

Town of Austerlitz  
Public Hearing / Special Meeting - Planning Board  
February 22, 2022

The Planning Board Public Hearing / Special Meeting was held via Zoom in accordance with the Governor's Executive Order. Meeting instructions were on the Town website.

Present:

Lee Tilden, Chairman. Jane Magee and Eric Sieber, Members.

One seat is vacant

Deborah Lans is not present

Susan Haag, Town Clerk and Tiffeny Cantu, Planning Board Clerk also present.

Joseph Catalano, Attorney for the Town present.

Public Hearing called to order at 7:00p.m.

### **Minutes**

Chairman Tilden calls to order the Public Hearing for Roaring Twenties Venture LLC and their application for a Bed & Breakfast at 319 Route 203 in Spencertown for a Site Plan and Special Use Permit to operate a Bed & Breakfast. Chairman Tilden says the first order of business is to ask the Applicants to speak and give the narrative of their application and any information they would like to share with the public. Keith Bogdanovich reads aloud his intended use statement and states that this will serve as his personal residence as well.

Chairman Tilden asks if smoking will be allowed outside – Keith Bogdanovich says he feels people could smoke outside on the porches of each unit or the parking lot and Chairman Tilden says they will want a dedicated space for smoking.

Chairman Tilden asks to confirm no parties and Keith Bogdanovich says that the way he reads the Town Code is that they would need a permit anyway.

Chairman Tilden states that they will probably put a restriction in the approval for the emergency generator to do its' exercise at a time when it will not disturb neighbors.

Chairman Tilden asks for occupancy limit and Keith Bogdanovich says he believes the code says 10 and L. Tilden also confirms that the length of stay is no longer than 30 days.

Chairman Tilden asks Jane Magee if she has any questions. Jane Magee has no questions and says she is a neighbor to this property and is satisfied this will be managed in an acceptable way.

Eric Sieber has no questions.

Chairman Tilden opens the Public Hearing to Public Comment at 7:07 and confirms with Planning Board Clerk, Tiffeny Cantu that that there were no email or postal mail comments received by the Planning Board.

Chairman Tilden confirms that this Public Hearing was posted on the Town of Austerlitz's website and also in the official newspaper and certified return receipt notices were sent and copies are part of the official file. Chairman Tilden asks for anyone who wants to speak to do the Zoom wave to notify Sue Haag they would like to be un-muted.

**Public Comments:**

Barbara Perlmutter – lives on Fire Hill Road.

Barbara Perlmutter asks if anyone has researched the background of the group that wants to takeover this “unfortunate” building and if anyone found out anything about other businesses they've controlled or managed or is it anyone's obligation to do so? Chairman Tilden asks Joseph Catalano to answer. Mr. Catalano says that the jurisdiction of the Planning Board is limited to what comes before the Planning Board and how the Applicant has managed other properties is not relevant to this particular application. The Planning Board's job is to review the merits of the application. Barbara Perlmutter says OK.

Erlyn Madonia

Asks if it's correct that there will be no more than 10 guests on the property. Chairman Tilden confirms this is number of guests and that the owner occupants are not included in this number. Joseph Catalano confirms this is according to the Town of Austerlitz Zoning Law.

Lisa Perlmutter

Lisa Perlmutter and asks about the no children rule and if there is an explanation to that. Chairman Tilden confirms this rule is up to the operators of the B&B. Keith Bogdanovich says when they are limited to 10 people and in 4 of the rooms there are is only one bed which limits the amount of people you can have in a room and limits noise level. Chairman Tilden asks if the establishment is ADA compliant and Keith Bogdanovich says he imagines it meets current codes. Lisa Perlmutter is finished with questions.

Manuel Ytuarte – Lives on Fire Hill Rd.

Was hoping to hear some of the conditions of how this will be operating and is happy to hear the information. Mr. Ytuarte has confusion over 317 and 319 Route 203 locations. Keith Bogdanovich and Chairman Tilden both confirm this application has nothing to do with 317 Route 203 and Mr. Ytuarte may have seen a typographical error and that the application is only for a site plan and special use permit on 319 route 203. Mr. Ytuarte says terrific and has no other questions.

Rochelle Bartolo

She does not have any questions and says she thinks it's a plus for the area and as a real estate broker she would send people there because there is nothing like this in the area.

Chairman Tilden asks if anyone else has questions and there is no reply.

Chairman Tilden confirms that Deborah Lans is not on the call tonight.

At 7:22, Chairman Tilden says he will give this public testimony portion of the meeting 3 more minutes.

