

Members Present:

David Everett, Chairman
Mitchell Khosrova, Dep. Chairman
Robert Leary
Jeffrey Lick
JP Henkel
Adrianus Ooms

Absent:

Kary Jablonka, notified

Public Present:

See attached list

Chairman Everett called the meeting to order at 7:00 PM. The Pledge of Allegiance was recited.

A motion was made by Robert Leary to approve the minutes of the November 26, 2013 meeting. Chairman Everett asked that the minutes reflect that a stenographer was present for this meeting and a copy of the transcript is on file. Adrian Ooms seconded the motion, carried.

Jacob Meyer of 4225 Route 66, Malden Bridge, NY 12115 requesting a Special Use Permit regarding converting the first floor of an existing two story detached structure into a living space which would create a two family residence.

Public Hearing

Mrs. Rosamond Meyer presented certified mailing receipts, a short form SEQR and a letter from an engineer. There are copies of two Certificates of Occupancy for this property on file. JP Henkel clarified with Mrs. Meyer that this project is for a home with two (2) apartments that are not permitted without a Special Use Permit. This building will be converted from a single family to a 2 family residence. Tal Rappleyea commented that a site plan review is not applicable to this project.

JP Henkel made a motion to open the Public Hearing at 7:07 PM. There were no comments from the Public. Mitch Khosrova made a motion to close the Public Hearing at 7:08 PM, seconded by JP Henkel, motion carried.

Jeff Lick questioned whether the proposed action is consistent with the proposed action plan as stated in question number 5 on the SEQR form? The Board agreed that it was. JP Henkel made a motion to adopt the SEQR seconded by Bob Leary, motion carried. Adrian Ooms made a motion to approve the Special Use Permit; Jeff Lick seconded the motion, carried. Mrs. Meyer will send the \$50.00 application fee to the Board.

Michael A. Polemus of PO Box 204, Old Chatham, NY 12136 requesting an Area Variance to erect an 8 foot high wire deer fence along the same setback as an existing picket fence.

Public Hearing

Mr. Polemus provided certified mailing receipts to the Board as well as a letter from the Columbia County Highway Department. He stated that he had two phone calls from neighbors stating that they supported Mr. Polemus' project. One of those neighbors did have a concern that the fence was going to be on their yard. Mr. Polemus noted that it was not. Mitch Khosrova asked Mr. Polemus to explain where the fence would be on the survey map. Mr. Polemus stated that if the location of this fence is an issue he can put the fence back further. Tal Rappleyea noted that a variance on the height of the fence was not required.

Mitch Khosrova made a motion to open the Public Hearing at 7:17 PM, seconded by David Everett, motion carried. It was stated that this application is exempt from a SEQR and Environmental Review. JP Henkel made a motion to close the Public Hearing at 7:18 PM, seconded by Dave Everett, motion carried. Mr. Polemus stated that he would be leaving the white fence up. JP Henkel made a motion to approve a 2 foot variance on the side for the wire deer fence and a 5 foot variance for the front, seconded by Dave Everett. Motion carried. Mr. Polemus will contact the building inspector for any fees owed.

Special Use Permit Modification for the PS21 performance arts facility which is owned by Questaterra, LLC located at 2980 State Route 66.

Continuation of Public Hearing

Chairman Everett opened the continuation of the Public Hearing for PS21 at 7:25 pm. He asked that everyone on the Board and from Crawford and Associates state their name for the stenographer. A written transcript will again be available on file.

The Chairman stated that the Board has received letters from Paul McCreary, the Town Engineer from Morris Associates, Crawford Associates, Acoustic Dimensions, Scott Longstreet, Esq., Patricia Laskey and a dozen or more emails in support of PS 21. Chairman Everett asked Mr. McCreary to discuss his letter to the Board during this hearing.

