

**TOWN OF SOMERSET
PLANNING BOARD
April 2, 2015**

Present: Jon Hotaling
Brian Carmer
Chris Czelusta
Gary Few
Norman Jansen
Mike Norris, Counsel

Chairman Hotaling called the Public Hearing to order at 7:30PM.

PUBLIC HEARING – SCOTT DONOVAN/DONOVAN ORCHARDS, 8503 Lower Lake Road

Clerk Carmer read the notice of said public hearing that was duly published in the Lockport Union-Sun & Journal with the same notice being posted on March 16th at the Town Hall.

Clerk Carmer stated that Scott could not make the meeting but provided his cell phone number in case anyone needs to contact him.

Norm Jansen has no concerns.

Chris Czelusta has no concerns.

Chairman Hotaling would like Mr. Donovan to address the parking situation. He feels the parking needs to be expanded.

Brian Carmer has no concerns.

Gary Few has no concerns.

Jim Ferington thinks the business is wonderful and stated that it brings a lot of customers into Somerset. He said that Scott is a hard worker. Jim feels that this should provide motivation to spruce up Somerset Corners because it looks terrible.

Dale Howard stated that Scott Donovan has the type of business that Somerset should be chasing. He informed the board of a television show that Scott was on and stated that Scott showcased his product, his cidery, and Somerset. He feels Scott should be able to do what he wants.

Clerk Carmer stated that the request is not to change hours, but to add Monday, Tuesday and Wednesday to the hours of operation.

With all persons desiring to be heard, Chairman Hotaling closed the hearing at 7:35PM.

REGULAR MEETING

Chairman Hotaling opened the regular meeting at 7:36PM.

APPROVAL OF MINUTES

On a motion of B. Carmer, seconded by C. Czelusta, the following resolution was
ADOPTED Ayes 5 Hotaling, Carmer, Czelusta, Few, Jansen
Nays 0

Resolved the minutes of the March 5, 2015 meeting are approved as submitted.

COMMUNICATIONS

Code Enforcement Report for March received and filed.

SCOTT DONOVAN/DONOVAN ORCHARDS SPECIAL USE PERMIT AMENDMENT

On a motion of B. Carmer, seconded by C. Czelusta, the following resolution was
ADOPTED Ayes 5 Hotaling, Carmer, Czelusta, Few, Jansen
Nays 0

Resolved the Special Use Permit for Scott Donovan/Donovan Orchards is amended to add Monday, Tuesday and Wednesday to the hours of operation at the Cidery from 8AM to 10PM.

SPECIAL USE PERMIT TICKETT WINDMILL

Clerk Carmer read the certified letter that was sent to Mr. Tickett advising him that a hearing will be held at today's planning board meeting. The certified RRR letter was signed for. The letter placed him on notice that if he failed to appear, his Special Use Permit will be revoked and he will be required to dismantle his wind powered generator. Chairman Hotaling asked if there was anyone in attendance to represent Mr. Tickett and there was no response.

On a motion of C. Czelusta, seconded by B. Carmer, the following resolution was
ADOPTED Ayes 5 Hotaling, Carmer, Czelusta, Few, Jansen
Nays 0

Resolved, the Special Use Permit issued to David Tickett is hereby revoked. Attorney Norris will prepare a letter to mail to Mr. Tickett advising him of the revocation and the requirement to dismantle the wind powered generator.

UPDATE ON LETTERS ISSUED TO RESIDENTS WITH SPECIAL USE PERMITS

Clerk Carmer read the letters she sent to three Special Use Permit holders based on discussions at last month's meeting.

- She received a response from April Gow that she is not currently doing animal husbandry, but would like to retain the permit in case it is needed in the future.
- Grace Wittcop did not respond to the letter.
- John Buffington appeared in person and stated that he would like to retain his permit. He still uses it to work on old cars part-time.

Clerk Carmer read the certified return receipt requested letters she sent to permit holders that did not respond to the first request. Aaron Baker appeared in person and stated that he has not acted on it yet due to financial reasons, but would like to revisit his business plan and use it in the future and Steve Greene did not respond to the second request.

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On a motion of N. Jansen, seconded by C. Czelusta, the following resolution was
ADOPTED Ayes 5 Hotaling, Carmer, Czelusta, Few, Jansen
Nays 0

Resolved, the Special Use Permits for John Buffington and Aaron Baker are hereby renewed.

On a motion of C. Czelusta, seconded by N. Jansen, the following resolution was
ADOPTED Ayes 5 Hotaling, Carmer, Czelusta, Few, Jansen
Nays 0

Resolved, the Special Use Permit for Steven Greene to operate Animal Husbandry at 9254 Lake Road is hereby revoked.