Joseph Catalano asks Keith Bogdanovich to discuss the status of the septic system. Keith Bogdanovich says the current SPDES permit is good until the end of 2022 but it would need to be transferred by July 2022. This permit requires quarterly water tests to be done and sent to a lab with results going direct to the DEC. Keith Bogdanovich states that the septic system at this location is overseen by NY State and that Taconic Engineering is doing the sampling and turning this information into the State. Mr. Catalano asks to confirm that the DEC is involved because the septic is discharged into an adjacent pond and Keith Bogdanovich says yes, this is his understanding. Mr. Catalano confirms that once the purchase is closed that the SPDES permit will be assigned to Keith Bogdanovich.

Mr. Catalano asks if the water quality test results are transmitted to anyone other than the DEC or can the Town of Austerlitz be included on that. Mr. Bogdanovich states that these do go to the Columbia County Board of Health but would have to check to see if these can also go to the Town.

Keith Bogdanovich confirms that although the property is not in use as a Bed & Breakfast at this time, the water tests still have to happen every quarter and is up to date.

Chairman Tilden asks if anyone else wants to be heard as part of the Public Hearing. No one is asking to speak.

A motion is made to close the Public Hearing for the Site Plan and Special Use Permit application of Roaring Twenties Venture LLC for a Bed & Breakfast at 319 Route 203, Spencertown at 7:28pm by Eric Sieber and is seconded by Jane Magee.

#### **Roll Call**

Lee- yes

Jane - yes

Eric – yes

Motion is carried 3:0:1

Deborah Lans is absent from this meeting.

Chairman Tilden opens the Special Meeting to consider the application of Roaring Twenties Venture LLC to approve the Site Plan and Special Use Permit to operate a Bed & Breakfast at 319 Route 203, Spencertown at 7:28pm.

Chairman Tilden begins by stating that because they are missing the fourth member of the Planning Board for this meeting, and because of the way this was handled in 2017, he would like to take time to digest public comment, re-read the file, and confirm information on the septic system and table the meeting until the March 3<sup>rd</sup> regularly scheduled Planning Board Meeting.

Eric Sieber says that he is comfortable in moving this forward. Mr. Sieber states that all of the water samples that are taken have to be posted electronically which automatically sends the results to the Columbia County Health Department and confirms that because of the SPDES permit, this is done automatically, every quarter.

Jane Magee says she is comfortable moving forward however maybe contingent on L. Tilden checking with Deborah Lans to confirm she is ok to move forward. Chairman Tilden asks

Joseph Catalano if they can do a conditional read-through tonight and then approve this at the next, regular Planning Board meeting. Joseph Catalano says they cannot do a final approval tonight if the Planning Board is going to require input from Deborah Lans. Mr. Catalano says the Planning Board can go through the Resolution tonight and have this ready for the following meeting. Chairman Tilden says that if Eric Sieber and Jane Magee are comfortable with moving forward and although Deborah Lans wasn't present at the Public Hearing, they can go ahead tonight and move through the SEQRA short form first and then the Resolution.

Joseph Catalano states that there are items in Part 1 of the Short Environmental Assessment Form that need to be corrected and that L. Tilden can make these modifications on the copy of the form that we have in-hand. Mr. Catalano runs through these items with L. Tilden. In Part 2, the applicant checked off answers to the questions although this should have been completed by the Planning Board. Joseph Catalano runs through each question number 1-11 with the Planning Board. Chairman Tilden makes note of this on the form and takes a voice vote for each question in the order of L. Tilden, Eric Sieber and then Jane Tilden. All Planning Board members answer, "No, or small impact may occur" to all questions numbered 1-11.

Joseph Catalano says because the Planning Board confirms that because all of those questions are now answered as no or small impact but the Planning Board, they can check the 2<sup>nd</sup> box on the bottom of page 4 stating the proposed action will not result in any significant, adverse environmental impact. The Planning Board agrees verbally, first L. Tilden, second is Eric Sieber, third is Jane Magee.

Joseph Catalano advises Chairman Tilden how to finish filling out the bottom of the Short Environmental Assessment Form showing the Town of Austerlitz Planning Board dated February 22, 2022.

A motion to accept the Environmental Assessment form for this application of a Special Use Permit for Roaring Twenties Venture LLC to operate a Bed & Breakfast at 319 Route 203, Spencertown, NY as amended and as completed by the Planning Board is made by Jane Magee and seconded by Eric Sieber.

