

**Members Present:**  
**David Everett, Chairman**  
**Mitchell Khosrova, Dep. Chairman**  
**Robert Leary**  
**Jeffrey Lick**  
**JP Henkel**  
**Kary Jablonka**  
**Adrian Ooms**  
**Tal Rappleyea, Town Attorney**  
**Paul McCreary, Town Engineer**

**Public Present:**  
**See attached list**

Chairman Everett explained to the audience the role of the Zoning Board of Appeals and informed everyone that this was not a Public Hearing for the applicant Generation Impact therefore the Board would not be taking comments.

Chairman David Everett called the meeting to order at 7:00 PM. The Pledge of Allegiance was recited. A motion was made by Mitch Khosrova to accept the August 22, 2013 minutes as presented, Kary Jablonka seconded the motion, carried.

**Generation Impact of 510 County Route 32, North Chatham, NY 12132 requesting a Special Use Permit to change a current residential use to a church on 16 acres with the addition of a parking area and an assembly building.**

#### **Informational**

Steve and Carol Ann Price representing Generation Impact presented display boards depicting the new church. They proposed to maintain the rural character of the site behind the existing house and the existing building would only be seen from County 32. They plan to build an 80x60 assembly building that would be similar in style to the existing buildings and to screen the existing site. An aerial view was shown of the property. Chairman Everett informed Mr. and Mrs. Price that a new short form SEQR has been updated and they would need to fill this out. Chairman Everett referred to Town Engineer Paul McCreary to begin looking at the impacts such as septic, lighting and water. The Prices' attorney was informed to contact Town Attorney Tal Rappleyea and Mr. McCreary to set up an escrow account.

Chairman Everett expressed some concern regarding screening the parking lot of this proposed project and questioned whether the applicant could move the lot to the other side of the existing building. The Board was informed that there is a current congregation of approximately 100 members but there would only be 70 parking spaces. The new assembly building will hold 200 people and the lot will be a gravel surface.

The chairman asked Mr. and Mrs. Price to contact the Highway Superintendent for curb cuts and he would like some written correspondence from him regarding the site distance as well. JP Henkel asked that the Fire Chief also be informed of this project.

Chairman Everett asked whether the screening and the lighting had been decided upon yet and he was informed that it was not. He suggested that they may want to fill in a gap with screening or possibly move

the parking behind the existing building. He also stated that they should consider the light spillage off of the site and to make sure the lights are directed downward and that they have shields on them. Mitch Khosrova asked if anyone had contacted the Fire Chief and if they were going to replace the existing trees. Mr. Price stated that they will use the existing trees. Mitch Khosrova also inquired about the usage of the building. Mr. Price stated that the building will be used on Sunday mornings for Sunday school and on Wednesday evenings for prayer services.

Chairman Everett informed Mr. and Mrs. Price that they would need to get a SPEDES Permit even if the parking lot is gravel with pre-draining and questioned if the Board would become the lead agency. Mitch Khosrova made a motion to have the Zoning Board of Appeals be the lead agency and the coordinators of the review process. Kary Jablonka seconded the motion, carried.

Chairman Everett also suggested that the applicant expand on the septic system layout and that the Department of Health will need to look at the water and septic plans. The Board was informed that the water has been tested previously and they are unaware of any swamps or ponds located close by for fire protection. Mitch Khosrova asked that the applicants also speak to the Fire Chief regarding the building code and to see if fire apparatus would be able to maneuver around the building easily. Mr. Price commented that the building was not required to be sprinklered. Town Attorney Tal Rappleyea stated that the applicants should have a positive written statement showing that all issues have been looked at if they are to be eliminated.

Robert Leary asked if the applicants had given any thought to matching the brick home that already existed instead of building a 6700 square foot pole barn? Mr. Price stated that they have not decided on the color of the building. Mr. Price was reminded that this information should be supplied at the next meeting to be held on November 26<sup>th</sup>. There will not be a Public Hearing for this application until at least the December meeting. He also stated that comments from the audience would not be beneficial at this time. JP Henkel inquired about the use of the existing house and garage. Mr. Price informed the Board that the existing house is being used for church functions such as a food pantry, banquets, prayer, counseling, and life crisis counseling as well as the mechanical repairs of autos owned by church attendees in the garage. There is no one living in the house at the moment. Mitch Khosrova asked about holding wedding banquets the auditorium. Mr. Price stated that they will be holding banquets for parishioners as well as the general public. There will be approximately 6- 8 events in the house during the year and there will also be fixed seating for 200 people in the assembly building. Tal Rappleyea commented that the Board will need to know the potential traffic impacts and area showing the loading of church attendees.

