

TOWN OF CONCORD PLANNING BOARD
Town Hall

February 4, 2025
6:00 p.m.

ITEM # 1:

The meeting was called to order by Planning Board Chairman Joseph Edbauer, at 6:15 p.m. Chairman Edbauer asked for a moment of silence in honor of Member David Dains who passed away on January 19, 2025 and also Mary Ellen Marlette, the wife of Member Guy Marlette who passed away on February 2, 2025.

ITEM #2: Roll Call

Present:

Joseph Edbauer, Chairman
Bruce Luno
Julie Zybert
James Jozwiak

Not Present:

Michael Cochran
Guy Marlette

Also Present:

Darlene Schweikert
Clyde M. Drake, Town Council Liaison
Thomas Roberts, CEO
Kevin Manchester, Bldg. Safety Inspector
John Schenne, DRYM Management
Meshulam Holzman, DRYM Management
Anderson Roberts

ITEM #3: DRYM Management – Abbott Road Hill project

Prior to the meeting, the Members were provided with drawings for the project for their review. Chairman Edbauer wanted clarification about the “phased” implementation that was discussed at the December 2024 meeting; he did not see anything outlined on the drawing about doing the project in phases. Will the applicant be doing the whole project at once or in phases? John Schenne advised that the applicant would like to do the whole thing at once, but they can’t. The problem the applicant is experiencing is the sewage plant at Kissing Bridge is being rebuilt; MDA has been hired by the Town to redesign the plant. Mr. Schenne had spoken with Supervisor Drozd last week who advised that it will be December 2025 before the job goes out to bid. The bid award would be in the Spring of 2026 and maybe by the end of 2026 the plant would come online. Mr. Schenne had reached out to the DEC and the Erie County Health Department and both agencies told him that, after the review by MDA Engineers, the agencies would have no problem letting 12 units come online. His thought is that Phase I would incorporate 12 units. He reviewed with the Board the Site Layout Plan, Page C-2 of the submitted drawings, and pointed out the identification of Phase I identified by the dotted line area around Building 1 and Building 2 and everything else would-be Phase II. Mr. Schenne noted that it is not their choice to do it in phases but the applicant would like to get moving on the project and would like to get approval from both the Planning Board and Town Board so they could start construction this year, at the end of Spring. Chairman Edbauer advised that the Town of Concord would be named as Lead Agency on the SEQR and Mr. Schenne said that normally the town would be. Chairman Edbauer

advised the applicant that the Planning Board would only be referring this project to the Town Board for the SEQR process and not for the final plat itself, if the Planning Board deems the project ready for that next step. Chairman Edbauer questioned the parking spaces for the project. Chairman Edbauer questioned the parking spaces for the project; any extra spots would have to be within 150 feet of the building. Mr. Schenne said okay; CEO Roberts noted that previously the building design was for a built-in garage with two parking so any additional would be outside. The applicant will be working on the building design and submit it to the Planning Board once the SEQR process is concluded. B. Luno questioned if the turnaround was going to be big enough for fire trucks. J. Jozwiak noted that this was discussed in December. Mr. Schenne advised that the project will need two turnarounds because under Phase I, the road would be constructed past Building 2 and stop right there; so right where Phase I is on the plan, they would stop there. The road would not be built further down the hill until Phase II is under construction. Mr. Schenne believes that a fire truck could go down the road past Building 2, back up and turnaround in a Y shape turnaround and come back if it had to. J. Jozwiak advised that Springville Truck 7 and the aerial ladder would be the biggest obstacles. The regular fire trucks would not pose a problem. Discussed ensued about fire trucks and making corners/turns. Mr. Schenne agreed to volunteered to blow up the section of the drawing of the Phase I turnaround and send the Town a 8 ½ by 11 print so that it could be reviewed by the firemen. J. Jozwiak will then show this to some firemen for the input (former Chief Dennis Dains and Todd Catalano who runs the Control Center). Mr. Schenne advised that the applicant will be building the road from scratch so if the Town wants better ratings than what is being shown on the drawings, let them know but he believes this might work because his company ran it through an auto turn program that is computer based; not real life so he will send over a drawing with extra dimensions on it and if the Town wants something a little different, the applicant can adjust the drawing. Mr. Schenne will email Secretary Schweikert the drawing and she can forward it to the Members for firemen input. J. Jozwiak will try to have Boston and Hamburg firemen review the drawing. Chairman Edbauer questioned if the road would go almost down to Building 3 and then stop at the dotted line and Mr. Schenne said yes. Mr. Schenne continued stating that hopefully there will be no wrinkles in building the sewer plant and once the Town gets the plant online and the Health Department approves it, the applicant will start Phase II. Phase I would have 12 units and Phase II would have 28 units for a total of 40 units. This amount has increased from 36 units to 40 units; the applicant will need to pay an additional fee for the increase (4 more units x \$50/unit; \$200 due; Mr. Holzman will arrange payment with Secretary Schweikert). Discussed about costs and funding for the new Waste Water Treatment Plant; the estimated project cost is over 8 million. Chairman Edbauer questioned Mr. Schenne if there were any issues with the water supply. Mr. Schenne advised that this is a unique job: There is a 4-inch potable water main that comes down and that will feed the buildings. There is a 12-inch snowmaker main that comes down. The applicant will be running an 8-inch fire lines with the subdivision because that is the minimum size that a hydrant can be put on. The hydrants are shown on the Site Layout Plan; there are 4 hydrants. The applicant would lay the water line up to the end of Phase I with a temporary blow off and then when Phase II starts, the applicant will continue the rest of the 8-inch line. Mr. Schenne noted that by NYS Fire Code, the applicant needs to have a hydrant at the street so that a