**Roll Call:**

Lee - yes

Jane - yes

Eric - yes

Motion is carried 3:0:1

Deborah Lans is absent from this meeting

Joseph Catalano now discusses the proposed resolution and he confirms that Deborah Lans did review this document and her only comments were to correct areas where the term Special Permit was mentioned and to correct the language to say Special Use Permit. Mr. Catalano confirms he has corrected all of the ten areas where this occurred in the resolution. Mr. Catalano then continues to read through the resolution details and confirms there have been no email or postal mail comments received.

Joseph Catalano continues to read through the resolution and discusses all of the details and conditions with the Planning Board.

A motion is made to adopt the Resolution as presented and modified by the Planning Board for the Special Use Permit and Site Plan approval for Roaring Twenties Venture LLC to operate a Bed & Breakfast at 319 Route 201, Spencertown, NY by Eric Sieber and seconded by Jane Magee.

**Roll Call:**

Lee – yes

Jane – yes

Eric – yes

Motion is Carried 3:0:1

Deborah Lans is absent from this meeting

Decision/Resolution of Town of Austerlitz Planning Board Re: Site Plan/Special Use Permit Application - 319 Rte 203

PB Resolution: February 22, 2022

At a special meeting of the Planning Board of the Town of Austerlitz, held via Zoom video-conference in accordance with Covid - 19 Executive Orders, the following resolution was presented:

Whereas, Keith Bogdanovich, on behalf of Roaring Twenties Venture, LLC, a limited liability company with Mr. Bogdanovich, Teresa Bogdanovich, Melania Bogdanovich and James Strickler, as members (hereinafter referred to as the “Applicant”), submitted an application for a special use permit and site plan review for purposes of re-opening a building that was previously constructed on an approximately 1.07-acre parcel of property located at 319 Route 203 (Tax Map No. 87.-2-44.11) in the Town of Austerlitz (hereinafter the “Property”); and

Whereas, it is the Planning Board’s understanding that Roaring Twenties Venture, LLC, is under contract to purchase the Property contingent on obtaining the requisite Planning Board approvals for operating the Property as a Resident Occupant Bed and Breakfast (hereinafter the “B&B”); and

Whereas, the application proposes to re-open the existing building on the Property that is two-stories comprising approximately 7,000 square feet that contains one apartment and 5 guest units; and

Whereas, this building was previously proposed by the current owner, Joe Beats, LLC, and the site plan was approved by the Planning Board on July 6, 2017; and

Whereas, this matter is now before the Planning Board because the Code Enforcement Officer (“CEO”) could not verify that the Planning Board reviewed and approved the special use permit that is required under the Town Zoning Code for a B&B and she also could not determine whether the building had been in operation as a B&B for the time period to avoid the special use permit from lapsing, even if a special use permit has been approved by the Planning Board; and

Whereas, the CEO did verify that the interior of the B&B had been constructed in accordance with the prior site plan approval and building plans but she did note there were some discrepancies in the exterior of the building from the approved site plan such as a covered porch in the rear of the building, an asphalt side walk in the front of the property and a fenced-in generator; and

Whereas, as a result of the uncertain present zoning status of the Property, the Planning Board determined that it would be best to review the B&B proposal again for this Applicant; and

Whereas, the Applicant submitted a site plan and special use permit application which requested approval for the above-described B&B proposal the Planning Board allowed the Applicant to re-submit the site plan which was approved on July 6, 2017, with the Applicant indicating on said site plan the existing features which were not included on the original plan; and

Whereas, after review of the application and supporting documents, the Planning Board accepted the application as complete at its meeting held on February 3, 2022 and a public hearing on the special use permit and site plan application was duly noticed and scheduled for February 22, 2022; and

Whereas, the Applicant submitted a Short Form Environmental Assessment Form, with Part 1 completed, together with the application materials and, at its February 3, 2022 meeting, the Planning Board determined the Application complete; determined that the proposed project constituted an Unlisted Action under the State Environmental Quality Review Act (SEQRA) and scheduled a hearing on the Application and a special meeting for February 22, 2022; and

Whereas, the public hearing regarding the application was held remotely via video-conference on February 22, 2022, at which time the Applicant's representatives, Mr. Bogdanovich and Mr. Strickler, were present and made a presentation to the Planning Board and there were five members of the public in attendance who spoke with respect to the application and no written comments were received for the hearing; and

Whereas, after the Applicant and representatives answered all of the questions that were posed by the Planning Board, the floor was open to the public of which all that were present were given a full and fair opportunity to be heard, and after further questioning of the Applicant by the Board and acknowledgement that no written comments that were received up to the present time, the Planning Board closed the hearing by motion; and