Ms. Brandee Nelson submitted the receipts for mailing and explained that they have not heard anything from the NYS Department of Transportation regarding entrance or use changes and they do not anticipate having to make those changes. At least a dozen or so calls have been made to Region 8 and there has been no response. She also commented that they received a letter from the fire chief stating that the fire company did not have any concerns but they would like to be kept in the loop regarding the installation of the sprinkler system.

There was discussion regarding a conservation easement letter. A letter from Scott Longstreet, Esq. dated 12/12/13 was read. Town Attorney Tal Rappleyea stated that the first approval was for an apartment only. Also approved were 3 part time residences to be built for the performers. The existing buildings on the property have already been approved. Judy Grunberg stated that there is a converted garage with an apartment on the property and the garage is used for storage in the winter. Chairman Everett asked Ms. Grunberg to provide additional information regarding the white house that is on the property as well.

Brandee Nelson spoke about building alternatives and berms that will be in various locations to help further reduce sound propagation. A model of the new building was displayed showing an entry retaining wall and showing the roof raised by 15 inches. The North berm will be substantial with excavation. The roof overhangs were also extended to minimize the impact on sound. There will be an exterior patio area used during intermissions. There will also be a control room for the electronics. Brandee Nelson stated that they have done some calculations and they may not have to bring any fill in to form the berms. Chairman Everett asked Ken Andria the architect regarding the west side doors being a problem with sound coming out of them during rehearsals. Ken stated that the doors will be closed during the performances and open for loading equipment into the building. Mitch Khosrova asked that a commitment be made to make sure the doors will be closed during performances. JP Henkel asked that this be extended to rentals as well.

Chairman Everett referred to Paul McCreary's letter stating that this building will be better than the current tent making the sound lower and since we don't have decibel levels listed in the Building Code, based on the information we have we have learned a lot since the code was written and since we don't have a noise law.

JP Henkel asked if the report dated 12/11/13 was based on the new design and the increases/decreases were based on the tent. He was informed yes. Bob Leary commented that they are not eliminating noise; they are just decreasing it at the property line. Ken Andria stated that it will be decreased significantly.

Chairman Everett asked Paul McCreary to talk about his letter. Paul stated that there are no issues with SWPPP or the Acoustic Design report. He agrees with the sound level prediction for the property line and commented that they looked again at ENCON's assessing and mitigating noise impacts stating that the state looks at what the ambient sound is. Since this is in an RL-2 zone he gave a scenario if you were to apply what the state uses depicting whether an object has little or no impact. He stated that the sound source would have to be reduced to 6.7 DBA to the southern property line. Since this is a residential neighborhood there is an ambient level that exists there. JP Henkel asked if the applicant would be willing to commit to 98 DBA as a source maximum? Brandee Nelson commented that this would need to be considered. She also referred to page two of Mr. McCreary's letter stating that they have been working very hard to listen to comments made and to work with them.

JP Henkel asked Ms. Nelson how many amplified events does PS21 have? She responded roughly one third (1/3). Mitch Khosrova commented that for over 10 years PS 21 has stated that they want to be good neighbors. They are getting closer to what that means taking into account percussion instruments, etc. We are trying to find a level we can all live with. If you lower the sound source, you take away that noise. Now they need to bring it down to 98DBA. Ms. Nelson commented that they are already showing that with the new design. The Board all agreed that everyone wants to get to an acceptable level. JP Henkel commented that no solution can resolve an issue if a neighbor is choosing to be annoyed as opposed to a genuinely obtrusive noise. He also commented that he was very impressed with the new plan and the amount of mitigation that was accomplished in 3 short weeks.

Brandee Nelson asked that they take a break so she could consult with the members of the PS21 Board as well as Mr. Stoller and Mr. Andria.

The Board took a break at 8:22 pm. The Board resumed at 8:40 pm with the Public Hearing.