600-foot fire hose can reach around both sides of the building and touch at the back. J. Jozwiak asked if the buildings required sprinklers and Mr. Schenne advised that they did not; they will be one-hour fire separation between the garage and dwelling structure and between each unit; up to the roof line. J. Zybert was curious why Building 5 and Building 6 are a different footprint than the first four buildings; with 8 units vs. 6 units? Mr. Schenne noted that the applicant wants to get 40 units. The location is near a ski resort and is to be an aesthetic development in the middle of the woods and do not want to make it look like sardines in a can. The site is a weird shape; they did not want to put any units right next to the road coming in and wanted them separated from the property line coming out and the bottom had this foot shaped piece. J. Zybert noted that this makes sense. The Members and the applicants discussed Kissing Bridge and the skiing season. B. Luno questioned the location of this proposed development; the neighboring parcel is the Bridgetop development. Mr. Schenne noted that the Bridgetop development is comprised of individual lots and single-family houses. B. Luno also questioned the need for common areas in the development; Mr. Schenne noted that there the development will have green space and there will be a clubhouse. The units will be condominiums which means that the people will own their unit and garage and a tiny parcel of land around it and all the rest of the land in the development will be owned by the condominium association and maintained by the association. This development will have necessary detention ponds; Mr. Schenne would like to find a way to eliminate these ponds but the State is very strict on the requirements. Secretary Schweikert will email Mr. Holzman regarding the additional funds due for the increase in the number of units. Chairman Edbauer noted that the Town Board will not move this forward until the funds have been received. Chairman Edbauer also informed the applicant that the SEQR will be the responsibility of the developer. Mr. Schenne noted that there is no problem with that; they do those all the time. The SEQR will go to the Town Board to act as Lead Agency. The next Town Board will be meeting next Thursday, February 13th. If a motion is made to refer the SEQR to the Town Board, the Town Board will vote to proceed with the SEQR process. J. Jozwiak made the motion, seconded by Chairman Edbauer, that Mr. Holzman is to pay the additional \$200 for the increase in the number of units and the matter can be referred to the Town Board. Chairman Edbauer stated that the SEQR is the responsibility of the developer and wanted to make sure that this statement was included in the Minutes. Chairman Edbauer advised the applicant that once the SEQR process is complete, the applicant will be coming back to the Planning Board for final plan review. Just the SEQR is being referred to the Town Board at this time. Even though the project would be done in two phases, this SEQR process will cover the entire project. All in favor. Carried. CEO Roberts advised that the questions that the applicant had with regard to water and sewer will now be addressed as part of this SEQR process; Mr. Schenne believes that the Town Board will have to authorize MDA to do just what CEO Roberts has stated; study the water, study the sewer. Mr. Schenne noted that they have been speaking with MDA in the background during this process. Chairman Edbauer noted again for the record that the Town is working on the Waste Water Treatment Plant and the timetables for that project as discussed earlier tonight; just so the applicant is clear on the anticipated timeline and there will be no surprises. Chairman Edbauer stated that he personally thinks this is a good project and he

is excited for it; J. Jozwiak agreed especially now that Kissing Bridge has a new owner. Mr. Holzman noted that he has met with the new owner of Kissing Bridge.

