

Town of Austerlitz  
Planning Board Meeting  
August 7, 2014

Present: Chairman Jay Engel, Deborah Lans, Richard Madonia, Marie Meehan, Attorney Joseph Catalano. Abs. Susan Geel

**Public Meeting,** Joel Dyslin Minor Subdivision, called to order at 7:03

Dan Russell, presented new maps for review, outlined the applicants request for the minor subdivision of 7.7 acres; 6.6 acres with existing house and 1.7 acres for his daughter.

The new map shows the density requirement , wet triangle on parcel 2, proposed driveway and one entrance having less frontage on Route 7.

Driveway culvert adopted by Town. Driveway to meet standard requirement of Highway Department. Letter from Health Department indicates leach field meets requirement.

**Public comment:** Steven Somlo, as a member of a Preservation Housing Corporation, an abutting property, expressed his concern about placement of an iron rod marking off the Post office parking lot, as a tire hazard. This rod also extends into his property. The surveyor gave assurance that the rod would be flush with the ground.

Madaline Sparks asked to review the map and was invited to do so.

With no further comments the public meeting was called to a close.

**Regular meeting called to order at 7:12 pm.**

Approval of July minutes tabled. Attorney Catalano requested postponement until Sept.

**Unfinished Business**

**1.Joel Dyslin Minor Subdivision**

Receipts received for ten letters sent for public hearing, 8 returned, property owners identified.

Health Dep't letter and letter receipts submitted for file.

Part II of Environmental Assessment Form , questions 1 -11, completed by Planning Bd. members.

All responses negative. Jay Engel signed the Form

Motion to accept EAF as complete.: Richard Madonia , Second : Deborah Lans. Approved by all.

Members determined that based on information and analysis and supporting documentation the proposed action will not result in any significant adverse environmental impacts.

Motion to approve the subdivision : Richard Madonia, Second : Marie Meehan . Approved by all.

Maps will be signed and stamped and sent to Dan Russell .

## **2. David Seth Michaels Subdivision**

Attorney William Better reviewed the history of the subdivision and laid out the maps. Parcel 1 to be 17 acres with house, barn and access to Route 203. Parcel 2 to be 33 acres with a driveway to be shared with four owners. Noted, a maximum of five can share a private driveway.

Suggestion from previous meeting was to seek a road maintenance agreement bearing specific terms. The present owners were not amenable to meet on a new agreement.

Attorney Better referred to the present deed of 1986 which refers to a maintenance agreement which runs with the property. Owner Platt's agreement states the same.

This agreement was in place prior to enactment of town's ordinance and fulfills the need for a maintenance agreement. The present agreement provides mechanism in case of dispute.

Steven Somlo requested time to comment and was recognized. Steven referred to his previous experience in Planning Board matters where a road maintenance agreement was devised. A template regarding the terms of the maintenance was obtained to stamp on the maps of divided properties to be a reminder of the agreement signed. While this was prior to the newest road maintenance regulations the members agreed it was a valuable tool for use.

With initial road agreement in place a new public hearing was advisable since a year has elapsed since the last public hearing was held on this subdivision. All parties with property abutting this land will be notified as well as those across roads surrounding the property.

Motion requested for public notice hearing to be held, September 4, 2014

Motion: Richard Madonia, Second ; Deborah Lans Approved by all.

## **3. Colleen Safford-Site Plan Review/Special Use Permit**

A general discussion ensued. All Planning Board members indicated that all submitted materials from public and applicant's lawyer had been read.

Issue of Shared driveway reviewed. Planning Board jurisdiction does not apply to property rights. Deed does not indicate specific prohibitions on right of way or type, abuse, or use of driveway. There is no indication about vehicle use. In this application a passenger van will be used, not a commercial vehicle.

Deborah Lans made reference to future use concerns. Special Permit goes with the land. Applicant's presentation states use that will be in place in answers to questions for SEQR

Owners and operators have specific charges and must adhere to those specifications.

Conditions can be added by the Board.

If owners change, s says the same. For change in operation , Planning Board must rule again.

Approval is for kennel only.

Code Enforcement officer uses specifics on approval form in checking operation ; penalties are specified in Zoning law.

Re: noise issues. There is no noise ordinance in Austerlitz. Noise issues need to be addressed in other ways, i.e. no. of dogs outside, supervision. Buffers need to remain.

Marie Meehan reminded Board members of noise complaint from construction. This was deemed Inevitable and usually short term.

Amount of clearing for barn was an expressed concern. Board may wish to limit the amount of clearing.

Drawings of barn show non glare roof to limit visual impacts and use of building sound mitigating materials.

