

Minutes of the
Town of Johnsburg Planning Board Meeting

10-27-2014

Meeting called to order by Chairperson Cork Nester at 7:03pm

Roll Call showed the following present: Gretchen Millington, Tim Record, Curt Richards, Cork Nester, Attorney Mike Hill, ZEO Danae Tucker, and Secretary Joann Morehouse, Absent: Ken Murray

Open Public Hearing:

➤ **SUB-01-2013-Subdivision-Clement-Shields Road-Tax Map# 30.-1-75:**

Mr. Nester opened the floor to anyone with comments on the Clement Shields Subdivision, Mrs. Kulikowski opened with a list she and several other neighbors came up with that they would like addressed:

Johnsburg Town Hall

Town of Johnsburg Supervisor and Town Boards

North Creek, NY 12853

25 OCT 2014

The following is in regard to the Shields Road development proposed September 2012 by

- Ms. Leslie Clement. **With which of the following good faith efforts, rules, or regulations can Ms. Clement be found compliant?**
- Seek approvals to clear cut the landscape and lay the land barren?
- Prevent a travel impasse for property owners on Shields Road resulting from unauthorized excavation?
- Honor the directive of the Town's Planning Board to not market the development lots during Fall/Winter 2012/13?
- Pay the NYS DEC penalty for the clear cutting and soil disturbance?
- Actively seek the subdivision of the 13th Lake Road border parcel off her land for the purpose of turning the parcel over to the County for improvements?
- Offer to pay for an engineering study to determine the impact of her development on 13th Lake Rd. and the threat of additional washouts and road closures?
- Acknowledge that her proposal for 6 additional sites for homes on Shields Road doubles the occupancy of the neighborhood on a road that is not a through road and terminates at the end?
- Confirm for the community that her intended use of the Shields Road land is for residences only?
- Honor the second directive of the Town's Planning Board during Summer/Fall 2014 to not market the Shields Farm development lots?

- Subject to the Board's approval of the lots, offer to only market the lots and decline the construction thereon. Turn all construction including the preparation of the building sites over to professional contractors?
- Terminate her trespass on a neighbor's land which she used for the pasture of her large animals for over a year 2012 to 2013?
- Honor the directive of the Town's Planning Board to post signs to mark her boundary with the trespassed land?
- In conclusion, the Johnsbury Town Officials are asked to consider their response to the above list of offenses if the offenses were to happen next door to them?
- There is alarm that the repeatedly requested engineering impact study regarding 13th Lake Road as described above is being ignored. And it is concluded that it is being ignored because the study would confirm that Ms. Clement's parcel is not build able without hazards to 13th Lake Road.
- Given the precedent that Ms. Clement has set, it is unclear why, going forward, the Town, County, or the State would expect citizens to comply with any rules or regulations.

Joe Kulikowski spoke and introduced an article he found online regarding a subdivision Mrs. Clement had done in Springfield, Mass (Article attached to back of minutes).

Nancy Kulikowski also gave a copy of email and listing for the property she found on zillow.com which had been addressed in last month's meeting (also see attached at end). This was found online 9-22-14 and then removed a few days later.

Pete and Sue Lenseth spoke next Mr. Lenseth works in construction and he questions the way that Shields Rd is being installed. He feels that regular inspections during installation are necessary as well as permits, it is his opinion that Mrs. Clement is too happy to cut every corner and ignore all the rules it is his suggestion to shut her down entirely and make her start over from the very beginning.

Roxy Freebern spoke about Mrs. Clement cutting corners also and voiced her concern about a stream that runs through Mrs. Clement property and then through her own. Mrs. Freebern would prefer to take chances with new owners and how they would develop rather than Mrs. Clement do the developing.

Mr. Lenseth spoke about a sign Mrs. Clement has posted regarding her dog that says (Don't hit my dog it runs free) as an example of her willingness to ignore rules considering the Town of Johnsbury has a leash law that Mrs. Clement is apparently violating. Mr. Nester told him that was a matter that should be taken to the Town Animal Control Officer as it was not something this board could act on.

Mr. Record made a motion to close the public hearing for Sub 01-2013 seconded by Mr. Richards all in favor motion carried.

Approval of minutes: September 22, 2014

Motion made by Mr. Richards to accept the minutes but Mr. Hill asked that some revisions be made first. Mr. Richards made a motion to approve minutes with the corrections seconded by Mrs. Millington all in favor motion carried.