The applicants were asked to provide all of the information that the Board discussed with them this evening at least 10 days before the next meeting to be held on November 26<sup>th</sup>.

**Jacob Meyer of 4225 Route 66, Malden Bridge, NY 12115 requesting a Special Use Permit regarding the conversion of an existing two story detached structure into a two family residence.**

#### **Informational**

Jacob Meyer and Rosamond Pope-Meyer stated that next to their existing house is a separate structure with an apartment on the top floor that they will continue to rent. The bottom floor is an unfinished

area where they would like to put in an exercise space/office/studio with a kitchen and a bathroom. They presented the Board with an updated floor plan which would create a two family residence. Mitch Khosrova asked if there is an existing Certificate of Occupancy for all of these buildings and Mr. Meyer said he was unsure. They will check with building inspector Walt Simonsmeier and get a copy of the C of O. Both units will each use a separate septic system according to Mr. Meyer and Chairman Everett advised Mr. Meyer to check with the Columbia County Health Department to see if the septic system is approved for this project and information regarding whether or not there is sufficient water capacity for this property. Jeff Lick commented that this is basically a third apartment and they may want to separate this property and sell it at a future time.

The Board asked that Mr. Meyer provide them with a full site plan showing the surrounding properties as well as a full version of survey plans for the building pointing out where the septic and wells will be located by the next meeting to be held on November 26<sup>th</sup> at 7:00 pm. Chairman Everett also reminded Mr. Meyer that he will need a new EAF that he can download from the DEC website to bring to the next meeting.

**Special Use Permit Modification for the PS 21 performance arts facility which is owned by Questaterra. LLC located at 2980 State Route 66.**

**Public Hearing**

Chairman Everett asked Brandee Nelson from Crawford & Associates who are representing PS 21, to give a presentation to the audience regarding this project. Ms. Nelson proceeded to state that PS 21 was seeking a modification to the project that was started almost 10 years ago in 2005. This was the first phase of the project with a tent for the summer months. There are currently 405 seats for this facility which runs performances from mid- May through mid- October. The open air portion currently allows 300 people. A DOT entrance was installed on Route 66 and a gravel driveway and parking lot with 170 parking spaces was constructed. After using portable rest rooms and trailers for artists to use, the PS 21 Board looked at what the future would hold for this project. The current tent is almost at the end of its useful life and the Board would now like to build an 80-100 square foot open air pavilion while keeping the same number of seating at 300. They are decreasing the amount of parking spaces and the land disturbance is down by approximately 75% from the original proposal. This new building will have an East/West orientation rather than a North/South orientation that it has presently. They are looking at this as a long term investment and having an office space for a box office. There is a new potable water supply that has been approved by the Department of Health which was flow tested and quality tested. They are currently filing the application to the DOH for the water supply. They are eliminating a kitchen area making the use of water at 1200 gallons per day which is a 75% reduction of what was originally planned. No new lighting will be installed but rather 10 bollards will be re-located. PS21 will be disturbing more than one acre of this site but they have a current SPEDES Permit. There will not be an increase in traffic because they will have fewer seating but the operations will remain the same.

Ms. Nelson showed the audience the proposal before the Board and stated that they will use the original septic plan because it is in the best location but it will be a smaller system. Ms. Nelson showed the architectural rendering of the project which shows an open air design. The long term plans are to have a fully enclosed space but it is not financially feasible to make it such at this time. The building itself will be an earth tone color and commented that the percentage of having an open building as opposed to a closed building is 1/3 closed to 2/3 open. Speakers will be mounted above the stage and directed at the audience. Storage facilities will be located in the basement level.

The Board asked about fire suppression. Ms. Nelson commented that if there are to be over 100 occupants in the building the building needs to be fully sprinklered. They will have a cistern holding facility. They have not met with the fire department yet to discuss this. Chairman Everett asked Ms. Nelson to provide a SWPPE to the Board if there is a continuation of this hearing next month.

JP Henkel asked whether PS21 has looked at the berm to the north that was presented at an earlier meeting? Ms. Nelson stated yes and they are considering the input that Town Engineer Paul McCreary presented to them at that meeting.

Chairman Everett commented that he would like Mr. McCreary to give some input as to how high and how wide, etc., the berm would need to be. JP Henkel asked if the excavation would yield enough soil to form the berm and he was informed yes.

