

Town of Austerlitz
Planning Board Meeting
July 5, 2018

In attendance: Deborah Lans (Acting Chair), Richard Madonia, Perry Samowitz,
Lee Tilden, Attorney for the Town, Joseph Catalano
Abs: Jay Engel

Public Hearing

The public hearing had remained open since the June meeting. Deborah Lans, as Acting Chair, resumed operation of the public hearing in asking if there were any further comments from the public. Since there were none, a motion to close the public hearing was made by R. Madonia and seconded by P. Samowitz.

J Engel: absent
D Lans: yes
R Madonia: yes
P Samowitz: yes
L Tilden: yes
Motion carried 4:1

Unfinished Business

The Susan Bandy Site Plan Review continued. The Attorney for the Town, Joseph Catalano provided a recap of the progress made to date on this review. He shared this recap with Planning Board Clerk, Mary Davis. ZBA chairman, Karl Gabosh and Building Inspector Glenn Smith prior to this meeting. His recap included the fact that the proposed crematorium could not stand alone in our zoning regulations. It can be allowed attached to something like a kennel. A kennel operation is not described in Susan Bandy's present Sanctuary for Animals. Home Occupation is allowed. A description of such would have to be interpreted satisfactorily by the Planning Board members for special use permit.

Susan Bandy owns 2 contiguous pieces of property and the use of the crematorium could be considered for Level II Home Occupation as described in our zoning regulations.

Level I allows no traffic, no signage, no employees. Level II accommodates those needs.

The impact of a crematorium is the main point in the consideration as noted in some public comments, more so than how it fits in a rural area.

Susan Bandy is the owner of the property, 50% is habitable, has indicated one sign on the driveway, no more than 2 employees, to be built in same architectural style as is present. The crematorium is hidden from view; DEC permit will be obtained. Annual inspection takes place.

Re-registration required yearly, an application is ready for submission. Board members had no questions and a motion to move forward with the site plan review as a Home Occupation Level II was made by Lee Tilden, seconded by P. Samowitz.

J Engel: absent

D Lans: yes

R Madonia: yes

P Samowitz: yes

L Tilden: yes

Motion carried 4:1

Meeting

The Planning Board meeting was called to order at 7:28

Motion to approve the minutes of the June meeting made by L. Tilden, seconded by P. Samowitz.

J Engel: absent

D Lans: yes

R Madonia: yes

P Samowitz: yes

L Tilden: yes

Motion carried 4:1

The Attorney for the Town, Joseph Catalano had prepared a resolution for review and any necessary amendments, to be followed by SEQRA and Part II completion and then consideration for the special use permit approval.

The resolution described the setting, the operation as a home occupation, not an accessory to a kennel. Further description notes not a lot of traffic expected; two accesses to the property, Downing Rd. and Spencer Hill. Hours of operation limited to daytime hours. Comments made by neighbors and the public have been taken into consideration. The criteria for this resolution follows sections 195-33 and 195-28 of Austerlitz Zoning law.

SEQRA: The Planning Board has reviewed the EAF with Part I prepared by applicant, has discussed and answered Part II and finds no environmental impact. The conditions and restrictions discussed with the applicant will further mitigate and/or eliminate any potential environmental concerns.

A motion to adopt PB Resolution: 7/5/2018 hereby approving and granting the special use permit as set forth herein for one pet crematorium to be placed at 65 Downing Road, subject to the outlined conditions and restrictions was made by P. Samowitz and seconded by L.Tilden.

J Engel: absent
D Lans: yes
R Madonia: yes
P Samowitz: yes
L Tilden: yes
Motion carried 4:1

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

PB Resolution: 7/5/2018

Whereas, Susan Bandy with a mailing address of 90 Downing Road, Ghent, NY 12075 (hereinafter referred to as the "Applicant") submitted an application for a special use permit and site plan review for installing a pet crematorium unit on her 98-acre residential and farm property located at 90 and 65 Downing Road (Tax Map No. for 65 Downing Road 94.0-1-30.112) in the Town of Austerlitz (hereinafter the "Property"); and

Whereas, the application proposes to install and operate a self-contained, pet crematorium unit on the Property which is about the size of a small shed; and