County planning board has found no region wide impact.

Utility line extensions must be under Town Code and be reviewed in Site Plan review.

Specific details on driveway, landscaping, lighting, parking turn around, all to be considered under Site Plan Review. New maps will indicate the areas to be considered in this review. Highway Supervisor has visited and reviewed site. Fire Co. representative will review site for proper turn around.

Time was then allotted for members to read a draft of the Decision/ Resolution of Austerlitz Planning Board re: Site plan/Special Use Permit Application in order to make changes as they saw fit.

Board members had changes which were discussed and accepted .These changes will be in the final modified version of this Decision /Resolution.

Jay Engel inquired of Colleen Safford if the Resolution was vague or understood. She expressed her understanding of the Resolution.

Part II of the EAF was addressed and completed by Planning Board members .

Answers to questions in EAF indicate no negative impact or small impact

Jay Engel signed the short Environmental Assessment Form.

Having found that this special permit will not result in a large or significant environmental impact , Jay asked for a motion to grant the Special Permit.

Motion : Richard Madonia, Second: Deborah Lans Poll Vote taken for approval

Jay Engel: Yes,

Deborah Lans : yes,

Richard Madonia: Yes,

Marie Meehan: yes. Approved by all.

Next steps in the process for a Site Review were outlined to Colleen with an added offer of a pre-site plan conference if she desired to have one .

Public Comment. Anne Macintyre expressing disappointment also wished Colleen Safford and John Manning well and thanked the Planning Board Committee for their hard work .

Decision/Resolution of Town of Austerlitz Planning Board  
Re: Site Plan/Special Use Permit Application - Safford

Resolution No.: PB - 2014 - 01

Whereas, Colleen Safford together with her husband, John Manning (hereinafter referred to as the “Applicant”) submitted an application for a special use permit and site plan approval to construct and operate a dog training and boarding facility on an approximately 126-acre parcel of land located at 199 Pratt Hill Road (Tax Map No. 85.-1-12) in the Town of Austerlitz (hereinafter the “Property”) in a wooded area located at the north end of the Property (hereinafter the “Project Site”); and

Whereas, the application proposes to construct a barn or stable-type building on the Project Site with an enclosed area for purposes of providing boarding, training, and grooming for dogs while also establishing a residence their family at the existing farm house located on the Property - the Applicant is currently a contract vendee for the Property currently owned by John Szoke; and

Whereas, the total area of the building is proposed to be approximately 7200 square feet in size having one story; and

Whereas, the Project Site is located at or near a high elevation of the Property and will have access to Pratt Hill Road via an extension of an existing shared driveway that currently provides access to the existing farm house on the property and a neighboring residence; and

Whereas, after an initial meeting with the Planning Board on May 22, 2014, the Applicant presented its full proposal and plans together with an application for a special use permit and site plan approval at the Planning Board’s meeting held on June 19, 2014, and the Planning Board accepted such submissions as a complete application at such time for purposes of scheduling the public hearing, and said application was referred to the Columbia County Planning Board for its recommendation; and

Whereas, this application constitutes an Unlisted Action under the State Environmental Quality Review Act (SEQRA) and the Planning Board being the only involved agency pursuant to its site plan review and special permit jurisdiction over this application, is acting as lead agency for purposes of the SEQRA review; and

Whereas, the application was referred to the Columbia County Planning Board and the County responded by letter, dated June 18, 2014, in which it advised that the proposal has no significant county-wide or inter-community impact but made a number of comments for the Planning Board’s consideration, and such comments have been incorporated in this decision as set forth below; and

Whereas, the Planning Board scheduled and held a public hearing regarding the application on July 3, 2014, at which time the Applicant and a number of interested members of the public

attending the hearing participated with comments and questions regarding the proposal and the Planning Board closed the public hearing for purposes of oral comments but left the hearing open for submission of written comments until July 31, 2014, and for additional submissions by the Applicant until July 15th; and

Whereas, this Resolution, constituting the decision of the Planning Board, has been presented to, reviewed, discussed and amended by the Planning Board at its regular monthly meeting held on August 7, 2014;

Now, Therefore, Be It Resolved as follows:

