

**Johnsburg Planning Board Minutes  
March 28, 2011**

**ATTENDANCE:** Mrs. Osterhout, Mr. Record, Mr. Smith, Mr. Pelton, Mr. Klippel  
Mr. Heidrich, Attorneys Mr. Schachner and Mr. Hill..

**Guests; See Attached**

**Public Hearing Called to Order 7:08 P.M.**

**Subdivision Amendment #179-06 A Front Street Development**

Attorney Smith, representing the applicants, explained to the Board that Gore Mountain needs more property along the lift and ski trail. This need is based on terrain and the fact that skiers have been skiing outside the lines for safer terrain. The applicants have leased this property to the Town for 90 days pending this application approval. Hearing no further questions Mr. Record presented a motion to close the Public Hearing at 7:10 P.M. With a second from Mr. Smith and a vote of all in favor the Public Hearing for Application #179-06 A was closed.

**Public Hearing Opened 7:10 P.M.**

**Subdivision Application #220-11 Gerekaris**

Attorney DeSantis, representing the applicants, explained to the Board that the applicants wish to create a 3 lot subdivision to allow for additional property for immediate and extended family. Mrs. Gerekaris wishes to merge lot #1 with property owned by Mr. and Mrs. R. Tuma, lot 2 to be merged with property owned by Mr. Kevin Tuma, which will result in a legal size lot and lot #3 to be retained with her property. Attorney DeSantis has an APA Jurisdictional Determination letter. Hearing no further questions Mr. Record entered a motion to close this Public Hearing, with a second from Mr. Klippel and a vote of all in favor, motion carried. Public Hearing closed 7:12P.M.

**Public Hearing Opened 7:12P.M.**

**Subdivision Application #221-Kimbrell**

Attorney Smith presented the information on behalf of the applicants and explained that this lot line adjustment was an agreement with the former land owners that the current land owners have decided to honor. This transfer includes a small parcel at the rear of the Kimbrell property and connected to property owned by the Church. There were no further questions or concerns and a motion was entered by Mr. Record, seconded by Mr. Smith to close this Public Hearing. With a vote of all in favor this Public Hearing was closed at 7:13 P.M.

**Regular Meeting**

**Called to Order 7:14 P.M.**

All members received the minutes electronically prior to the meeting eliminating the need to be read at this time. Mr. Record asked to have the minutes show that he had presented a motion to go into Executive Session to include Mr. Vanselow and Mrs. Tucker, for the purposes of discussing potential enforcement matters. The motion

was seconded by Mr. Pelton and a vote determined Mrs. Osterhout, Mr. Record and Mr. Pelton were in favor and Mr. Smith opposed. The motion failed to carry, 3 to 1, A motion was entered by Mr. Smith and seconded by Mr. Record to go into Executive Session with only the Board and attorneys, for purposes of discussion of potential enforcement matters. A vote determined all were in favor, no one opposed and no one abstaining, motion carried. Mr. Record entered a motion to come out of Executive Session at 9:35 P.M., a second was entered by Mr. Smith and a vote of all in favor Executive Session ended, with no action taken. Mr. Smith asked for a spelling correction of Mr. Nessel's name on page 3. Mr. Smith also clarified the 0 setbacks to be both front and side setbacks. With a motion entered by Mr. Record and a second by Mr. Smith to approve corrected minutes, a vote determined all in favor, no one opposed and no one abstaining. Motion carried minutes approved as corrected.

**Amend Subdivision Application #179-06 Front Street Development Corp.**  
Mrs. Osterhout asked for further questions or comments. With no further comments a motion was entered by Mr. Pelton and a second by Mr. Klippel to approve Subdivision Application Amendment #179-06A Front Street as presented. Attorney Smith informed the Board that he was waiting for an APA amendment. Mr. Pelton restated his motion to approve upon receipt of APA amendment approval. Mr. Klippel seconded the amended motion and a vote determined all were in favor no one opposed and no one abstained. Motion carried. (The application is exempt from SEQRA review because it is part of a Class A Regional Project subject to APA review.)

**Preliminary Presentation Subdivision Application #220-11 Gerakaris**  
Mr. Smith asked if property in question borders on Johnson Brook. Attorney DeSantis replied yes it does. Mr. Record presented a motion to approve Subdivision Application #220-11 as presented and his motion was seconded by Mr. Smith. Attorney Hill asked if the Board did SEQR. The SEQRA form was not present in the file, so Attorney DeSantis completed part I of the SEQRA form and the Board reviewed and answered the questions in part II, responding "NO" to each and unanimously declaring a Negative Declaration for the application. With the process complete Mr. Record entered the motion to approve Subdivision Application #220-11 as presented. A second was entered by Mr. Smith and a vote determined all were in favor, no one opposed and no one abstaining motion carried.

**Preliminary Subdivision #221-11 Kimbrell**  
Mr. Smith asked if SEQR review was needed. Mrs. Osterhout replied yes. The Board reviewed the questions in Part II of the SEQRA form, answering "No" to each one. Mr. Smith presented a motion to declare a Negative Declaration under SEQRA. With a second from Mr. Klippel and a vote of all in favor a Negative Declaration was declared. Having met all requirements of the application Mr. Record presented a motion to approve Subdivision Application #221-11 as presented. With a second by Mr. Heidrich and a vote of all in favor motion was carried.