Whereas, the Applicant submitted a special use permit and site plan application, dated April 23, 2018 which requested approval for the crematorium to be installed and operated on the 65 Downing Road property and the Planning Board and Town Building Inspector construed this proposal as an accessory use to a kennel; and

Whereas, a public hearing was scheduled and the application was referred to the Columbia County Planning Board as required under the General Municipal Law and the County Planning Board by letter dated June 20, 2018, concluded the application did not have any significant county-wide or inter-community impacts associated but made a number of comments on the application as a kennel use for consideration by the Austerlitz Planning Board; and

Whereas, this application constitutes an Unlisted Action under the State Environmental Quality Review Act (SEQRA) and the Planning Board will conduct its own SEQRA review; and

Whereas, the Planning Board scheduled and held a public hearing regarding the application on June 7, 2018, 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 kept the public hearing open for further information; and

Whereas, the Planning Board continued the public hearing at its regular monthly meeting on July 5th and after all of its questions were answered by the Applicant; the Planning Board then closed the hearing and reviewed Part 2 of the EAF with the assistance of the Town attorney; and

Whereas, the Planning Board then deliberated and reviewed a draft resolution that would propose to grant the special use permit and approve the site plan with a number of limitations and conditions as discussed by the Board; 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 July 5, 2018;

Now, Therefore, Be It Resolved as follows:

1. The Planning Board makes the following findings:

- a. Proposed Use: This special permit and site plan application proposes to install and operate an existing, used pet crematorium currently in operation by an establishment called Buddy's Place in Hudson, New York. It is a self contained unit and will be enclosed in a shed-like structure with a small office or meeting place attached for clients so that the total new structure to be located on the property will not exceed 60 feet by 20 feet and 12 feet high. The Applicant is currently licensed as an operator of such unit. The Applicant proposes bringing the crematorium unit on the Property to be located by the barn and single-family residence located on 65 Downing Road. The Applicant is the owner of both 90 Downing Road and 65 Downing Road, two parcels contiguous to each other each with a single-family residence on it. The Applicant uses both parcels as her residential property. The Applicant has taken in a number of rescue domestic animals as her personal pets and hopes to formally create an animal sanctuary at some point in the future. The crematorium will provide her with some revenue for such purpose and will provide a service to the community especially since Buddy's Place is scheduled to discontinue its services. The Planning Board has agreed to accept and review the Application in such manner to concentrate on the immediate proposal of the pet crematorium as part of her residential property and thereby the Planning Board limited the scope of its review and this decision to just the proposed crematorium.
- b. Zoning: The Property is in the Rural residential district of the Town. A pet crematorium does not neatly fit into any existing category of the Town's Zoning law as a stand-alone use. The Planning Board at its June meeting originally requested the Applicant to amend its application to an accessory use for a kennel and that the Applicant apply to the ZBA for an interpretation as to whether the crematorium could be an accessory use to a kennel. However, since that time and with consultation with the Town attorney as well as further consultation with the Town's Building Inspector, it was determined that the Applicant is not really proposing a kennel but a home occupation since the proposed crematorium will be operated in conjunction with her residence and not with boarding pets owned by others for a fee. Accordingly, since the public hearing was held on the crematorium use and not a kennel and the Planning Board has the authority to interpret the regulations it has the jurisdiction to administer, the Planning Board hereby accepts the application as one for a pet crematorium to be operated as a Home Occupation. Given the unusual nature of the proposed use and the application before it, the Planning Board hereby determines that the proposal is best categorized as a Home Occupation Level 2 requiring a special use permit

and site plan review since it is a small-scale rural commercial activity to be conducted by a resident of the lot or parcel.

