 to speed the process along for Mr. Todd.

Chairman Parsons made a motion to change the September Planning Board meeting from September 14, 2020 to September 1, 2020. Board Member Peterson seconded the motion.

AYES: Berman, Collins, French, Hastings, Parsons, Peterson, West
NOES: None
MOTION CARRIED.

Next was the referral from the Town Board to allow for “Events Center” as a permitted use to include defining the use and zoning district in the Town. Allison Bartlett, with Harter Secrest & Emery law firm presented the draft local law. Chairman Parsons reminded the Board that code they were reviewing will affect the entire Town not just the application before the Board.

The Board discussed the definition of an “events center” and the requirements. They agreed that a minimum buffer of 50 feet would be adequate. The use of tents associated with an events center was established.

After no further discussion from the Board, Chairman Parsons made a motion to recommend that the Town Board adopt the proposed “Events Center” code with the recommended changes; Board Member French seconded the motion.

AYES: Berman, Collins, French, Hastings, Parsons, Peterson, West
NOES: None
MOTION CARRIED.

§ 525-5 Definitions.

Events Center. The use of land or structures for private gatherings and events not open to the general public, such as, but not limited to, weddings, parties, and other similar events, where compensation is paid to the property owner for said use.

§ 525-20 Use Regulation Table.

[Note: The Use Regulation Table shall be amended to add the events center use, indicating that it is allowed by special use permit in the AR, CN, and CR districts, and not allowed in any other zoning districts.]

§ 525-[____]. Events Center¹

A. *Restrictions.* The following uses shall not be permitted at an events center:

- (1) Concerts and/or live outdoor music performances, except that live outdoor music performances may be allowed in the AR district if included in an events center management plan approved by the Planning Board pursuant to the requirements of this section.
- (2) Overnight lodging or camping.
- (3) Drive-in movie theater.
- (4) Wine or beer tasting facility. A wine or beer tasting facility does not include the service of alcoholic beverages incidental to an approved events center use.
- (5) Any other use, as determined by the Code Enforcement Officer, that does not constitute an events center use.

B. *General Requirements.* An events center use may be permitted when an approved site plan documents compliance with the following minimum requirements:

- (1) A minimum lot size of 3 acres is required for an events center.
- (2) A minimum buffer of 50 feet in width shall be maintained between an events center use and the lot line of an adjoining lot containing a residential use, and a minimum

¹ Note that there is no space in Article IX (where this new section would logically go) unless we renumbered several provisions of this Chapter. If the Town would like to renumber the sections, we would suggest reserving additional sections for further additions. Another suggestion, and perhaps less cumbersome, would be to renumber the last existing section in Article IX to § 525-128-A and list this new section as § 525-128-B.

buffer of 50 feet in width shall be maintained between an events center use and the lot line of all other adjoining lots. No structure, vendor, storage area, sanitary or toilet facility, or parking area shall be permitted within this buffer.

(3) No materials related to an events center use shall be stored outside a building, except for garbage and rubbish. Any outdoor storage of garbage and rubbish incidental to the events center use shall be only in suitable containers and shall be:

(a) Screened from view from any adjoining lot or roadway by a barrier in accordance with § 525-111 and at least eight feet in height as measured from finished grade; and

(b) Located in accordance with a design approved in a site plan.

This subsection shall not apply to a trash can or similar receptacle placed outside during an event to receive garbage or rubbish from attendees.

(4) Noise and sound requirements.

(a) Sound levels generated by an events center use shall be no greater than [70] decibels as measured at the boundaries of the lot occupied by the use creating noise during events. Sound levels shall also comply with § 525-119.

(b) An outdoor sound or public-address system shall not be permitted in the CN or CR district. Unless specifically approved in a site plan, an outdoor sound or public-address system shall not be permitted for an events center in the AR district.