Old Business:

➤ SUB-01-2013-Subdivision-Clement-Shields Road- Tax Map#30.-1-75

Mrs. Clement spoke regarding Town of Johnsburg Resolution #267 regarding seasonal roads Which says if you live at the end of an old road that the town does not maintain year round you may ask that the town plows and maintains if you bring the road up to current standards with the approval of the Highway Superintendent. She also spoke of all the improvements she did to the road and said she had all the permits required for her to do so. Mrs. Clement stated she has followed all the rules that the Planning Board has set out for her. Mrs. Clement also talked about the tax base and local jobs she would be creating, she strongly feels she has met all requirements and added to the community. Mrs. Clement proposed that the Board approve her application conditional on Superintendent Hitchcock's approval of her work on Shields Rd.

Mr. Records asked where and when did Mrs. Clement get the item #4 (gravel) How much did you get and what quarry did it come from used in the road? Mr. Richards gave short summary of last 2 years' worth of work on the road and at one point it rained for 2 months straight and no wash out took place, feels the road is ok, having had been Highway Superintendent himself he knows that many of the roads in Johnsburg are in worse condition than Mrs. Kulikowski is very upset about the clear cutting that was done on the property Mr. Nester explained that the DEC laws on clear cutting to Mrs. Kulikowski and stated that Mrs. Clement did not violate it, but that she should have come to the Planning Board before cutting the trees only because it was prep work for her subdivision that she had not applied for at the time.

Mr. Nester read into record emails between himself, Mrs. Clement, and Superintendent Hitchcock explaining what still needs to be done to make the road user ready, this is the email from the Highway Superintendent (I took Don up this afternoon and measured the width on the entire length of road. The first section is only 16' wide. As you get toward the crest of the hill it does measure 20'. The culvert going down into the dip will need the large boulders removed in order to the 20', and also not to beat up our wings. Will have to get some post in the ground at some point to mark the outer edge.

From that culvert toward the turn around the road is only 12' to 14' wide. Item 4 was spread some over the weekend, however when I dug down a couple inches I found grass! This will not work!

The turnaround is 60' long, but just a little over 40' wide. It needs to be mucked out, Cobb rock installed, and covered with item 4 out to the large pine tree. The whole turnaround is very soft and we would never be able to turn around in there. Is there Cobb rock under the material you scattered Sat? Perhaps we should bring the hoe up and see what the base is. Where you

went over the bank and got stuck, if there was a culvert under the road there it would help to keep the turnaround dry.

Also noted a large rock blocking the outlet of the first culvert you installed that needs moving.

Thanks, Dan) Mr. Nester informed everyone that Mr. Hitchcock must approve road before anything can move forward, he has approved her and her contractor Bob Lavergne to begin work on the road.

. Emails between the Town Supervisor and Jeff Tennyson of Warren County Highway,

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[Reply](#) [Reply All](#) | [Forward](#) As Attachment
 | Move To: [INBOX](#) [Move](#)
[Delete](#) Bypass Trash
 Subject: Ms. Clements Coveyance to County
 From: "Jeff Tennyson" <jtennyson@warrencountydpw.com>
 Date: Wed, October 22, 2014 1:32 pm
 To: "Vanselow, Ron" <supervisor@johnsburgny.com>
 Priority: Normal
 Options: [View Full Header](#) | [View Printable Version](#) | [Download this as a file](#) | [View as plain text](#) | [View Message details](#)

Supervisor Vanselow:

As we discussed, DPW has been in periodic coordination with Ms. Clements regarding conveyance of a portion of her property along 13th Lake Road. We will maintain the conveyed parcel as necessary to protect the County Highway and the travelling public.

Please let me know if you need any other information and please feel free to refer anyone with questions directly to me.

Sincerely,

Jeff

Jeffery E. Tennyson, P.E.

Superintendent of Public Works

Office: (518)761-6556

Fax: (518)623-2772

Cell: (518)232-4277

and emails between himself and Attorney Abrahamson concerning DEC fines and Marketing her lots. Summary: of email is that Mrs. Clement may market her lots and before fine is paid but no work may be done until she files a NOI with DEC. No lot may be transferred until DEC fine is paid. (Emails attached to back)

Mr. Record stated that he feels Shields Rd should be fixed before Mrs. Clement is given approval for her subdivision. Mr. Richards feels conditional approval should be given considering all work will be done under DEC supervision and at this point he feels the road is 100% better than it was before work started. Susan Lenseth wanted to know if Mrs. Clement is going to fix the mess on the end of the road where her driveway is, that has been caused by Mrs. Clement road work. At this point Mr. Richards suggested that maybe Superintendent Hitchcock should be asked to join the next meeting to answer all of these questions.

Mr. Nester asked if anyone would like to entertain a motion on the subdivision and Mrs. Millington asked if this is going to solve anyone's problems, Mr. Nester said that was not what the Board was there to do, their job was to act as a mediator between Mrs. Clement and her neighbors and try to work out what is best for all. And he was concerned with insuring that before anymore shovels go in the ground up there everyone is covered. Mr. Record said one way to do that is to be sure the road is completed.

