



TOWN OF SOUTHPORT

1139 Pennsylvania Avenue • Elmira New York 14904

PLANNING BOARD

Regular Meeting

Tuesday, July 6, 2021

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 Tuesday, July 6, 2021 at 7:00 p.m.

Board Members Present: Larry Berman (arrived at 7:04 p.m.)
Jacquelyn French
John Hastings
Jennifer McGonigal, Vice Chairwoman
Chris Parsons, Chairman
Trish Peterson
Tracy Warner, Alternate

Board Member Absent: Troy Dygert

Others Present: Peter Rocchi, Code Enforcement Officer
Michelle Murray, Secretary
Dan Hurley, Town Council Member
Leslie Connolly, Town Attorney (remote)
Kathleen Szerszen, Town Supervisor (remote)

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 7, 2021 meeting minutes. Hearing no comments, the Board accepted the minutes as presented.

Public Hearing - Site Plan of Brenda Ribble to operate a can and bottle redemption center located at
1600 Cedar Street, Elmira, New York
Tax map #109.12-1-11
Zoned Commercial Regional

Ms. Ribble joined the meeting remotely. It was noted that the publication was in order, then the public hearing was opened for comment. No one wished to be heard, the public portion of the meeting was closed at 7:02 p.m. and was turned back over to the Planning Board.

The Board discussed that the store was located in the Southtown Plaza with existing lighting and plenty of parking. Hours of operation would be Monday through Sunday from 9:00 a.m. to 6:00 p.m.

Hearing no other comments from the Board, Board Member French made a motion to accept the Site Plan as presented; Vice Chairwoman McGonigal seconded the motion. The SEQR was an Unlisted Action with a Negative Declaration.

Resolution No. 013-2021 PB

SITE PLAN APPROVAL GRANTED TO BRENDA RIBBLE TO OPERATE A CAN AND BOTTLE REDEMPTION CENTER LOCATED AT 1600 CEDAR STREET, TOWN OF SOUTHPORT, COUNTY OF CHEMUNG, STATE OF NEW YORK, TAX MAP #109.12-1-11 ZONED COMMERCIAL REGIONAL

Resolution by: French
Seconded by: McGonigal

WHEREAS, on or about May 11, 2021, Brenda Ribble submitted an application to the Code Enforcement Officer for approval from the Town of Southport Planning Board for a Site Plan to operate a can and bottle redemption center located at 1600 Cedar Street, Town of Southport, tax map #109.12-1-11 zoned Commercial Regional; and

WHEREAS, the application was submitted to the Town Planning Board and defined as a Retail Use, Specialty Low Profile per the Town Code definitions Chapter 525-5 Definitions; and

WHEREAS, the Town Planning Board held a duly noticed meeting on June 7, 2021 at which the Applicant presented information about the project; and

WHEREAS, the Town Planning Board conducted a public hearing on July 6, 2021 at 7:00 p.m., and after due posting and publication of the same was made, was in compliance with the Town of Southport Municipal Code; and

WHEREAS, at that public hearing, any and all individuals wishing to be heard were then and there given the opportunity to do so; and

WHEREAS, it was determined that this was an Unlisted Action and will not have a potentially significant effect on the environment; and after due deliberation, investigation and consideration it is

RESOLVED, that the Town Planning Board hereby grants approval for the Site Plan as presented to Brenda Ribble to operate a can and bottle redemption center located at 1600 Cedar Street. Failure to make significant progress on the project within one (1) year from granting approval of this site plan will render the site plan null and void. Conditions shall be completed within one year unless otherwise stated.

1. Hours of operation will be Monday through Sunday 9:00 a.m. to 6:00 p.m.

AYES: French, Hastings, McGonigal, Parsons, Peterson, Warner
ABSENT: Berman, Dygert
NOES: None
MOTION CARRIED.

Board Member Berman arrived at 7:04 p.m.