Brandee Nelson read the letter from Scott Longstreet, Esq. dated 12/2013 in regards to the current use as a permitted use and that it's the modification that is in front of the Zoning Board. She stated that the Board should also acknowledge that PS21 has brought down the noise level and they are comfortable with the 98 DBA noise level as measured on the floor for sound amplified events. She also stated that they don't want to say that no one will ever hear this though. Mitch Khosrova commented that the Board appreciates what PS 21 has done so far. JP Henkel commented that he wanted to keep this facility inappropriate for a "Guns & Roses" type concert since the houses surrounding this will be there for a long time. Paul McCreary commented that it is highly likely that the RL2 Zone description may not stay if you look into the future with more residents there.

Chairman Everett discussed that during the last meeting it was mentioned about putting into the contracts the decibel levels for performances whether it be professional or rentals. Judy Grunberg stated that they would need to write that into every contract. There was more discussion regarding the decibel levels. JP Henkel noted that the concerns from neighbors are the drone of sound every night, there isn't as much concern with the occasional drum line.

Mr. Stoller noted that the model represents the entire property. Tal Rappleyea stated to identify this as a site model which shows trees and other structures on the property. Chairman Everett asked that Mr. McCreary put together a noise monitoring protocol and send it to the Board and to PS21. JP Henkel commented that he would like to know what happens next and if the Board does decide the decibel number and the math is wrong what do we do? Tal stated that we have also heard that those decibel numbers will bounce around according to wind and humidity, etc. It was suggested that a noise monitoring test be done to give the Board the answers they need.

Chairman Everett read the 2010 conditions for approval numbered 1-35. The following items were noted for any changes; (attached to file)

#3- put as amended

#5- change Phase I to Phase II

#7- obsolete, needs to remove

#10- obsolete, standpipes are in place

#13- remove, will be public water supply

#17- reference revised application, take out DIS

#18- no longer relevant- Tal stated that he would like to have some background stating that the tent goes away

#19- change Phase I to Phase II

#20-change Phase I to Phase II

#21- Brandee Nelson asked that this remain the same for times; Sun-Thurs 11:00pm, Fri/Sat- 11:30pm

Mitch Khosrova asked that the Sunday- Thursday limit be until 10:30pm and Friday/ Saturday people should be leaving by 11:30 pm. Ms. Nelson asked that there be some flexibility on this to keep it at 5

occasions /events that the times may go over. Mitch asked to define "event". Tal offered that event definition should read "All events where sound is produced needs to end at 10:30 pm. Audience member Sam Reilly and PS21 employee, was concerned that 10:30 may be too early on movie nights. The Board agreed that it should be 10:30pm across the board with 5 events going over that time limit. Bob Leary stated that he believes it should be at 10:30 pm all the time no matter what.

#22- change to 11:00am. No event shall begin prior to 10:30am. The definition of event should be included here.

#23 -obsolete- hope to have indoors

#25- not relevant- no wetlands but the rest is ok

#28- modify schedule B and 5

#29- needs to be revised- need to remove "relate only to Phase II"

#32- if it hasn't been done, provide it

#34- seasonal use clarification- put employees. Leave condition in as modified with site plan approval

#35- stipulate all other conditions apply to them

In reference to a letter received from Patricia Laskey; (attached to file)

#2- add in

#3 -already have

#4- not an enforcement body, if there is a violation it would go to Walt Simonsmeier

#5- contact Walt Simonsmeier

#6- During weddings, people should be permitted to go outside. In the definition of events it should include the hours.

Mitch Khosrova made a motion to close the Public Hearing at 10:03 pm, seconded by Bob Leary, motion carried.

The Board will go through Part II of the EAF. There will be training for the Planning and Zoning Boards on January 7th at 7:00pm. The next meeting will be held on January 23rd at 7:00pm.

With no further business to discuss, Jeff Lick made a motion to adjourn at 10:05 pm, seconded by JP Henkel, motion carried.

David Everett, Chairman

Respectfully submitted,
Barbara A. Fischer, Clerk