Whereas, after consideration and review of the above, the Planning Board is ready to make its decision on this Application;

Now, Therefore, Be It Resolved as follows:

1. The Planning Board makes the following findings:

- a. Proposed Improvements: This special use permit and site plan application proposes to reopen an existing building on the Property located at 319 Route 203 in the Town of Austerlitz. The Building consists of two-stories, comprising approximately 7,000 square feet that had been constructed for use as a 5 guest unit B&B with one apartment for the resident occupant who will operate the B&B on-site. All site improvements including driveway, parking area, walkways and septic system are already in place. No further improvements are proposed. The NYS DEC has confirmed that SPDES the septic system approval is current.
  - b. Proposed Use: The Applicant proposes to operate a B&B with five guest bedrooms or suites to be supervised by a resident occupant residing in the apartment in the building. The business will operate year round. The Applicant stated that breakfast will be provided in the building to the guests by a locally sourced restaurant or caterer. There will be no events or activities provided by the B&B for guests on the Property. A more detailed description of the proposed use of the Property entitled “Project Narrative” is attached hereto and made a part hereof.
  - c. Zoning: The Property is in the Rural Residential district of the Town. The Planning Board has identified the proposed use as being under the category of a Bed and Breakfast Establishment which is an allowed use in the Rural Residential district upon issuance of a special use permit and site plan approval. The Zoning Code defines the term “Bed and Breakfast Establishment” as follows: “A dwelling having a resident host in a private single-family home with common dining and leisure rooms and lodging rooms for overnight accommodation, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained and no other commercial services are offered. The bed-and-breakfast establishment shall have not more than 10 occupants as lodgers in at least three and not more than five rooms.” After hearing further details from the Applicant, the Planning Board hereby confirms its interpretation of the application as properly categorizing the use as a Bed and Breakfast Establishment and the Applicant’s statement of the proposed use conforms with that definition since there will be a resident host at all times and the building and property will only be used for lodging and overnight accommodations.
  - d. Public Comment: The public hearing on the Application was held and closed on February 22, 2022. At the public hearing, the Applicant (and representatives) made presentations detailing the various components of the proposal, the Planning Board asked the Applicant questions and received satisfactory responses to those questions, and comments were made by neighbors of the property and the general public. All the information provided by the Applicant and all of the public comments have been taken into consideration by the Planning Board in its deliberation on this matter.
2. SEQRA: Along with the application form and materials, the Applicant submitted a short environmental assessment form (EAF) pursuant to SEQRA. The Planning Board reviewed the EAF at its meeting held on February 3, 2022 after receiving a complete application. The Planning Board made the initial determination that the Application is considered an Unlisted Action under SEQRA and there are no other involved agencies as that term is defined under SEQRA. The

Planning Board decided to await further information that may be gathered at the public hearing before making a SEQRA determination. The Planning Board has reviewed the EAF with Part 1 prepared by the Applicant together with all of the application submissions. Prior to the presentation of this Resolution, the Planning Board discussed and determined that the Short EAF was acceptable under the SEQRA regulations and it hereby waives the requirement set forth in Zoning Code section 195-30(C)(1) for a long form EAF for a site plan application pursuant to its authority to do so as set forth in Zoning Code section 195-31(B). Such waiver is based on the fact that the project is essentially reopening an existing building which had been previously approved with no further improvements being proposed. Also prior to the presentation of this Resolution, the Planning Board 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 the proposed improvements and use as it is proposed by the Applicant. The Planning Board based such determination mainly on the facts that the proposed improvements and use will result in minimal impact and the building and site improvements have been existing for approximately 4 years. 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 new construction or installation that is not in keeping with the environmental conditions of the Property;
  - b. that the Property is of sufficient size and character that will adequately support the proposed new building, parking, drainage, on-site septic and water systems and driveway without any significant adverse impact to neighboring properties;
  - c. that the Property driveway and parking that is proposed will be adequate to accommodate the relatively small amount of traffic that the use will generate;
  - d. that the septic system designed to accommodate wastewater treatment from the building remains in good standing with the County Health Department;
  - e. the rural residential nature of the area will not be altered in accommodating this B&B use since it has existed for approximately 4 years; and
  - 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 and site plan approval to the Applicant as set forth herein for a Bed and Breakfast Establishment comprising of 5 guest suites and one residential dwelling unit or apartment as shown on the site plan prepared by Taconic Engineering, DPC, dated June, 2017 (hereinafter referred to as the "Site Plan"), with the additional modifications made by the Applicant to show the additional improvements not shown on the site plan approved by the Planning Board on July 6, 2017, as discussed in the paragraphs above and subject to the following conditions and restrictions:
- a. The use allowed by this special use permit and site plan approval is for only a Bed and Breakfast Establishment as described above and on the attached Project Narrative with no other use permitted.