Attorney Hill went over the SEQRA part II form with the Board and the Board came up with a negative declaration, see attached on back: which Mrs. Millington made a motion to approve the negative declaration of the SEQRA, seconded by Mr. Richards all in favor motion passed. At this point Mr. Richards made a motion to approve **Sub-01-2013-subdivision-Clement-Shields Road-Tax Map#30.-1-75** conditional on Superintendent Hitchcock's approval of the entire road, no site work, no building permits, no conveyance of lots will be allowed on lots until the entire length of the road is approved by the Superintendent. Per Mrs. Clement request only one Mylar will be done which signing of will be contingent of Superintendent Hitchcock's approval of the entire road, Seconded by Mrs. Millington motion, carried 3 aye(Mr. Nester, Mr. Richards, Mrs. Millington) –1 naye(Mr. Record)

New Business:

➤ **Merge of 1.26 acres from Cuomo to Pomarico-Tax Map#149.-1-15.1**

Mr. Nester recused himself due to the fact he was the realtor in the original sale. Mr. Record took over as Chairperson. Mr. Smith (Atty for Cuomo who sold land to Pomarico in the past) explained that they would now like to purchase a small area of rock and merge it to their prior purchased lot making their present 3.82 acres to 5.08 acres Mr. Hill asked that the new deed have written on it that the 1.26 acres lot will be merged into the 3.82 acre lot so that it will not have any independent legal existence. Land must not be built on. Motion made by Mr. Richards to have a public hearing on the subdivision and merge at the next Planning Board meeting November 24, 2014, seconded by Mrs. Millington all in favor, motion carried.

Mr. Chad Pierson was present because he had been asked to informally appear before the Board due to neighbor complaints. Mr. Nester read to the Board members a short email to bring them

up to speed on the complaints about Mr. Pierson. Mr. Pierson bought the land and house in 2001 and at that time owned his own logging business, Mr. Pierson applied for permission to build garage in 2010 with Mr. May who was at the time ZEO for Town of Johnsburg. In 2013 Mr. Pierson to the new ZEO Danae Tucker and asked for his compliance certification, she looked through his file and found all his paperwork was in order and did an onsite inspection and found no reason not to give him his compliance paperwork so she did so. In May of 2014 Mrs. Tucker received the first letter of complaint regarding Mr. Pierson and his property since his purchase in 2001. Mrs. Tucker went out and found a home based business which with today's regulations he would be required to get a site plan compliance for so she gave him a notice of violation. In June the APA found erosion problems and ordered correction which was done to the APA standards and they signed off on it. APA decided the business was not what they consider commercial and sent the problem back to the planning board. Mr. Pierson didn't feel he was wrong having followed all directions given to him and receiving necessary permits and letters of compliance so he didn't feel he needed to come to the board because the laws had changed in the years since he did what he had been asked to do and had the paperwork to prove it. In the regulation that were in effect when he bought the property what he had done was acceptable and under present laws what Mr. Pierson had done was considered a preexisting nonconforming use. Mrs. Tucker has asked Mr. Pierson to come before the board and bring his building up to the present years regulations which he was reluctant to do which Mr. Nester said he felt anyone would be reluctant to after all this time and his file has all the documentation in it. Mr. Pierson says he feels like this is all due to one specific neighbor that has a problem with him, he got all the permits that were requested of him and got everything signed off on and all his papers are in order. Mr. Donohue a neighbor says he feels that Mr. Pierson has had a change of use and that the water runoff from storms etc. are endangering a beaver pond that is on his property and also Edwards Hill Rd. Mrs. Millington asked if she should recuse herself since at one time her family owned the property being discussed and Atty Mr. Hill said no it wasn't needed as long as she had no emotional attachment to the property. Mr. Nester also read into record a letter of complaint written to the Board by Dan Hitchcock

10-27-14

DEAR TOWN OF JOHNSBURG PLANNING & ZONING BOARDS,

I WOULD LIKE TO LIST SOME PERSONAL CONCERNS REGARDING MR. PIERSONS LOGGING, ROAD BUILDING, FOUNDATION DIGGING ETC, BUSINESS.

FIRST I FEEL THE CLEAR CUTTING AND STRIPPING OF HIS ENTIRE PROPERTY ON EDWARDS HILL ROAD TO CONSTRUCT A 5500 SQ FT WAREHOUSE FOR RUNNING HIS BUSINESS WAS PERFORMED WITH NO RESPECT TO FOLLOWING THE PROPER BUILDING & CLASSIFICATION REQUIREMENTS, NOR WITH NO RESPECT TO SURROUNDING PROPERTY OWNERS AND NEIGHBORS.