1. The Planning Board makes the following findings:

- a. Proposed Development: This special permit and site plan application proposes to construct a building on the Project Site for the operation of a dog boarding and training facility with an enclosed outdoor area for exercising the dogs with supervision by staff members. The total area of the building is approximately 7,200 square feet, with accommodations in the building for each dog, areas for training and grooming, and for staff. The proposed building will be located at or near a high elevation of the Property (about 1100 feet) and has access to Pratt Hill Road via a long driveway that would extend from the existing driveway that provides access to the farm house and another residence on a neighboring property. The applicant stated that approximately 1 acre will be cleared for purposes of the building site and extension of the driveway. The site plans and application indicate that parking spaces will be provided near the proposed building. An on-site septic system and well will be provided for the new building. The proposed building and facility area is located in a fairly dense wooded area and the nearest property boundary from the proposed building site is at a distance of 361 feet.
- b. Proposed Use: The proposed use is described as follows:
  - i. The operation is expected to be staffed with up to 4 employees plus the owners with a maximum of 6 staff members will be on Site at any one time;
  - ii. the dogs will be principally transported to and from the Site via a passenger van on twice a week by staff with other transport of dogs occurring occasionally and limited visits by the owners of the dogs;
  - iii. the keeping of dogs will be a year-round business;
  - iv. the Applicant did not state specifically the number of dogs that will be kept at the Site only that the proposed building would accommodate 70 to 80 dogs and that her current operation located in Chatham typically accommodates less than 25 dogs at any one time;
  - v. from what the Applicant described and from visits to the existing operation in Chatham by certain Planning Board members, this use is not a typical "kennel" in that dogs are not kept outside or exercised unattended in the usual chain link kennel runs - the proposed operation is described as a high end comprehensive boarding and training facility where the dogs are transported mainly from New York City and are under constant supervision when outside or are housed indoors;
  - vi. The owners of the Property will establish their principal residence at the existing farm house located at the southern portion of the Property nearer to Pratt Hill Road.

- c. Zoning: the Property is located in the Rural Residential zoning district of the Town of Austerlitz and the proposed use is categorized as a Kennel which is an allowed use in said district pursuant to the issuance of a special use permit and site plan approval. In the Rural Residential district there must be a minimum of 2 acres for any allowed use and there must be a minimum lot frontage of 75 feet, minimum lot width is 100 feet, and minimum front, side and rear setbacks must be 30, 20 and 30 feet respectively. The maximum building height is 40 feet.
  - d. Current Use of the Property: The current use of the property is residential with working agricultural fields.
  - e. Public Comment: At the public hearing held on July 3, 2014, and via written comments submitted on or before July 31, 2014, numerous comments on the application were offered from the public; some in support of the Applicant and many in opposition or with concerns about the addition of the proposed use on the property particularly about the noise from barking dogs, the traffic that such use may generate, and the potential negative effect that establishment of the proposed use may have on the values of surrounding properties. In addition, including but not limited to, various comments also expressed concern with outdoor lighting, clear cutting, visual character, number of dogs and future enforcement. The Planning Board has duly reviewed and considered such comments in rendering this decision.
2. SEQRA: The Applicant submitted a short environmental assessment form (EAF) pursuant to SEQRA. The Planning Board has previously viewed, and hereby determines, this Application is an Unlisted Action under SEQRA and the Planning Board being the only involved agency. The Planning Board has reviewed the EAF with Part 1 prepared by the Applicant together with all of the application submissions. Prior to the introduction of this Resolution, the Planning Board has discussed and answered the questions on Part 2 of the EAF. In so doing, the Planning Board did not find any large or significant potential adverse environmental impacts that would result from this use as such use is proposed and the operations of such use has been described by the Applicant. The Planning Board hereby accepts the EAF as complete and determines that the issuance of a special use permit and site plan approval for the proposed use will not result in any significant environmental impact and, as such, a negative declaration applies. The reasoning for this determination is as follows:
- a. that the application proposes new construction pursuant to plans and for a location that sufficiently mitigates both short term and long term environmental impacts, particularly being shielded by significant and mature forest growth that will serve both as a buffer for sound and visual aspects of the building and operation;
  - b. that the Property is of sufficient size and character that will adequately support the development and its operation without any significant adverse impact to neighboring properties, particularly with respect to the Project Site's location and distance from neighboring property lines and residences;
  - c. that the Property access and driveway that is presently existing and is wholly located on the Property will be adequate to accommodate an extension and the limited amount of additional vehicular trips proposed by the Applicant. The protest by the other user of the shared driveway via an easement that the use of such driveway is limited to residential use only has not been established. The easement has been reviewed by legal counsel for the Planning Board and there is no specific prohibition on the type of vehicular use of the driveway. In addition, the Applicant will not be using commercial sized trucks but rather

typical passenger-type vehicles to transport the dogs. Regardless, the Planning Board has no jurisdiction to settle disputes of property rights in connection with easements or deed covenants. The extension of the driveway will require further specific review as well as participation and inspection by the Town Highway Superintendent, Planning Board and local Fire Company so that it is designed and constructed pursuant to Town requirements and allows for sufficient emergency access;