- b. Any changes in the site plan or in the above terms, restrictions and conditions of the special use permit will require approval of the Planning Board before such changes can be implemented.
  - c. This site plan approval and issuance of the special use permit for the Bed and Breakfast Establishment as described herein shall be null and void if the Applicant does not acquire title to the Property.
  
  - d. That the Bed & Breakfast operator adhere to the terms and restrictions set forth Project Narrative annexed hereto and made a part hereof.
  - e. That the Applicant assume the obligations and responsibilities of the existing DEC SPDES permit for discharge from the septic system on site and that the SPDES be renewed and/or continued as the responsibility of the Applicant as may be required by the DEC with uninterrupted continuation of all of the testing and reporting requirements.
4. This special use 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 and that it will consist only of lodging and overnight accommodations for up to 10 guests.
  - c. Vehicular Access and Traffic. That the existing roads are adequate for access and the new use will not cause any significant changes in current traffic patterns. The parking area is more than adequate for parking for the limited use approved herein.
  - d. Historic character. That the Bed and Breakfast Establishment and its use 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 Planning Board Chair is authorized to sign the Site Plan, as approved, for the purposes described herein.

Upon motion made by Planning Board Member Sieber, seconded by Planning Board Member McGee, the foregoing Resolution was duly adopted by the Planning Board on February 22, 2022 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>
Lee Tilden, Chair	<u>_X_</u>	<u>__</u>	<u>__</u>
Deborah Lans, Member	<u>__</u>	<u>__</u>	<u>_X_</u>
Eric Sieber, Member	<u>_X_</u>	<u>__</u>	<u>__</u>
Jane McGee, Member	<u>_X_</u>	<u>__</u>	<u>__</u>

### Project Narrative

Roaring Twenties Venture LLC plans to reopen and operate the "Country Suites" at 319 Route 203 in Austerlitz.

The plan is to offer seven day a week lodging for visitors to the area, with five unique suites and a locally sourced gourmet breakfast.

A host will be residing on the premises and occupying the premises at all time for guests who will be checking in at 3:00 pm and checking out at 11:00 am.

The Inn will have general house rules and conditions with check in and check out times. We will not offer 24 hour reception service.

No Pets

No Smoking

No Children

No Candles / Incense

Length of Stay will be less than 30 days

Noise and Parties -

As this house is also our home. We will ask all guest to be considerate of excessive noise levels, especially from 10pm-7am. Parties are not allowed. If a guest requests to host an event on the property, it must be approved in advance. We will not have activities that are planned for the guest.

General maintenance of the inn grounds and building will be completed during normal business hours, such as grass cutting, generator maintenance and any other outside maintenance needs.

Roaring Twenties is owned by Keith, Teresa and Melanie Bogdanovich of Claverack and James Strickler of Hudson, all long-term residents of Columbia County.

We look forward to contributing to the local economy by providing accommodations in Austerlitz / Spencertown for guests and newcomers.

Thank You,  
Jim, Keith , Teresa and Melanie

Chairman Tilden asks Joseph Catalano if there is public comment as part of the special meeting and Mr. Catalano says yes, if that is what the Planning Board would like. Chairman Tilden asks the members of the public who are on the Zoom meeting if they would like to comment.

Manuel Ytuarte – says this meeting has been great and very helpful and thanks the Planning Board for the meeting.

Keith Bogdanovich thanks everyone for the work they've done on this project.

Rochelle Bartolo thanks everyone for their hard work, it's very much appreciated and feels this is a big step in the right direction.

Joseph Catalano says he will revise the resolution as adopted tonight and it will become part of the minutes for the next meeting and will notify the Code Enforcement Officer this is approved and copy of the resolution, once finalized, will be sent to the Applicant and the Code Enforcement Officer as well.

The Planning Board should all come into the Town Hall to sign the resolution however Deborah Lans should not sign it as she was absent.

A motion to adjourn this Special Meeting is made by Jane Magee and seconded by Eric Sieber by voice vote Chairman Tilden and Eric Sieber is made and everyone agrees.

The Special Meeting is adjourned at 8:15pm

Respectfully Submitted,  
Tiffeny Cantu, Planning Board Clerk