Bob Leary commented that he has heard a lot about reduction but what about noise reduction? Ms. Nelson commented that PS21 has consistently complied with noise issues and they invite the Board to come to events to monitor the noise with them. A couple of Board members stated that they have visited the site already. Dave Everett asked if they were having lawn seating and Ms. Nelson replied no. Ms. Nelson asked the Board to visit the site again at a date to be determined in November before the next meeting. Tal Rappleyea reminded the Board that no more than three Board members may meet at one time otherwise it constitutes a quorum.

Ms. Nelson also stated that they already have a permit from DOT and they received a copy of the letter from the Columbia County Planning Board recommending the Board approve the site of this application. The County Planning Board recommends that additional sound monitoring be done as well. Chairman Everett commented that the escrow account needs to be checked to see if it is up to date and the Board would also need the comments of Paul McCreary in writing as well as a SEQR.

Dave Everett moved to have the Zoning Board of Appeals be the lead agency for this project, Mitch Khosrova seconded the motion, carried. Attorney Rappleyea will write the letter designating the ZBA as the lead agency for this project.

Chairman Everett stated that the Board will need Part II of the EAF for the next meeting and asked the Board members to go over the new information packet that was provided to the Board. Ms. Nelson also commented that copies of the entrance plans, DOT Permit and a request for a speed limit reduction has been forwarded to DOT. A copy was also sent to the Zoning Board for the files.

Tal stated that a SEQR should be done to do a finding at least during the context of the Public Hearing or before the next meeting.

Engineer Paul McCreary was asked to review what this applicant intends for this site and to explain the noise level that would be generated by the facility. Mr. McCreary explained how sound gets generated and dissipated over distance and showed a "Decibel Thermometer" pointing out the different decibel levels that give you an idea of what a given sound would be. The Board asked Mr. McCreary to go back to the site and do a site reanalysis of the berm sound source intensity level. Mr. McCreary stated that there would be a sound reduction around the building once a berm was made from the soil from the excavation

for the onsite septic etc. He recommended that the north side of the property receive a berm and he does not anticipate any adverse impacts to the east.

Mr. McCreary drew a sound source depiction on the board which would determine the proximity of the sound source. It is hard to determine how far the sound will travel because there are no really hard surfaces for the sound to reflect off of. JP Henkel asked if there would be any reflection back to the west because of the berm? He commented also that having this berm would improve things for the west and the north but it might make it worse for the east. Mr. McCreary stated that he feels that side would be protected much more than the original tent site with this berm tied into the natural berm that is there already. He also commented that filling in the low areas with soil would help but he felt that because of the distance it would not help with the noise. Kary Jablonka pointed out that the 55 decibels that Mr. McCreary made reference to for this site is equivalent to a residential range of a conversation or a floor fan. This is normal background noise.

The Board asked PS 21 to present a design of land berms for the next meeting because they are concerned with changing the character and vegetation of the land.

Ms. Nelson asked the Board to see the current view shed on Route 66. She stated that the berm to the north is on the west side of the hill but you don't see it. There is a saddle created between two high points which is about 400 feet. She stated that the objective of PS 21 is to be light on the land and not truck in more dirt to impact the land.

Chairman Everett asked Mr. McCreary to provide an opinion on whether having berms for the new facility would be an improvement to the existing site or if it would be tough to tell. Mr. McCreary stated that having a berm north of the structure will satisfy the Board and the applicant and he feels that the sound leaving the facility will be less with the new facility than the tent. He also stated that the sound at the property line is within proposed Zoning Code limits. Chairman Everett stated that modifications were made back in 2010 and commented that PS21 was agreeing to keep all the conditions as currently proposed as they were back in 2010. He asked Ms. Nelson if PS21 was proposing to change the configuration of the original closed facility and she responded yes. The Board will look into the Finding Statement and the noise protocol that was approved back in 2005 so clarification can be made on what the limits were from 2005 and 2010.

JP Henkel described his visit to the site to check the sound levels during a recent concert. He showed a map of where he went to listen for the level of noise coming from the site. As he went north of the tent he did not hear anything and then traveled to the Route 66 entrance to the side of the tent and could make out some noise but it was muffled. He then went to High Bridge Road and stated that lyrics were barely audible. He then drove to The Behrens residence on White Mills Road and stated that he could hear the music like it was in the next room. This was the worst possible area for the noise to be heard. Mr. Henkel agreed that a changing the building orientation and a berm will provide much relief to the Behrens property.

The Board opened the Public Hearing at 9:00 pm.

