

PLANNING BOARD MEETING
CANAAN, NY 12029

AUGUST 20, 2018

The meeting was called to order at 7:04pm. Marlene Tuczinski was absent at the beginning of the meeting but came in later.

Continued Site Plan Review for changes to a previously approved Site Plan for Supersoul Farm at 365 Schillings Crossing Road

Mrs. Bridget Cappo and Mr. Mitch Khosrova, attorney appeared for the application.

Pierre quoted State Code and said once an approved site plan is submitted for change then that opens up the whole site plan to review again. He further quoted our zoning law (page 64) and said the Board must take into consideration the effect a site plan has on the neighborhood. This is a commercial operation in a residential zone.

Mr. Khosrova said the Chair kept saying this is a commercial use but it is allowed under a Special Permit. He said the Cappos had hired Carl Matuszek for an analysis of the current septic system and he said it was adequate. Mr. Khosrova repeated several times that the Cappos had hired professionals and had reports done at great expense. Pierre said that is the cost of doing business.

Pierre said he would repeat his stand on this application. There are things going on at this property that are not being done at any other properties nearby because this is commercial. Pierre said he is not trying to deny the Special Permit but many issues need to be looked at such as health, safety and traffic. The Planning Board has the right to look at all of these things. He told Mr. Khosrova that if he had more information to provide to please do so.

Mark asked the lawyer if he lived locally and Mr. Khosrova said yes , in Chatham. Mark said he is very concerned about the scope and expansion of this property. He asked what happens if there is an emergency? What happens if a road is washed out? Mark has serious reservations in the direction they want to go in this location. Mark said it is not a reflection on Mrs. Cappo but he feels the project is wrong for where it is and he sees no benefit to the Town. Mr. Khosrova said it has been there since 2014 but this is an expansion, however not that large.

Pierre said a driveway permit had been given and as far as reaching the property in an emergency, that pertains to all site plans.

Mark said he is not satisfied at all. He does not welcome a commercial operation in this location. Mr. Khosrova said the Town Board decided it is okay, take it up with them. Mr.

Khosrova said it is just a school for meditation and to learn about the environment. There are no kids, no playing games etc. There is very little impact and no issues including with the neighbors.

Chad asked if the sign shown on the maps is in place or proposed. Answer was proposed. Pierre said it can only be 10 square feet. Mr. Khosrova said everything proposed is within code.

Pierre said the off site parking is off the table. It will not be allowed. Mr. Khosrova agreed to this.

Tent/camping issue was discussed. Pierre repeated that campgrounds are not allowed in Town. He said to be fair he went and got more information and code describes what a tent is, what area is required for each tent (250 SF). Pierre told the Board they also have to look at how people will get to those tents. He understands that what the Cappos want is part of their curriculum but what they want is outside what is allowed. Mr. Khosrova said there is a designated area for tents. He spoke to Mike DiRuzzio (DOH) who thinks this area can be certified. Mr. Khosrova said the Board needed to understand that the Cappos could ask for a building (permanent) to be put up and they are not asking for that. Their customers asked for tents. All of the people in the tents have to be enrolled in classes and there will not be any cooking in the tent area. Mr. Khosrova went further by telling the Board that if someone comes in before the Planning Board for a lot line adjustment that when it is filed at the County they call it a subdivision. Just different names and that is what the Cappos are doing- calling something by a different name. He said he understood that the Planning Board does not want to set precedents but the County has overall control for tents, water etc. and they would certify it.

Chad said he had questions on the 8/10/18 letter from Mike DiRuzzio, the environmental health engineer from DOH. He said the ingress/egress and septic all go to the overall review. Also the increase from 14 people to 24 people in the building and that the overall increase to 50 people by adding 13 tents all goes toward a review on the septic and other issues.

David said there is an impact from the camping. That is quite an impact to the residents on the road. Mr. Khosrova said that is why they put the tent area near the woods and near the upper parking lot. That mitigates any impact.

Mrs. Cappo said there are many activities through the day so the day ends up being very full. People will be in programs all day and won't have time for anything else. They break for dinner and by then everyone is exhausted so they all go to sleep. She said she and her family have to live there so they don't want activities and noise at night.

