

LIVINGSTON PLANNING BOARD

February 07, 2024

The regular meeting of the Livingston Planning Board was held 07 Feb 2024 and opened at 7:00pm with the Pledge of Allegiance.

In attendance:

Robert Bellinger (Planning Board Chair)
Rebecca Harcleroad (Deputy Planning Board Chair)
Brian Molinski
John Ross
Chip Keil
Craig Dombrowski
George Weidler (Planning Board Alternate)
Jeremy Steuhl (Planning Board Secretary)
Andrew Howard (Planning Board Attorney)

Absent:

Stephen Thibeault
Michell Mormile (Town Engineer)

Correspondence:

Email from David Birch regarding PB-28 - Subdivision (David Birch GCARD LLC) Board Review

Participants

- Wyatt Lucas
 - JP Scurry
 - Beth Haring
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Minutes

Meeting started with the Pledge of Allegiance at 7:00pm. Roll call at 7:01pm.

Motion to amend 03 Jan 2024 meeting minutes. It was noticed that Mr. Ihlenburg was named as appearing for Mr. Birch's application. Meeting minutes updated to correct that. Motion to accept minutes as amended from 03 Jan 2024 by George Weidler, 2nd by John Ross. All in favor. Motion approved.

Old Business

A Special Use Permit application. State Route 9 and Orchard Road. Construction of a small warehouse with adjoin office. A distribution facility to operate 24-7.

- Wyatt Lucas and JP Scurry returned to discuss their approval from the 03 Jan 2024 meeting.
- The reason they are returning is due to the number of conditions. Concerned about severity of the restrictions, since they did apply for a 24/7 use permit.
- No tandem trailer. Tractor trailer would be WB53.
- 48" dock on the building that WB53 would back up to and drop off it's load.
- Smaller box trucks would load up and head out to customers.
- Current conditions would limit the operations....Inclement weather, driver calls out sick etc.
- Applicant stated that during peak seasons, they could require more frequent deliveries, outside of the hours. It will not be a caravan of trucks.
- The parameters provided were what the expected tenant would normally operate, but are not always the case. Applicant didn't realize that these parameters would be conditions of the special permit. They will not be able to move forward as is, since their is too many restrictions and too many fluctuations in busy that need that flexibility.
- The original request of the special use is 24/7. The tenant will not sign the lease if they cannot operate 24/7.
- Attorney Howard stated what the special use permit is and how it's not a straightforward site plan. Where there is a distinction between a permitted use and a special use.
 - In the future if the owner wants to come in and request adjustments to their special use, it is welcomed.
- Attorney Howard read the conditions that the applicant wants to remove.
- Parking and septic is designed for 14 employees, even though they do not intend to have 14 employees work on site. The building is naturally limited to the number of employees that could be on site.
- Attorney Howard clarified what an employee is working on the site. If it's a guest or visitor, that does not count as an employee.

- Rebecca Harcleroad asked if West Ghent would close, if they move to Livingston. Answer was not confirmed, but thought to be yes. Applicant did not want to speak for the tenant.
- George Weidler commented, in his experience it always been historic practice, that if the product isn't on the truck today, it doesn't go out until tomorrow.
- Craig Dombrowski asked if tenant will not sign the lease if these conditions were not removed. Applicant answered yes.
- Attorney Howard discussed what the board is allowed to do under the law in amending the conditions.
- Wyatt Lucas said if they knew that the original questions were to limit what they could do, they would have replied differently.
- JP Scurry stated, that the answers were truthful, and don't expect them to be any different that what was answered, but their tenant will not sign the lease as it currently is.
- Brian Molinski says leave everything as is, except #1. Add the additional days as originally requested. The rest of the resolution stays the same.
- Wyatt asked if this board approved the permit for Alltown Fresh. If so, he doesn't see the difference between their operations and this site. The board did approve it and Attorney Howard stated he was not the attorney at the time.
- John Ross states we need to redo the conditions, public hearing etc and that the people in the town should have a say.
- Beth Haring, of Haring properties discussed her role in this and that she lead the applicant to the property and thought it would be a good fit. She has lived here all of her life. She sold the property across the street and she did not see them at any of the meetings or having an issue with this project. She mentioned, that to her knowledge, there was no direct neighbors that came to any of the public hearings, just people who lived in the area. Question about who enforces the rules and told her that the CEO does the enforcement. Again to her knowledge, there was no direct neighbor who objected.
- Wyatt discussed how they have planned to screen the building off from the road with landscaping and have went above and beyond to make it look nice.
- Brian Molinski asked if Hannaford had any restrictions. It was not known at this time. Someone from the audience mentioned they have seen trucks at Hannaford at 3:00-4:00am.
- Bob Bellinger stated that the conditions are set based on what you answered.
- Wyatt replied that if the questions where asked in a manner of "you will be held to this", they would not have answered that way.
- JP Scurry is concerned that they spent all of this money and didn't realize they would be this restricted, he feels there's something flawed in this process. They're just now finding out after all of this time the details. He thought the special use should have been addressed at the front end of this process, where if they had known then that this would not work, they would not have had to spend over \$125,000, by putting site drawings together etc.
- Wyatt stated that the first few meetings, he asked if they could address the special use for 24/7 and treat the site plan separately.

- Attorney Howard stated that at the previous meeting the conditions were set and voted on and the applicant could have said something then. He did not, because he was caught off guard by the process.
 - Bob Bellinger asked the tenant would want to come back and put in a new special use permit to change conditions. Wyatt said it was a non-starter, since the tenant will not sign the lease.
 - Brian Molinski is firm on current resolution.
 - Attorney Howard stated that the board approved what was discussed and based on the comments heard, if this was a 24/7 no restrictions, as many trucks you want per day, they likely would not have approved the application. The board crafted reasonable conditions to accommodate the public and the applicant. That's the attorney's opinion.
 - John Ross will go with what was passed and leave it the way it is.
 - Rebecca Harclerod, Craig Dombrowski agreed.
 - Attorney asked if there was a motion to bring back for a vote and public hearing to reconsider the resolution. No one answered the motion. The current resolution will stand with the correction for 6 days a week for tractor trailer deliveries.
 - Applicant advised if they want to change anything, they will need to put in a new special use application.
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There being no further business, a motion to adjourn was made by Brian Molinski, 2nd by John Ross. All present voted AYE. Motion passed. Meeting closed at 19:51.

Next scheduled meeting will be held 06 Mar 2024.

Respectfully submitted,

Jeremy Steuhl
Secretary Livingston Planning Board