CEO Roberts asked Mr. Schenne a question regarding the Buckley-Moore Road project in which Mr. Schenne was also the engineer. The Buckleys were working on a modification of their liquor license and their matter was reviewed by the Planning Board for an update on the project. CEO Roberts noted that the addition to increase from 99 occupancy to 250 occupancy is almost complete. The Erie County Health Department was requiring Mr. Buckley to have public water and upgrade the sewer. The permit is still open and Mr. Buckley does not have compliance with the water; Mr. Schenne has provided the Town certification that all building processes in the past year have been verified by Schenne so all inspection aspects are fine. There is an issue with Erie County Health Department doing a final inspection on the water. Mr. Schenne updated the members. Mr. Schenne designed the water system. This is a privately owned, public water system, which means that Mr. Buckley had to jump through a whole bunch of hoops; there is a treatment station on site where the water is treated pursuant to the Health Department standards. Mr. Schenne has certified that it is good and Erie County got the Schenne certification last week sometime. Mr. Buckley will be pulling water samples out tomorrow morning and the County sanitarian is meeting Mr. Buckley on Friday, February 7th. The County will double check everything and Mr. Buckley will have the results from the bacterial testing and the nitrate testing in the County's hands on Friday, and he believes that there will be a final sign off on the entire water system at that time. The septic system was already completed; Schenne had designed that system as well; Schenne signed off on that last week so the septic system is 100% ready to go and was submitted to the County. Mr. Buckley should get a sign off either Friday or Monday for both the water and sanitary system. CEO Roberts advised that Mr. Buckley does not have any events planned for the next month or so; but since the January Planning Board meeting and knowing that Mr. Buckley was not in compliance, CEO Roberts told Mr. Buckley to get compliance before he holds any other events; Mr. Buckley is cooperating.

Mr. Schenne will email Secretary Schweikert the turnaround drawing and she will forward it on the members for their review and review by some of the firemen. This matter will be on the Town Board agenda for the February 13th meeting for the SEQR process only. Secretary Schweikert will advise Mr. Holzman of any updates. Mr. Holzman and Mr. Schenne thanked the Board and left the meeting at 6:47 p.m.

Council Member Drake came in during this portion of the meeting so there was a brief review of the matter: Mr. Holzman will need to pay an additional \$200 because of the increase from 36 units to 40 units and the cost of the SEQR and any costs associated with that is on the developer; the Town is not paying for any of that. Mr. Schenne agreed with that. As part of the SEQR, the water and sewer will need to be investigated. Bldg. Safety Inspector Manchester wanted a better understanding of the SEQR (State Environmental Quality Review) and Chairman Edbauer said it was an environmental impact statement with regard to wildlife, water, drainage, water supply, sewer. Bldg. Safety Engineer Manchester asked who would do these SEQRs; MDA Engineers did the

most recent one for the proposed RIC Energy project. Chairman Edbauer advised that the project is going to be done in two phases. Mr. Schenne will be providing a larger print of the turnaround so the members can review that and have some firemen review it as well. J. Zybert asked about the discussion on the additional parking; this will be further reviewed during the final plan. Any additional parking spaces have to be within 150 feet from the building itself. The final plan has not yet been reviewed by the Planning Board. Chairman Edbauer thinks that the Town should get something in writing that the developer is responsible for those costs; possibly Town Attorney Attea will have some advice on this for the Town Board; Supervisor Drozd could do this.

ITEM #4: Citizen Participation

There was no one for Citizen Participation.

ITEM #5: Comments from Council Liaison Drake

Council Member Drake understands that tonight is B. Luno's last meeting and thanked him for all his efforts on the Board. J. Jozwiak said Mr. Luno has a lot of knowledge about the Town. B. Luno noted that he is resigning but some day, at some meeting, if the Board has a question that's "antique", call him. He would be happy to answer some questions. The members joined in to thank B. Luno.

ITEM #6: Approval of Minutes

a) January 7, 2025– J. Jozwiak made the motion, seconded by J. Edbauer, to approve the Minutes as presented. All in favor. Carried.

ITEM #7: Mining Permits

- a) McEwan
- b) Cold Spring-Sharp Street Pit
- c) Gernatt Pits: Middle Road-Vaughn/Gentner; Zylinski Clay Mine; Waterman Pit; Wendel Pit.
- d) D&H Materials, Inc.
- e) Triple R. Properties Pit

The McCarthy Pit on Spaulding Road was reclaimed and the Gernatt-Dewald Middle Road Pit was also reclaimed during 2023.

Chairman Edbauer asked if there were any questions or comments regarding the Mining Permits (a-e above). J. Jozwiak made the motion, seconded by B. Luno, to recommend that the Town Board approve the renewal of the mining permits, a-e, as presented. All in favor. Carried.