- d. that although the new development entails a large structure at a high elevation, the location is well-screened with much existing vegetation and trees and the Board's decision will require features that will limit or avoid impacts from lighting, glare, and other aesthetic impacts;
  - e. the general area around the Property presently and historically have been used for agricultural and commercial uses that are not inconsistent with the proposed kennel use and the Property is located in the large Rural Residential zoning district which allows many commercial activities, including kennels, that are not inconsistent with the proposed use and which may actually be more intrusive than the proposed use;
  - f. the conditions and restrictions placed on the special use permit as set forth below and as discussed with the Applicant during the review process will further mitigate and/or eliminate any potential environmental concerns.
3. The Planning Board hereby approves and grants the special use permit to the Applicant as set forth herein for a kennel use and building on the Property as located on the site plan pursuant to the project description set forth above on the parcel of land owned by John Szoke located at 199 Pratt Hill Road (Tax Map ID # 85.-1-12) subject to the following terms, conditions and restrictions:
- a. Employee vehicles are to be parked at the area for the kennel and no vehicles shall park on the portion of the existing driveway that is shared and that at no time shall any vehicle or other obstruction block the shared use of the existing driveway;
  - b. All lighting on the building or on the site be shielded and directed downward to avoid glare;
  - c. The materials utilized for the roof and exterior of the building be of such color and type that it avoids or mitigates the generation of glare from sunlight;
  - d. The integrity of wooded areas and vegetation on the Property shall be maintained for screening and buffer purposes except for the clearing necessary for the extension of the driveway and utilities, parking, construction of the building, septic system and water well, and for outdoor use areas for the kennel operation;
  - e. That only the operation of the kennel (dog boarding, training and other associated activities as described in the application materials) is allowed on the Property as defined by the application materials and as summarized above and as restricted herein, and no other business or use can be conducted from the Property or the proposed new building,
    - i. that no more than 80 dogs be allowed to board at the Property at any one time;
    - ii. that no dogs are allowed to be outside unattended by staff members at any time, and no more than 15 dogs are to be allowed outside at any one time, and all dogs shall be indoors between the hours of 10:00 pm and 7:00 am daily;
    - iii. that the transport of the dogs to and from the Property be performed as described herein and that client visits or transportation of dogs be kept to a minimum;

- iv. that the dogs be provided for and be boarded and kept in accordance with the regulations and standards set forth by the State of New York and that all dog licensing requirements are adhered to;
  - v. that the operations of the use be conducted in accordance with the Applicant's presentation and description of such operations as set forth in the application materials and as modified herein;
  - vi. that the existing residential structure currently located on the Property be maintained and used as the residence of the operators of the kennel use for as long as such use continues,
  - vii. that the interior of the buildings shall be constructed to include sound absorption materials and techniques;
- f. That the Property in general must be continuously maintained in a clean and organized fashion that complies with the Town's Zoning Law and the New York State Real Property Maintenance Code; that all outdoor storage associated with the kennel operation (other than typical agricultural equipment and materials) be screened (by fencing, vegetation, or other permanent type of screening) from views along Pratt Hill Road and neighboring properties; that any outdoor storage for the kennel use be located no less than 300 feet away from the boundary lines of the Property;
- g. The Applicant must contact and apply to the Columbia County Department of Health regarding any necessary review and approval of the proposed septic system and water well for the new building;
- h. Prior to the issuance of the site plan approval, the Planning Board shall review details for the driveway plans and the new building for their adequacy in directing surface water caused by the new development from leaving the Property and to ensure that any overflow is directed and properly handled and does not directly or indirectly flow into or on Pratt Hill Road, or neighboring properties;
- i. This special use permit is also conditioned on:
- i. the Applicant completing the site plan review process and receiving final site plan approval from the Planning Board consistent with the terms and conditions of this special use permit including satisfaction of any conditions of such site plan approval,
  - ii. the Applicant submitting for approval to the Building Department, architectural drawings or building plans in conformance with the New York State Building Code;
  - iii. general property maintenance and site preparation activities may occur subsequent to the site plan approval and prior to the issuance of the building permit, but no work on the building may commence until the building plans have been approved by the Town Building Department and a building permit has been issued and no work on the driveway extension may occur until after the design and plans for the driveway have been reviewed and approved by the Planning Board, the Highway Superintendent and the local Fire Company;
- j. If the intensity of the use as proposed by the Applicant increases at any time during the operation of this use or the operations change in any respect (other than a minor or occasional deviation) from that described by the Applicant and as modified herein, the Applicant shall, or the Town may require the Applicant to, present the circumstances and facts involved in the increased intensity or any change of use so that this special use permit can be reevaluated and/or modified accordingly.