- c. Public Comment: At the public hearing held on June 7th and continued and closed on July 5, 2018, the comments made by the neighbors and public have been taken into consideration.
2. SEQRA: The Applicant submitted a short environmental assessment form (EAF) pursuant to SEQRA. The Planning Board hereby determines this Application is an Unlisted Action under SEQRA and, as previously mentioned above, this project is undergoing an uncoordinated review since the NYS DEC may do its own SEQRA review in conjunction with the permit for the crematorium under its jurisdiction. 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 moderate or large or potential adverse environmental impacts that would result from this use as it is proposed by the Applicant. The Planning Board based such determination on the fact that the crematorium is of such type and quality to eliminate smoke and noise and other environmental impacts generated by the crematorium itself. The crematorium itself will be registered with, and monitored by, the NYS DEC and it is assumed that it would be constructed and operated in accordance with the terms and conditions of the State regarding crematoriums. 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 does not propose any significant new construction or installation but rather proposes to install a relatively small self-contained unit on the 98-acre Property;
 - b. that the Property is of sufficient size and character that will adequately support the proposed new equipment and its operation without any significant adverse impact to neighboring properties again assuming that the terms and conditions of the State permits and this resolution will be complied with in all respects;
 - c. that the Property access and driveway that is presently existing and is wholly located on the Property will be adequate to accommodate the relatively small amount of traffic that the use will generate; and the type of unit and its small size will limit or avoid impacts from lighting, glare, and other impacts;
 - d. the rural residential nature of the Property will not be altered in accommodating this added use and it will be hidden from public views so it will not result in a new or uncharacteristic feature in the area; and
 - e. 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 one pet crematorium to be placed at the 65 Downing Road property on the southern side of Downing Road as shown on the site plan prepared by Patrick J. Prendergast,

PE, dated 4/16/18 (hereinafter referred to as the "Site Plan"), subject to the following conditions and restrictions:

- a. All lighting, if any, on or around the crematorium unit shall be shielded and directed downward to avoid glare.
 - b. All vehicles will enter or exit the area where the crematorium is located by utilizing Downing Road and/or Spencer Hill Road and there is proposed 4 parking spaces (1 handicapped accessible) as shown on the Site Plan identified above. There is more than sufficient space for overflow parking if needed at the red barn located across Dwoning Road from the crematorium site.
 - c. No installation of the crematorium shall occur until submission of a building permit application and the issuance of a building permit from the Town of Austerlitz Building Department.
 - d. No use of the crematorium shall occur until registration is made with NYSDEC for the crematorium.
 - e. The Applicant shall be allowed to erect no more than one sign on a public road which fronts her Property to indicate where the crematorium is located by its name and she may erect other directional signs her Property and on Spencer Hill Road.
 - f. The Applicant shall not have more than two persons as assistants, volunteers or employees that do not reside on the Property.
 - g. Hours of operation shall be limited to daytime hours.
4. This special permit has been issued pursuant to the criteria set forth in section 195-33 and section 195-28 of the Austerlitz Zoning Law 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 adjacent roads, 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 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 since the crematorium unit will be located at a considerable distance from roads and adjoining properties and will fit in with the barn and other outbuildings on the Property.
 - c. **Vehicular Access and Traffic.** That the existing roads are adequate for access and the new use will not cause any significant changes with current traffic patterns or traffic safety. The site is more than adequate for parking for the limited use approved herein.
 - d. **Historic character.** That the design of the proposed crematorium unit and its placement on the Property will not alter the traditional and historic character of the Town, the Property, and the surrounding area.
 - e. **Site Plan.** That the proposed use and development is consistent with the requirements for site plan approval and the Site Plan is hereby approved, and the Acting Planning Board Chair is authorized to sign the Site Plan, as approved, for the purposes described herein.

Upon motion made by Member Samowitz, seconded by Member Madonia, the foregoing Resolution was duly adopted by the Planning Board on July 5, 2018 by vote of a majority of its members as follows:

<u>Planning Board Member</u>	<u>yes</u>	<u>no</u>	<u>absent/abstain</u>
James Engel, Chair	<u>—</u>	<u>—</u>	<u>X</u>
Deborah Lans, Member	<u>X</u>	<u>—</u>	<u>—</u>
Richard Madonia, Member	<u>X</u>	<u>—</u>	<u>—</u>
Perry Samowitz, Member	<u>X</u>	<u>—</u>	<u>—</u>
Lee Tilden, Member	<u>X</u>	<u>—</u>	<u>—</u>

Maps of the property to be dispersed to county, to lawyers, for our records, were signed by Acting Chair Deborah Lans, ready for official stamp.

Susan thanked the Board members and the Attorney for the Town for their work and we in turn wished her well with this new home occupation.

Meeting adjourned: 8:20 pm.

Respectfully submitted,
Constance Mondel