Jeff said he had no major concerns. He did bring up the SEQR form and said there was no mention of the long eared bats. They are very prevalent in this area. He also advised they need to be aware of cutting down trees. Mr. Khosrova said he could not pull up the material for the SEQR form and said they do not plan to cut down trees.

David said the major issue is whether the Planning Board allows camping. This is a large expansion. Pierre said he does not support the expansion for tents. He might if it was only tents once or twice a year. Mr. Khosrova asked if they would have a problem if they built a building. Pierre said yes, even more so. This is too large of an expansion. Pierre said it also is too much for the area and if someone else came in at another place wanting this, the Planning Board would have to use this as a precedent. Chad asked how many days of camping did they want and Mr. Khosrova said more than 60. He said there is no way to know an exact number. He said he might be able to go back to the owners and come with a number that would be acceptable to the Board. Mr. Khosrova stressed that the tents are in a hidden area and he does not see any problem. Pierre said a B & B is restricted to 5 rooms due to being in a residential area. So using that information what the Cappos have, based on population, it is considered a hotel. Mr. Khosrova said it is a school. He said people will not socialize and have day activities like games, they will be in school. He does not want the Planning Board to just look at the number of people. Pierre said the Planning Board needs to look at the number since a B & B only allows 5. Chad said a noise ordinance is to protect the public. His concern with the tents is about sanitary facilities. He feels the septic needs to be increased.

Marlene asked for a clarification on the number of people. Mr. Khosrova said they want 24 in the dorm and up to 50 people total with tents. She asked what happens if there is bad weather? Would you put them in the dorm? Mr. Khosrova said no; it is illegal. Mrs. Cappo said they have sent people to Silver Maple Inn before. Then Marlene asked if people are registering as couples? Mrs. Cappo said oftentimes it is a couple in a tent. Mr. Khosrova said many people come here by train and the Cappos pick them up at the train station. It is a close knit group and many ride share. Most come up for the weekend.

Pierre said he felt he should poll the Board to see if they are in favor of a campground/camp sites. If so, the Board needs to address how big it should be.

Poll- Are you in favor of the addition of tenting being allowed?

Chairman- no

Marlene-yes

Jens-yes

David-no

Chad-yes

Mark-no

Jeff-yes

4 yes and 3 no

Pierre said they need to address the issue of whether to put a number on how large the tent area could be. Should they be close together or far apart? Chad said tents receive building permits and must be certified. You must plan on 225 to 250 SF per tent. Jeff said that is about 5000SF and a tent is normally 80 to 100 SF. That is based on a 2 or 3 person tent only, nothing larger. Mrs. Cappo said the area they picked for the tents was due to ingress/egress. It is near pavement and the upper parking lot so it will not be very visible. People have to bring their own tent and set it up. Pierre said people need to be aware that the area they chose was flooded years ago. Pierre asked if there were any comments from the Board on the number of tents to be allowed? Chad said whatever is there must meet NYS building codes. Depending on the size, building permits must be followed.. Also they must follow code if tents will be used more than 60 days. Chad said too large tents will more code issues. Jeff said code for campgrounds probably consider an area for parking and cooking as well. Jeff wanted to make sure this did not include any campers (pop ups) and Mr. Khosrova said no. It was mentioned that there are more stringent requirements for event tents and those would have to be followed as well. Pierre suggested that the site plan be conditioned that the tent area must be restricted to tents and no cooking allowed. He stated that it does not say 26 people (in tents) limit on the map as is in the narrative. It can be listed on the map too. If approved, the Board would allow tenting (maximum of 13) in the proposed area to small tents only with no outside cooking and the maximum time would be for 72 hours. No lights in this area. Lighting will be in the parking area and the bridge area.