Clerk Carmer was advised to send a second notice to Grace Wittcop by certified mail.

LARRY PERRY/HICKSENSE

Clerk Carmer stated that Code Enforcement Officer Lee sent a letter to Mr. Perry advising him that he is in violation of Town Code for having horses on his property. Mr. Perry told Officer Lee that he will apply at the Town Hall for a Special Use Permit. Chairman Hotaling stated that Mr. Perry was told when he applied for the permit for his business that he would need a permit for his horses when they moved to the location. Chairman Hotaling advised the board that it has been brought to his attention that the property is for sale. To date he has not made application.

On a motion of G. Few, seconded by N. Jansen, the following resolution was
ADOPTED Ayes 5 Hotaling, Carmer, Czelusta, Few, Jansen
Nays 0

Resolved Clerk Carmer is instructed work with Officer Lee to have a registered or certified return receipt requested letter sent to Mr. Perry addressing both the current and pending Special Use Permits.

LAFORST SPECIAL USE PERMIT

Chairman Hotaling stated that about annually a letter is sent to Mr. LaForest asking him to clean up his property. He has 3 unregistered cars and a trailer sitting there.

On a motion of C. Czelusta, seconded by G. Few, the following resolution was
ADOPTED Ayes 4 Hotaling, Carmer, Czelusta, Few
Nays 0
Abstain 1 Jansen

Resolved, that this matter is referred to Officer Lee and that a letter is to be sent by him to Mr. LaForest instructing him to clean up his property, if violations are found.

GOW SPECIAL USE PERMIT

C. Czelusta clarified that the Special Use Permit would not expire if the Gows sell the property, but remains with the property.

On a motion of J. Hotaling, seconded by C. Czelusta, the following resolution was
ADOPTED Ayes 5 Hotaling, Carmer, Czelusta, Few, Jansen
Nays 0

Resolved the Special Use Permit for Jim and April Gow is hereby renewed.

OUTDOOR WOOD BURNERS

Chairman Hotaling stated that the board worked long and hard on siting for outdoor wood burners and is concerned that our code only states to follow manufacturer's instructions.

Attorney Norris advised the board of the differences between the code for Somerset and the DEC code. The DEC regulations are often more strict and will trump Somerset regulations. The boundary line and roof stack are stricter with DEC regulations. The DEC approves which models are sold in the state and reviews compliance prior to being able to be sold, so the installation is to be done according to manufacturer's specifications.

Chairman Hotaling advised that he received a phone call today regarding the buildings for sale on Johnson Creek Road being too close to the road. C. Czelusta stated that he has received a complaint too. N. Jansen stated that everybody looked the other way because of all of the snow, but now that is over the buildings should be moved.

Attorney Norris stated that once a permit is issued, it is not the board's role to regulate it so he recommends having the Code Enforcement Officer visit her to discuss it.

G. Few stated that there is a lot of negative toward the wind turbines and wonders what can be done as the negativity grows.

Chairman Hotaling stated that at the Open House last night, the Public Service Commission stated that Article X supersedes municipal law.

Attorney Norris stated that one thing residents can do is file their comments with the Public Service Commission to get them on the record.

N. Jansen advised that State level elected officials can be contacted also.

G. Few stated there is an X on the road on Burgess Road and wonders why it's there.

Councilman Alt stated that it could be a survey mark for something because they are doing that on West Somerset Road also.

Chairman Hotaling stated that maybe drainage is going to be expanded so that may be where a cut will be made.

N. Jansen asked if APEX said when they will have their final data.

Chairman Hotaling stated not that he is aware of.

Privilege of the floor

Dale Howard asked if a wood burner is installed without a permit, is the town liable? He is concerned that his tax dollars would be going toward a lawsuit.

Attorney Norris advised that there is blanket immunity on the town for failure of a person obtaining a permit.

Jim Ferington asked the planning board members what their personal thoughts are on commercial wind mills.

Chairman Hotaling stated that he remains neutral, but we can't comment on it.

Dale asked if the Planning Board has to issue a Special Use Permit for the large trucks to take down poles, etc. to make the turns, or if it falls under Article X.

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Chairman Hotaling stated that anything that happens on a state route, the state DOT has to be notified.

N. Jansen advised that as a retired truck driver, he knows that if a company wants to haul something long they have to go through the state for permits. He is not aware of any permits being issued by the Town, but he isn't positive about it.

There being no further business, C. Czelusta moved to adjourn the meeting at 8:05 PM, seconded by B. Carmer. Carried unanimously.

Respectfully submitted,

Tracy L. Carmer, RMC
Town Clerk/Secretary