MY MAIN CONCERN IS THE SAFETY OF MY FAMILY. IT APPEARS TO ME AN INDUSTRIAL PARK WOULD BE THE ONLY SAFE LOCATION FOR A BUSINESS LIKE THIS. ON A DAILY BASIS THERE IS A LARGE AMOUNT OF INDUSTRIAL TRAFFIC ACROSS FROM, AND IN THE ROAD AT MY HOME ON EDWARDS HILL RD. HEAVY EQUIPMENT RANGING FROM TRACTOR TRAILERS, SKIDDERS, EXCAVATORS, ETC ARE IN THE ROAD. OFTEN BACKING UP WHICH IS VERY DANGEROUS WITH ALL THE BLIND SPOTS WITH THIS TYPE OF EQUIPMENT.

HAVING 4 YOUNG GRAND CHILDREN THAT LIVE, PLAY, GET ON AND OFF A SCHOOL BUS AT THIS LOCATION,

I FEEL THE RISK IS VERY HIGH FOR AN ACCIDENT TO HAPPEN.

AT ONE TIME LEAVING FOR WORK AROUND 4 AM I FOUND EDWARDS HILL ROAD ROAD COMPLETELY BLOCKED FROM A TRACTOR TRAILER THAT HAD RUN AWAY DURING THE NIGHT. THIS COULD VERY WELL AS HAPPENED AT ANY TIME, INJURING, IF NOT KILLING SOMEONE. YOU ALSO HAVE TO TAKE INTO CONSIDERATION THE MULTIPLE HOMES AND FAMILYS THAT WERE BLOCKED FOR A CONSIDERABLE AMOUNT OF TIME IF ANYONE HAD REQUIRED EMERGENCY PERSONEL.

ALSO THERE IS THE NOISE TO CONTEND WITH THAT GOES ON 7 DAYS A WEEK, OFTEN LATE INTO THE NIGHT.

NEXT, I THINK ABOUT HOW MUCH HAS THIS HUGE METAL WAREHOUSE AND THE CLUTTER THAT GO'S WITH IT AFFECTED THE PROPERTY VALUE AT MY OLD FARM. 6 GENERATIONS, FROM MY GREAT GRANDPARENTS, TO MY GRAND CHILDREN HAVE LIVED HERE IN WHAT USE TO BE A BEAUTIFULL ADIRONDACK SETTING, ~~AND~~ ONLY TO HAVE IT ALL RUINED!

I INVITE ANY OF YOU TO COME SIT ON MY FRONT PORCH, THEN TELL ME THIS TYPE OF THING IS ACCEPTABLE.

THANK YOU,

Daniel B Hitchcock

and documentation from Soil and Water and letter from Brian Donohue's attorney see both attached to back. Chad added he asked the APA while they were there if this erosion kept happening could it keep coming back on him and they told him no it would be the responsibility of the town. Mr. Donohue asked if Mr. Pierson had gotten a driveway permit and Mrs. Tucker said no there is not one in the file. Mr. Donohue brought up that he had gotten Atty to send a letter to the APA requesting that they reevaluate Mr. Pierson's files and change it to classify it a class A project, which takes all things out of the Planning Boards hands. At present no response has been made by the APA. Mrs. Dunlap spoke and said just because they hadn't officially complained before doesn't mean that they hadn't tried to resolve this privately. Mr. Nester said that he, Mrs. Tucker, and maybe the Town Board need to try and work this out in a way that makes everyone happy. Mrs. Dunlap asked what the next step is. Mr. Nester said he needs to talk to the Town Board and see if and what the Planning Board can do. Mr. Nester asked everyone to please try and get along while they try and sort this out.

Chairperson Report: None

ZEO Report: Drove by the Darron Tracey property took pictures and yes feels like there is a problem not sure if it is a zoning issue or if maybe it is an issue for DEC. Mr. Record spoke to DEC mining official and DEC says there is nothing they can do because it is just under their threshold amounts, suggested that he speak to Brian Grisei at APA and maybe the Federal mine safety people. Mr. Hill asked if the town consulting engineering firm had been approached for advice.

Privilege of the Floor:

Executive Session: None needed

Motion to Adjourn: Time: 9:10pm Mr. Record made motion to adjourn seconded by Mrs. Millington all in favor motion carried.

Respectfully submitted:

Joann M. Morehouse

Johnsburg Planning Board Secretary

Next Planning Board Meeting –Monday, December 22, 2014

at the Tannery Pond Community Center– 7 p.m.