(5) Operating hours of the events center shall be limited to the hours between [8:00 a.m. and 10:00 p.m.]. For purposes of this section, all events must terminate by 10:00 pm, meaning all food, drinks, service and entertainment must end by 10:00 pm. It is understood that attendees and servers and their vehicles shall have a reasonable amount of time thereafter to vacate the premises, provided, however, that all attendees and servers and their vehicles shall have vacated the premises and the events center's lighting shall be extinguished by no later than [11:00 p.m.], except for lighting ordinarily used for (i) security or safety purposes, or (ii) lighting used in the ordinary course of property use not related to the events center use.

(6) Parking.

(a) No on-road parking associated with the events center use is permitted.

(b) The parking area of an events center shall meet the requirements of the Americans with Disabilities Act (ADA) and the applicable provisions of § 525-71. This requirement shall not preclude the events center from utilizing shuttle buses or other methods of guest transportation.

(7) Sanitary facility requirement.

(a) An events center shall provide for adequate and safe public restroom and/or toilet facilities in accordance with the requirements of the New York State Department of Health and the New York State Uniform Fire Prevention and Building Code.

(b) Temporary and/or portable restrooms associated with an events center use shall not be permitted in the CN or CR districts. Temporary and/or portable restrooms shall not be permitted in the AR district unless approved in a site plan. When temporary and/or portable restrooms are used to comply with this subsection, no fewer than four shall be provided.

(8) Lighting.

(a) Outdoor lighting shall comply with § 525-117.

(b) Outdoor lights in connection with an events center use, except for those ordinarily used for security and safety purposes or in the ordinary course of property use not related to the events center use, shall be extinguished by no later than [11:00 p.m.].

(c) A lighting plan, including the criteria in § 525-117(B), and any other criteria deemed appropriate by the Planning Board, shall be set forth in the events center management plan.

(9) Signage.

(a) Signs shall comply with § 525-90 through § 525-96.

(10) Tents.

(a) There shall be no more than a total of 200 square feet of space under a tent or tents associated with an events center use, unless additional square footage is approved in a site plan.

C. Events center management plan.

(1) Each events center shall require an events center management plan. Such plan shall include plans related to parking and traffic management, hours of operation, noise abatement, lighting, sanitary facilities, and identification of and contact information for emergency services. Such plan shall be incorporated into the special use permit and site plan approval.

D. Additional Provisions.

(1) A special use permit for an events center shall not be transferable. The provisions of § 525-159(B) providing for the transfer of special use permits to successive property owners shall not apply to special use permits for events center uses.

(2) Special use permit conditions. Each special use permit for an events center shall include, but shall not be limited to, conditions providing the following:

(a) The special use permit for an events center shall establish the maximum occupancy for such events center.

(b) The special use permit for an events center shall establish the maximum frequency of events permitted (e.g., number of events per year, month, week, etc.).

(c) Any other conditions deemed appropriate by the Planning Board, including but not limited to those on operation, design and layout reasonably necessary to ensure compatibility with surrounding uses.

E. Individual events and subsequent review.

(1) Notwithstanding § 525-[__](C)(1) and § 525-159 of this chapter, once a special use permit has been granted to permit an events center at a particular site, individual events may be held at the site without further review by the Planning Board so long as such events comply with the limitations in the events center management plan and special use permit.

§ 525-159 Special use permit expiration, revocation and enforcement.

B. All special use permits shall run with the land and will be transferred to successive property owners, provided the permit has not expired and it is not revoked for failure to meet the permit conditions. This section shall not apply to special use permits for events center uses. A new owner of a property that had been the subject of a special use permit for an events center shall not use the property as an events center without first applying for and obtaining a new special use permit.

Section II. Severability.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

Section III. Effective Date.

This Local Law shall be effective immediately upon filing with the Secretary of State.

No other business to come before the Board. Chairman Parsons made a motion to adjourn the meeting; Board Member French seconded the motion. All were in favor. The meeting was adjourned at 8:51 p.m.

Respectfully submitted,

Michelle Murray
Planning Board Secretary

Original on file with Town Clerk

cc: Planning Board
Town Board
Town Clerk
Town Attorney