

**Town of Horicon  
Planning Board**

**September 21, 2016  
MINUTES**

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**Present at Meeting:** Chairperson William McGhie  
Vice-Chairperson Teri Schuerlein  
Michael Raymond  
Dan Freebern  
Bill Siegle

**Also Present:** Town Attorney Leah Everhart, Chris and Stephanie Norcross, Town Board member Bob Olson, Zoning Administrator James Steen and Roger Daby.

**ADENDA ITEMS: File 2016-02-SD, File 2016-06 CU**

**Pledge**

Chairperson, William McGhie called the meeting to order at 7:00 p.m.

**Approval of minutes:** Vice-Chairperson Teri Schuerlein made a motion to approve the June 29, 2016 minutes as written. Second by Dan Freebern. **ALL AYES.**

**NEW BUSINESS: File 2016-02-SD  
Tax Map # 39.-1-17.1  
Christopher Norcross  
8083 State Route 8  
Brant Lake, NY 12815**

To amend File 2016-02 SD lot 1 from 216.23 acres to 203.6 acres and lot 2 from 42.77 acres to 55.40 acres.

Chairman William McGhie asked Zoning Administrator Jim Steen to speak about the previous approved subdivision. Jim Steen stated that the original map submitted by Winchip Engineering showed the acreage as 216.23 on Lot 1 and 42.77 on Lot 2, the minimum APA allowed in that zone. After the Planning Board approved the subdivision and the property was surveyed the acreage changed. Jim stated he contacted the APA and let them know that they issued a permit based on the old numbers and the APA stated it was no big deal but advised Jim Steen that in order to clean up the paperwork the APA wanted the applicant to go back to the APA with the revised acreage. Winchip Engineering submitted the maps back to the APA and the APA will amend the permit. In order to prevent any discrepancy in the future the maps and permit will be amended.

Mike Raymond asked if we had a Public Hearing on this application and Jim Steen stated yes, there was a Public Hearing on this application.

The Board had a short discussion as to whether another Public Hearing will be necessary and determined that none would be necessary.

Teri Schuerlein made a motion to deem the application complete. Second by Dan Freebern. **ALL AYES.**

Teri Schuerlein made a motion for a finding that this application falls within the previous SEQRA review and no further SEQRA review is necessary. Second by Michael Raymond. **ALL AYES.**

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Teri Schuerlein made a motion to approve amended File 2016-02 SD lot 1 from 216.23 acres to 203.6 acres and lot 2 from 42.77 acres to 55.40 acres. Second by William Siegel. **ALL AYES.**

**NEW BUSINESS:**

**File 2016-06 CU**

**Tax Map # 88.10-1-38**

Roger Daby

6584 State Route 8

Brant Lake, NY 12815

Conditional Use approval for Section 8.20 Retail Business, General/Restaurant Fast Food

Teri Schuerlein, Vice-Chairperson asked to recuse herself from this discussion because her Deli Manager is Roger's daughter.

Roger Daby spoke about the proposed Conditional Use of his property for a Retail Business General/Restaurant Fast Food. Roger stated that he has a Veterans vendor permit from Warren County for the hot dog stand. When he first started the garage sale and after speaking with the Zoning Administrator Jim Steen he realized he would need to apply for a Conditional Use to operate a general retail business. Roger Daby stated that he hopes at some point to invite other vendors on the property.

Chairman William McGhie asked Roger where he would put the other vendors and Roger responded down in the back. He would like to have them only on the weekends.

Chairman William McGhie asked Roger Daby if he is selling hot dogs and Roger responded yes he will be selling hot dogs only in the summertime. The Health Department has inspected his cart and he has all the proper paperwork.

Chairman William McGhie asked Roger Daby if it will be a kind of grab a hot dog and go or are tables set up. Roger Daby responded he does have a picnic table set up and some people sit at the table after their order. Others just go.

Chairman William McGhie asked about parking and Roger responded that his customers don't infringe on the Post Office's parking. Roger Daby stated that he could provide a parking area if necessary because he has plenty of room to do that.

Dan Freebern stated that when Roger Daby had his store in that location he had less parking than he has now. Roger Daby also stated that he has been there for the past 50 years and he does not remember any accidents at this location except his wife and her brother.