Public Hearing – Continued – Site Plan Amendment of Charlie Todd to construct a 60-foot by 80-foot greenhouse to be used for growing space and to operate a farmers' market at Chamberlain Acres located at 824 Broadway, Elmira, New York
Tax map 99.18-5-18
Zoned Commercial Neighborhood

The Applicant was not present. Attorney Connolly had not received anything from Mr. Todd's Attorney before the Planning Board meeting. Chairman Parsons read the letter Attorney Connolly sent to Mr. Todd's Attorney.

Thomas A. Saitta, Esq.
Aswad & Ingraham, LLP
46 Front St.
Binghamton, NY 13905

Re: Chamberlain Acres/Charlie Todd Site Plan Application

Dear Tom:

We write this letter on behalf of the Town of Southport Planning Board regarding the above-referenced March 17, 2020 application for site plan approval. According to public statements made by Mr. Todd at the Planning Board's August 2020 meeting, the revised application (the "Application") seeks Planning Board approval of a greenhouse structure only at the Chamberlain Acres property (the "Project").

A list of missing application materials necessary for the Planning Board to review the proposed Project was sent by the undersigned to Mr. Todd's former counsel, by email, on August 6, 2020. The missing items included basic information such as the building's size and configuration, whether it would have a sprinkler system and how far away from neighboring properties the structure would be. We also committed to recommending that the Planning Board open the public hearing for the proposed project at the Planning Board's September meeting, to assist in expediting the proposed project's review.

This information was not provided to the Planning Board in advance of its September meeting. At that meeting, Mr. Todd announced for the first time that he intended to use the greenhouse for canning and food processing activities, as well as growing. Mr. Todd left the public hearing before his neighbors' concerns regarding the proposed project were expressed to

the Planning Board, which included noise, light, traffic and privacy. The public hearing remained open to receive the additional information owed by Mr. Todd.

During an October 2, 2020 conference call between the undersigned, your client and his former legal counsel and certain Town of Southport representatives, we again communicated the information required to advance the Application. An email message summarizing the same was sent to Mr. Todd's former legal counsel on October 5, 2020.

The Planning Board did not receive any of the missing materials, nor did Mr. Todd or a Chamberlain Acres representative appear at any public hearings, for the rest of 2020.

At the Planning Board's February public hearing, a Chamberlain Acres representative confirmed that the Application would seek a greenhouse only, for growing space and holding Farmers Markets. The Planning Board again requested that Applicant provide engineered drawings, revised State Environmental Quality Review Act Environmental Assessment Forms and remove advertisements for events and weddings from the Chamberlain Acres website. The public hearing was continued to March 1, 2021. The Planning Board did not receive any of the requested information in advance of, and no Chamberlain Acres representatives appeared at, the March or April public hearings.

On or about April 21, 2021, we advised you via electronic mail that the Town had learned that Mr. Todd intended to withdraw his Application and would no longer be seeking any development at his property. We asked that you confirm this information with your client, but we still have not been advised as to Mr. Todd's intentions regarding the proposed Project.

Should your client wish to pursue development at Chamberlain Acres, we request that your client confirm the same in advance of the Planning Board's July 6, 2021 meeting. If we do not receive this confirmation, the Planning Board will close the public hearing and deem the Application abandoned and therefore denied. If your client still wishes to pursue the Project, it seems that both of our clients would be well-served by having a schedule in place for the Planning Board's receipt of the outstanding Application materials and the Planning Board's continued review of your client's proposed project.

Very truly yours,

Harter Secrest & Emery LLP
Leslie M. Connolly

Attorney Connolly sent the letter to Attorney Saitta who relayed he was having a difficult time getting a reply from his client Mr. Todd and had not received anything further. Attorney Connolly advised the Board to close the public hearing on the Chamberlain Acres project and deem the application abandoned. She advised that the application was incomplete and that the Board never received a full application from Mr. Todd. She explained that the application that the Planning Board has on file is very different from what Mr. Todd had verbally conveyed. Mr. Todd would need to re-apply for a Site Plan Amendment if he decided to pursue further development of that property.