Terry Lasky took exception to the comment made by Ms. Nelson stating that there have not been any complaints when he stated that he had left messages with the Town Clerk regarding the noise. Ms. Nelson

clarified her comment stating that she meant recently. Jeff Lick commented that the Board was informed of complaints after a recent “Rock a Billy” concert.

Abby Behrens of White Mills Road stated that she had not written a complaint before because her family wanted to be “good neighbors”. She stated that for 8 years her family has been listening to good and bad concerts and feels it is an invasion of her privacy. She asked Ms. Grunberg and Ms. Nelson to “work with us as we have worked with you”. She commented that rehearsals have gone to 11 or 11:30 at night and believed that this was a request for a 3 season structure which will allow the rehearsals and concerts to increase. She is concerned that there will be weddings and other events and would like it in writing that they will not be having these. She asked PS21 to do what they have to do to smooth this out and try to work together. Chairman Everett asked Mrs. Behrens if she had any recommendations and she stated that she would have to study further. Ms. Grunberg stated that a dress rehearsal was a little loud and she apologized for that. Dave Everett commented that events should include rehearsals and this needs to be differentiated.

Patricia Lasky read a letter stating that PS21 has gone before the Board before and every request has been granted. She stated that the neighbors of PS21 have suffered for 8 summers and by the time the noise reaches their house it doesn’t sound like music. She commented that over and over again they have been told that PS21 noise was not significant. She stated that now is the time for PS21 to build a fully enclosed building to operate year round as promised. She also stated that because they did not complain they are being punished.

Mark Jackson from 112 High Bridge Road read a letter to the Board asking if any PS 21 management had visited any neighbors who have been affected by the noise. He asked how a decision could be made without visiting the neighbors and PS21 has only benefited a small group of people, not the whole community.

Chairman Everett asked Ms. Nelson to explain why the building can’t be enclosed at this point. Ms. Nelson stated that it would cost 3 million dollars more for the glass, electrical systems and mechanicals. Ms. Grunberg stated that they are trying to do this in phases. Chairman Everett pointed out that the submissions made to the Board say it will be a 3 season building. Ms. Nelson replied that the season will remain from May to October.

Kimberley Costigan from 3088 Route 66, the last house before High Bridge Road, also stated that she has not called to complain because that is not what she would do. She feels this is a great project but it keeps getting added on to. She is not informed when changes are made because she is out of the 500 foot limit. She feels that it is time for some closure on this project.

Chairman Everett asked Paul McCreary to explain why a location is so significant based on everything else he has told the Board. Mr. McCreary stated that he could not give a definitive answer to that question because sound is affected by cloud cover, wind, etc. It could be a combination of several things and it is difficult to analyze at any given time. Ms. Nelson will consult with the architect regarding the acoustic design concerning the speakers placed at the roof of the stage and how high the berm may have to be. When the height of the berm is determined PS21 will come back to the Board with the acoustic information. Mitch Khosrova commented that he was concerned that people are hearing noise after 11:00 pm. Ms. Grunberg again stated that she was sorry that had happened and commented that they have also had 2 weddings and a funeral service in the last two years.

Lisa Tuthill of 3066 Route 66 stated that this was the first time she had heard about all of these issues and stated that she has had the exact same concerns.

Ms. Lasky again commented that there are a number of neighbors who could not attend this evenings meeting and they also had concerns. She stated that it has been 8 years that they have been patient and felt that it was there civic duty to keep quiet. Her issue is when/if PS21 will ever enclose the building.

Chairman Everett stated that the Board needed to decide if the Public Hearing should continue until December to allow any other neighbors to come forward. The Board agreed to continue the Public Hearing to the December meeting.

Kim Costigan again commented that if this project is going to have a septic system, how would this impact the availability of water to her well and to her neighbors which brings in to question the water availability as well as the quality of the water.

Mr. Lasky asked if beer and wine is sold at these events. Ms. Grunberg stated that they did have two events where they served beer and wine but they had a license to do so. Chairman Everett stated that the Board had no control over a liquor license. Ms. Behrens was concerned that if there are weddings being conducted on the site, how does this expose the Town and does the Town benefit from this at all?

Chairman Everett asked the Board members to study the proposal and to look at all of the documents before the next meeting to be held on November 26<sup>th</sup> at 7:00 pm at the Town Hall.

With no further business to discuss, Kary Jablonka made a motion to continue the Public Hearing until the November meeting and to adjourn tonight's meeting at 9:45 PM. Bob Leary seconded the motion, carried.

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David Everett, Chairman

Respectfully submitted,  
Barbara A. Fischer, Clerk