William Siegel sees a problem with parking off of Horicon Avenue on the triangle and he stated that it's dangerous and asked if there is a possibility to park on the pond side of the road.

Roger Daby stated that there is no parking on the pond side of the road.

Mike Raymond asked Zoning Administrator Jim Steen if providing other vendors space impacts the application. In Jim Steen's opinion that would be considered an accessory use. Town Attorney Leah Everhart stated that the definition for the sale of goods does not require owner occupancy.

Zoning Administrator Jim Steen spoke with Pam Vogel at Warren County regarding the Vendor's license and the definition indicates selling on the streets and highways of the county and does not bypass any local laws to sell on your property.

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Zoning Administrator Jim Steen stated that if Roger was peddling other goods for just a few weekends it would not be a problem; however, it was raised to an everyday situation.

Mike Raymond asked Roger Daby if his intention is to enclose his merchandise. Mike Raymond's concern is that his goods are spread out all over the property and it looks like a garage sale. Roger Daby responded he considers it a flea market.

Mike Raymond asked Roger Daby if the intention is to enclose the goods for sale. Mike Raymond stated he is thinking of the esthetics. Mike Raymond stated that the Town spent a lot of money on new fencing, rock walls and other improvements and his concern is the appearance and right now it looks disheveled. Roger Daby stated that he tries to pull in some of the merchandise at night; however, the merchandise needs to be seen and he puts it out during the day. He has no intention to enclose the merchandise.

Chairperson William McGhie agrees with Mike Raymond that it looks kind of "junky" and stated that Roger indicated his merchandise is stuff he has collected over the years and also asked if Roger has any more stuff to sell. Roger responded that he has more to sell.

Mike Raymond's concern is that if approved as a flea market then it will become a consignment shop. The type of merchandise other vendors would bring in would be of a concern. Roger has no intention of this being a consignment shop.

Roger Daby stated that he would make sure that other vendors have the proper permits for selling on his property. He stated that he would try to keep the merchandise down the back and keep the front neat.

Town Attorney Leah Everhart stated that this application needs a sketch plan, a depiction indicating where the structures are to be located. A map of the site plan with measurements showing locations of displays, parking and future vendor locations. Photographs of the property are requested to be presented as well. A SEQRA form is also necessary.

Roger Daby indicated that he submitted a plot plan and Zoning Administrator Jim Steen stated that the plot plan was not included with the application submission. Roger Daby stated he would check his paperwork for the plot plan and bring it into the Zoning Office along with the requested sketch/site plan. He will submit the other information requested by the Board as well.

Mike Raymond asked about the wetland maps accuracy and Zoning Administrator explained that the GIS system maps are a little off when the wetlands are overlaid on the property maps. Warren County does not vouch for the accuracy of the wetlands and flood plain maps.

Dan Freebern made a motion to deem the application incomplete and table until the October 19, 2016 meeting pending receipt of sketch plan, requested photographs and SEQRA form. Second by William Siegel. **ALL AYES.**

Dan Freebern asked if this application is for both a Retail Business, General/Restaurant Fast Food and why the hot dog selling does not fall under the Retail Business, General. Zoning Administrator Jim Steen read the definitions of both the Retail Business, General and the Restaurant Fast Food to the Board members to clarify. This application is for both of the requested Conditional Uses.

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The Board had a short discussion regarding types of Conditional Use permits of others in the Town of Horicon that are similar to Roger Daby's request.

Town Attorney Leach Everhart stated that Zoning Administrator Jim Steen has the authority to determine that the proposed use is lawful and he has determined that Roger Daby's request is lawful.

Roger Daby was given the SEQRA form to fill out and return to the Zoning Office prior to the October 19, 2016 ZBA meeting.

Town Attorney Leah Everhart stated that Roger Daby should find out from the APA if his proposed project will need an APA permit.

Zoning Administrator Jim Steen had a discussion with the Board members regarding previously approved subdivisions and easements.

Being no further questions or comments Vice-Chairperson Teri Schuerlein made a motion to adjourn the meeting. Second by Dan Freebern. **ALL AYES.**

**PUBLIC COMMENTS:** None

**BOARD COMMENTS:** None

Meeting adjourned at 8:15 p.m.

Next meeting: October 19, 2016