Hearing no other comments from the Board; Chairman Parsons closed the Public Hearing of Charlie Todd. Board Member Peterson made a motion to deny the Site Plan Amendment of Charlie Todd due to the fact that the application is incomplete and has been abandoned; Board Member Hastings seconded the motion. Discussion on the motion, Board Member Berman asked if Mr. Todd was still able to have the Farmers' Market and just cannot pursue the weddings and other events. Attorney Connolly explained that Mr. Todd abandoned his plan for the Event Center and explained that the Farmers' Market was already a permitted use.

Resolution No. 014-2021 PB

DENY SITE PLAN AMENDMENT OF CHARLIE TODD TO CONSTRUCT A 60-FOOT BY 80-FOOT GREENHOUSE TO BE USED FOR GROWING SPACE AND TO OPERATE A FARMERS' MARKET LOCATED AT CHAMBERLAIN ACRES, 824 BROADWAY, TOWN OF SOUTHPORT, COUNTY OF CHEMUNG, STATE OF NEW YORK, TAX MAP #99.18-5-18 ZONED COMMERCIAL NEIGHBORHOOD

Resolution by: Peterson
Seconded by: Hastings

WHEREAS, on or about March 17, 2020, Charlie Todd submitted an application to the Code Enforcement Officer for approval from the Town of Southport Planning Board for a Site Plan Amendment to construct a 60-foot by 80-foot building to be used for his farmers' market and wedding events located at 824 Broadway, Town of Southport, tax map #99.18-5-18 zoned Commercial Neighborhood; and

WHEREAS, the application for the Farmers' Market was submitted to the Town Planning Board and defined as a Flea Market per the Town Code definitions Chapter 525-5 Definitions; and

WHEREAS, an amendment to the Town Code would be required to allow for an "Event Center" as a permitted use; and

WHEREAS, the application was submitted to the Chemung County Planning Board for their review where the County was concerned with the parking, connection to the public sewer or septic, and the incomplete Short EAF SEQR form; and

WHEREAS, the Town Planning Board held a duly noticed meeting on June 1, 2020 at which the Applicant presented information about the project; and

WHEREAS, the Town Planning Board conducted a public hearing on September 1, 2020 at 7:00 p.m., and after due posting and publication of the same was made, was in compliance with the Town of Southport Municipal Code; the public hearing continued on October 5, 2020, November 2, 2020, December 7, 2020, January 4, 2021, February 1, 2021, March 1, 2021, April 5, 2021, May 3, 2021, June 7, 2021, and July 6, 2021; and

WHEREAS, at those public hearings, any and all individuals wishing to be heard were then and there given the opportunity to do so; and

WHEREAS, subsequent to the Town Planning Board September 1, 2020 meeting the Town Attorney provided Mr. Todd's legal counsel with a

list of outstanding project and State Environmental Quality Review Act ("SEQRA") information required by the Town Planning Board to review Mr. Todd's proposed project; and

WHEREAS, the Town Planning Board has not received the required information and neither Mr. Todd nor his representative has appeared before the Town Planning Board since the Town Planning Board's February 1, 2021 meeting; and

WHEREAS, the Town Attorney advised Mr. Todd's legal counsel, by correspondence dated June 30, 2021, that the Town Planning Board would close the public hearing and deny Mr. Todd's application if confirmation of Mr. Todd's intent to pursue development at 824 Broadway was not received in advance of the Town Planning Board's July 6, 2021 meeting; and

WHEREAS, Mr. Todd has failed to confirm his intent to pursue development at 824 Broadway and has not otherwise responded to the Town Attorney's June 30, 2021 correspondence, it is therefore

RESOLVED, that the Town Planning Board hereby denies the Site Plan Amendment of Charlie Todd and deems the application incomplete and abandoned.

AYES: Berman, French, Hastings, McGonigal, Parsons, Peterson, Warner

ABSENT: Dygert

NOES: None

MOTION CARRIED.

No other business to come before the Board. Board Member French made a motion to adjourn the meeting; Vice Chairwoman McGonigal seconded the motion. All were in favor. The meeting was adjourned at 7:20 p.m.

Respectfully submitted,

Michelle Murray
Planning Board Secretary

Original on file with Town Clerk

cc: Planning Board
Town Board
Town Clerk
Town Attorney