ITEM #8: Junkyard Permits

- a) Jordan's Salvage

Chairman Edbauer asked for comments or questions regarding the Junkyard Permits. B. Luno made the motion, seconded by J. Jozwiak, to recommend that the Town Board approve the renewal of the junkyard permit for Jordan's Salvage. Chairman Edbauer abstained. All in favor. Carried.

- b) Southern Tier Auto Center Inc.
c) Arthur P. King
d) Ronald Miller

B. Luno made the motion, seconded by J. Jozwiak, to recommend that the Town Board approve the renewal of the junkyard permits, b-d above. All in favor. Carried. J. Jozwiak stated that Arthur King does not even take scrap now. Secretary Schweikert had a conversation with new member G. Marlette who had reviewed the Permits and questioned, if the Town Code does not really want junkyards, why does the Town allow the renewals if the permits are not "active"? Why not try to encourage the people to close down their junkyards and stop their Permit. Secretary Schweikert told him that these junkyards have been here for years and their properties have so much junk/material on them that it's hard to get rid of some of the stuff and if the resident closed down their junkyard permit, they would be in violation. J. Jozwiak questioned if the land would have to be reclaimed; Chairman Edbauer stated that the resident would have to sign a letter that they are disposing of the liquids appropriately. Secretary Schweikert noted that (as recommended by Town Attorney Attea) these permits may be updated next year once the Code is complete that the resident will need to sign a statement that the materials are being disposed of properly.

ITEM #9: Mobile Home Parks

- a) Richard Perkins Mobile Home Permit
b) Springville Mobile Home Park LLC Permit

The Members reviewed the renewals of the Mobile Home Parks; CEO Roberts has not been able to inspect the properties yet this year. Chairman Edbauer noted that he drives by the Perkins Mobile Home Park and noticed that some skirting has been replaced and a new unit has been moved in; it looks nice. J. Zybert made the motion, seconded by Chairman Edbauer, to table the Mobile Home Park renewals until CAEO Roberts has completed his inspection and can provide the members with a report. All in favor. Carried.

ITEM #10: Code Update

Chairman Edbauer had asked Secretary Schweikert last month if there was a way

the members could go to eCode360 and see all the updates and notes that were put online; General Code has indicated that this can be done and once Secretary Schweikert gets all these most recent updates into the system, she will let the members know how they can go to eCode360 and see the notes.

The following sections were reviewed:

- Chairman Edbauer had provided some information about Manufactured Homes Chapter 93 and Mobile Homes Chapter 94 but these sections should be reviewed one more time.
- Grandfather Lots Chapter 184 had been discussed previously and it was determined that this section would be repealed and the language would be included in the Zoning Section at Article XXXI Non-conforming Lot Size. Chairman Edbauer advised that the language is that it is conforming as long as it was broken off prior to; that's the needed language. Secretary Schweikert advised that nothing has yet been sent to Drew Reilly, Wendel Companies, for further review and input. This section should be further reviewed because the Code is being changed to increase the minimum acreage amount. Secretary Schweikert did email with Assessor Martin and there may be a way that the Assessor can see how many parcels would be affected by this increase; how many would be non-conforming. As a future project, it would be beneficial to the Town to have the zoning of all parcels in the real property tax files so that the zoning of a parcel could be determined without having to look at the Zoning map.

The members started review where they left off in January, Section 150-166 to 150-217 still need to be reviewed.

- Section 150-166; ok as is.
- Section 150-167; ok as is.
- Section 150-168; ok as is.
- Section 150-169; ok as is.

The members went back to review the General Code Legal Analysis Questions at the same time as the review of the Code book:

- Question 150-01; R-Ag minimum lot size increased to 3 acres; other R zones will increase to 2 acres.
- Question 150-02; changed to The Comprehensive Plan of the Town of Concord is on file with the Town Clerk's Office.
- Question 150-03; Do Not Revise.
- Question 150-04; Revise as suggested.
- Question 150-05; changing the word "yards" to "setbacks" on all zonings.
- Question 150-06; (B) Side yards changed to two required: (1) for dwellings, 15 feet per side.
 - (C) Rear yard: (1) for dwellings, not less than 50 feet. CEO Roberts questioned that there was no setback for other structures and felt that there should be some setback. After discussion, the members agreed to add: (2) for non-dwelling structures, not less than 5 feet. Chairman Edbauer hopes that this will help with the

location of sheds on certain parcels of land. Council Member Drake commented that there should be consistency throughout the Zoning sections; he referred to Section 150-29. Chairman Edbauer thought that previous discussion had these consistent throughout and thinks that the language about non-dwelling structures should be added to each section. Once Secretary Schweikert gets all this information updated, the members will have a chance to review these sections to confirm. Council Member Drake asked about a fence on the rear property line; CEO Roberts stated that a fence could be put right on the boundary line.