- k. The Applicant and any future owner or operator shall allow the Town's Code Enforcement Officer to make periodic visits at reasonable business hours to assess the compliance with the terms, restrictions and conditions of this resolution.
4. This special permit has been issued pursuant to the criteria set forth in section 195-33 of the Austerlitz Zoning Law and after the Planning Board has duly considered the public health, safety and welfare, potential environmental impacts and surrounding properties; the Planning Board concludes that the proposed project together with the conditions imposed above comply with said criteria as follows:
    - a. **Objectionable Impacts.** That the character, nature, type, scale and intensity of the proposed use, particularly how it will be operated, and its location and distance from Pratt Hill Road and adjacent properties and residences; is consistent with the rural character of the Town and is not more objectionable to nearby properties by reason of noise, odors, vibration, dust, illumination or other potential nuisance than the operation of any allowed use in the Rural Residential district.
    - b. **Compatibility.** That the proposed use is of a character, nature, type, scale and intensity compatible with the area in which the special use is to be located in terms of both the natural and man-made environment in which it is generally situated and the significant size of the Property in relation to the proposed building and use is particularly consistent and appropriate for the proposed commercial use.
    - c. **Vehicular Access and Traffic.** That the proposed access point is adequate and since it is existing will not cause any significant changes with current traffic patterns or traffic safety. As mentioned above, more detailed plans will have to be submitted with respect to the proposed extension of the driveway from the existing residence on the Property and those plans shall be further be reviewed by this Board, the Town Highway Department and local Fire Company for purposes of ensuring adequate emergency responder access and the proper distribution of storm water flows. That there is more than adequate area available off-road parking that shall be provided to eliminate any need for parking of vehicles on the driveway. Such parking shall have safe accessibility - the Planning Board is to confirm this issue during its continuing site plan review.
    - d. **Conditions.** That the restrictions and conditions set forth herein as well as the specific manner of the operation of the use as described by the Applicant are necessary and appropriately ensures compatibility of the proposed use with the surrounding uses and to protect the scenic and natural resources of the Town.
    - e. **Historic character.** That the design of the new building in a traditional barn or stable-like structure and located at considerable distance from adjacent properties and public roads is certainly compatible with the traditional and historic character of the Town, the Property, and the surrounding area.
    - f. **Site Plan.** That the proposed use and development is generally consistent with the requirements for site plan approval, however, site plan review will continue with respect to the details of the proposed development including the extension of the driveway, parking, outdoor use areas and ensuring the building is located as indicated on the application materials. In this respect, the Applicant shall submit for Planning Board review a final site plan showing the following:
      - i. The width, grade and contours of the proposed driveway extension and existing

driveway that meets the requirements of Town regulations and ensures emergency vehicular access,

- ii. a proposed parking area for staff and visitor vehicles,
  - iii. the exact location of the new building, with the building footprint flagged on site, and any outdoor areas for the proposed use,
  - iv. delineation of the extension of utilities to the new building,
  - v. location of the existing septic system and leach field for the dwelling,
  - vi. delineation of the clearing for all aspects of the development including:
    - 1. the extension of the driveway,
    - 2. parking,
    - 3. utilities,
    - 4. building,
    - 5. septic, and
    - 6. other areas proposed to be cleared for outdoor use areas.
  - vii. description and location of outdoor lighting and other exterior site amenities such as fencing and landscaping,
  - viii. description of materials to be used for roof and exterior of new building,
  - ix. location and description of proposed signage.
- g. The terms, restrictions, and conditions of this resolution constituting the grant of the special use permit shall apply to the Property and continue to the Applicant and any subsequent owner or operator of the Property or use for as long as the use continues.

Upon motion made by R. Madonia, seconded by D. Lans, the foregoing Resolution was duly adopted by the Planning Board on August 7, 2014 by vote of a majority of its members as follows:

Town Board Member	yes	no	absent/abstain
James Engel, Chair	<u>√</u>	—	—
Deborah Lans, Member	<u>√</u>	—	—
Richard Madonia, Member	<u>√</u>	—	—
Marie Meehan, Member	<u>√</u>	—	—
Susan Geel, Member	—	—	<u>√</u>

Before adjournment of the meeting Richard Madonia gave a short account of the talk he attended on Planning Board ethics. Attorney Catalano spoke of ethics in terms of emails and one on one discussions. Discussions are to take place with all members at Board meetings.

Motion to adjourn : Richard Madonia, Second: Deborah Lans Approved by All  
Meeting adjourned at 10 pm.  
Next meeting, September 4, 2014