Attorney Smith presented a letter requesting to extend the Front Street Development approval. Mrs. Osterhout informed him that the applicants must request an extension within the 180 day allotted time. Attorney Smith replied that no place in section 665 states they must request within that time frame. Mrs. Osterhout suggested tabling this until clarification can be made. Attorney Schachner said that this is cut and dry. The Board cannot extend something that does not exist and as this approval has expired it no longer exists. Mr. Smith entered a motion to deny request to extend Front Street Development approval as it has already expired. With a second from Mr. Klippel and a vote of all in favor motion carried. Extension denied.

#### **Lot Line Adjustment**

General discussion showed that the Planning Board attorneys have prepared a simple draft to cover this issue within a single meeting with some flexibility to schedule a Public Hearing if needed. APA restraints include that a lot line adjustment cannot measure more than 25 feet in width and there is an acreage limit as well. Mrs. Osterhout suggested that the Board take the provided information home to read and place this item on the April Agenda.

The Board needs to set a deadline time frame for interested people to be placed on the Agenda as the Secretary only works on Monday now. Mr. Record entered a motion for all requests to be presented by the close of business on the Monday of the week prior to the meeting date. A second was entered by Mr. Klippel and a vote determined all were in favor, no one opposed and no one abstaining. Motion carried.\

Mr. Nessel has come to the Board previously with a request for this Board to ask the Town Board to amend the Land Use Plan. His request is for elimination of the side and front setback requirements in Business District and to eliminate the Hamlet Business District 2. General discussion revealed that Mr. Nessel had obtained the verbiage used by Lake Placid outlining their Business District objective. It outlined what they felt was important for the essential downtown core. They list, among other items, an area clean, safe, walkable and providing residential areas. Information from Lake George discussed zero (0) setbacks and the ability to walk the district because of this. Mr. Smith did ask if Lake George has a municipal sewer system, and explained that this would make this (0) setback possible. Discussion also revealed that there would be special fire proof regulations with different property owners. Mr. Nessel asked that the Board get behind him and send it to the Town Board. Mr. Nessel was of the opinion that it was the Planning Board's responsibility to amend the Land Use Plan. Attorney Schachner said that the Planning Board could recommend but could not amend. Mr. Heidrich said it was the responsibility of this Board to enforce the Plan that is in place. Mr. Smith thought that there were larger issues to deal with prior to making this recommendation such as municipal sewer. Mrs. Osterhout said that as the Board did not oppose Mr. Nessel's ideas they would not suggest sending a recommendation to the Town Board. Mr. Nessel asked for a vote of Board members on this issue. Hearing no response, Mr. Record said he would like to invite Mr. Nessel back for a discussion on the setback issues and to include a motion to continue a discussion with Mr. Nessel on

this issue. No second was entered on this motion requiring no further discussion. Mr. Heidrich asked Mrs. Osterhout to ask Professor Lamb why this had not been changed.

#### **ZEO Report**

Mrs. Tucker has presented a written report and she also stated that she has been in touch with the County and as of April 1, 2011 the County will not issue a C of O until the project has obtained a Zoning Compliance Certificate from the Zoning Enforcement Officer.

Mr. Record entered a motion to go into Executive Session with just the Board and their attorneys to discuss possible enforcement actions, Mr. Smith seconded the motion and a vote of all in favor, no one opposed and no one abstaining, the motion was carried.

With a motion by Mr. Record and a second by Mr. Klippel to end executive session at 9:08 P.M., a vote determined all were in favor, no one opposed and no one abstained. Executive Session ended at 9:08 P.M.

Mr. Record entered a motion to send a copy of the memorandum received from the Attorneys to the ZEO. A second was entered by Mr. Smith. A discussion followed as to sending the memo to the Town Board and the APA. Mrs. Osterhout repeated the motion to send a copy to the ZEO for a vote. A vote determined all were in favor, no one opposed and no one abstaining. Motion carried.

Mr. Smith entered a motion to send a letter to Front Street Development notifying them that the conditional approval for Phase 1A residential had expired. Mr. Klippel seconded the motion and a vote determined all were in favor, no one opposed and no one abstained. Motion carried. Mr. Vanselow said that perhaps they should include that all previous approvals were included. Attorney Schachner said that it would not be necessary.

Mr. Millington asked the Board to take a look at the plan that a property owner was considering and asked if the Board had any concerns with the changes considered. He had proposed this plan at the previous meeting and there was an ingress egress concern with 3 lots. The applicant addressed this issue with the moving of the garage and keeping the shared drive within the 12% grade requirement. The Board had no major concerns and told them to do an application and come for preliminary when ready.

Having no further business Mr. Klippel entered a motion to adjourn, which as seconded by Mr. Smith and a vote of all in favor adjourned the meeting at 9:23 P.M.

Respectfully,

Marion Monroe, Secretary



# Town of Johnsbury Planning Board Meeting

Please Sign In

Date: March 28 2011

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FRANK DESANTIS

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Pete Olesheski

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ROBERT NESSLE JOHNGBURG

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Danae Tucker

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Ketan M. Ilyan Johnsbury

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