- Question 150-07; revise Section 150-80 at (7) to say “miniature golf course and/or practice driving range and then delete (38). It was repetitious.
- Question 150-08; Section 150-94; this would be the same as R-AG setbacks. 50 feet front; sides 15 feet each, two required; rear for dwelling, not less than 50 feet and for non-dwelling structures, not less than 5 feet.
- Question 150-09; Section 150-137; change (D) to 40 square feet and change 150-40 (A) to 40 square feet.
- Question 150-10. After \$5,000.00; add “or more at the Town Board’s discretion” and change the dollar amount to “and reviewed periodically by the Town Board and adjusted as deemed appropriate.”
- Question 150-11 Site Plan Review. Revise as suggested.
- Question 150-12; lease as is.
- Question 184-001; repeal Lots, Grandfathered. Include at Non-conforming.

Further review in Code Book:

- Section 150-170; (A) J. Zybert suggested that this section be changed to remove the dollar amounts. A penalty fee schedule would need to be prepared; possibly have this reviewed by Town Attorney Attea or Drew Wendel. Try to remove the dollar amounts and put in language that the penalty could be changed from time to time. Possibly G. Marlette may have some input as to what was done in Amherst. J. Zybert suggested that it could read: “punishable by a fine as listed on the penalty fee schedule or imprisonment..” in all cases; remove dollar amount and then put those same dollar amounts on a penalty schedule. CEO Roberts questioned if the wording with regard to a corporation being the owner vs. an individual.

- Section 150-171; ok as is.
- Section 150-172; ok as is.
- Section 150-173; ok as is. BUT look at (7) Public Hearing. If all requirements have been met is one necessary? J. Zybert and Chairman Edbauer believe it should go to a public hearing at some point but at what point does that happen? When is a Public Hearing required? This is another question for Town Attorney Attea or possibly Drew Reilly. Discussion about parkland and green space. It appears (6) is ok as written. Possibly “parkland” can be described better. It may be helpful to look at Chapter 129 Subdivisions.

The members stopped the Code Book review at Section 150-173. This is where the review will start in March.

ITEM #11: Business from the Members

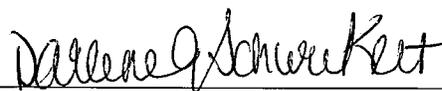
1. Chairman Edbauer asked Council Member Drake if there was an update on the RIC Energy solar project. MDA Engineers completed the SEQR and recommended a Positive Declaration; it is now in the hands of the developer. The Town Board has not yet had a vote on the project; just the SEQR with the Positive Declaration. RIC Energy was provided with a copy of the MDA Engineers SEQR and recommendation as well as the Resolution passed by the Town Board.

2. J. Zybert questioned the Thie Special Use Permit and wondered if it had been revoked. Mr. Thie is not currently operating the firewood kiln process. CEO Roberts noted that he is tracking since November 2024 and after one year of no operation, his Special Use Permit is revoked. It may have been as early as August 2024 but CEO Roberts is watching to see if there are any kiln operations happening.

3. Chairman Edbauer read B. Luno's resignation letter: "Please accept this letter of resignation from the Town of Concord Planning Board effective February 10, 2025. I have been with you for 48 productive years. When I was a spry young man, I felt that I contributed much more than I am able to do now. As a dairy and livestock producer I was and still am very concerned with the impact of town planning decisions that deal with agriculture and production for a safe dependable food supply for our community and our world. Over the past 48 years, since 1976, I have been fortunate to help revise three Zoning Ordinances for the Town of Concord. I do hope that future Planning Board decisions involving agriculture will have a consideration on the future generations in this community. Thank you for the honor and privilege to be of service to our community and the Town of Concord Planning Board. Sincerely, Bruce C. Luno." Chairman Edbauer thanked B. Luno for all his years of service; he was a great asset of knowledge; B. Luno helped Chairman Edbauer when he was the Town's CEO All the members thanked B. Luno for his service on the Planning Board. B. Luno returned his Code Book and hopes that the Town finds a replacement to fill his position. It is hopeful that the Town Board will be appointing new members at their meeting next week.

ITEM #12: Motion of Adjourn

J. Jozwiak made the motion, seconded by J. Zybert, to adjourn the meeting at approximately 8:26 p.m. All in favor. Carried. The next meeting will be Tuesday, March 4, 2025.



Darlene G. Schweikert
Planning Board Secretary