David asked about bathrooms. Pierre said it is a DOH issue. However, many people will not use the bathrooms in the building (dorm). Mr. Khosrova said people who tent can only use porta potties. They will not be allowed in the dorm. David then asked about showers and was told those in tents are only allowed outside showers (solar). Mrs. Cappo said people are excited to have this experience. Chad said sanitary facilities(per the DOH letter) need to be addressed. Temporary porta potties are not acceptable to the Board. The Board would look for the tent occupants to be able to go into the building for septic and showers. Chad said there is plenty of capacity in the building to allow this. They may need to expand the building. Mr. Khosrova and Mrs. Cappo said they are opposed to that. They have no plans to let any of the tenters into the building at all. They only plan to have 1 or maybe 2 porta potties. They feel that is more than sufficient. Jens said he felt he was in a bind. He understands what they want to do. Ideally it sounds great but it is not practical. He asked how do we as a Board make people feel safe but at the same time let people do what they want. David asked what was the big deal in setting up another building for water and bathrooms. Chad said they want to increase the capacity and that will increase the property . The building sanitary facilities must be increased to cover that. Mr. Khosrova said that is a lot to ask to put up that kind of money for upgrading the septic. It may not be used much. Pierre said that argument holds nothing; it is a business and upgrading would be a business expense. Mr. Khosrova said it is a non profit. Mark said

this is a business.

Mark asked how does this benefit our community? He said they were asking for things not permitted. It is listed as a school but there is no benefit. He sees it as a negative impact to the neighbors. Mrs. Cappo said the neighbors have no problems with it and they encourage it. Mark said he commends what they do but there are major issues with it. Mr. Khosrova said people are coming here for this experience and they should be allowed to do it. Chad said if they are hesitant to make the investment then he recommends limiting this aspect and see how it goes. Limit it to a few weekends to start. Mrs. Cappo said in reality they do not think they will have 13 tents all the time. David said he would think differently if they only have 5 tents. Mr. Khosrova asked if the Board would okay it if they limited it to 6 tents (12 people) and make the total on site 36 people instead of 50? Chad said to decrease it would lessen the impact on the sanitary facilities. Chad asked if they were still asking for the time frame or limiting it to only a few weeks? Mrs. Cappo said she did not want to limit it to a few weeks. Mr. Khosrova said from June thru September and no limited time. Pierre said a temporary thing does not work for him. That is problematic. That would only create more problems and there would be no way to control it. Jeff said he is not in favor of the temporary time and asked if the Board was okay with the sanitary facilities? Chad said the Board can look at that. David said he was not in favor of the temporary time.

Mark said a building for showers and sanitary facilities is coming very close to a real campground. He thinks that makes it worse. David said even with 10 people you need facilities. Mr. Khosrova said they plan to only give tenters bottled water and the use of porta potties. Mr. Khosrova said the DOH might require a new well be drilled and then they would have to do it. However, the Cappos do not want to. Chad said some Board members are okay with the number of people but not with the porta potties. Mr. Khosrova asked if that meant the Board wants the dorm upgraded with showers and bathrooms? The Board said yes. Chad said the septic system must have a larger capacity in the dorm. The County would have to say the capacity in the dorm is enough for 50 people and Chad does not think that would happen. Pierre asked how many Board members are in agreement that the number would be at 50 providing DOH signs off on the water and the capacity of the septic system. No response.

Event tents- they plan on 3 fundraiser events per year. Chad asked about parking for these events and he was told it was shown on the map. They plan on 46 spaces for 150 people. Chad asked if any parking would be allowed along the driveway? Answer was yes, included in the 46 spaces. Chad said he is concerned about parking along Schillings Crossing Road. The Board decided no parking would be allowed along Schillings Crossing Road. Upon review of the upper parking area the Board said the stump there must be removed and barriers must be put in so cars will not roll.

Mr. Khosrova said concerning the outstanding issues from the last meeting that the only one they have not done was the designated snow removal area in the upper parking lot. He said that area will not be used in the winter. The Board decided to go over the list of outstanding items:

1. Provide the modifications needed and show on the map to increase the dorm to 24 **ok**
2. Show rollaway pavers (or comparables) and location for upper parking lot **ok**
3. Provide details and specs for lights **ok**
4. Provide details and specs for the sign **ok**
5. Show the vicinity map on the site plan **ok**
6. Show the septic tanks and show details **ok**
7. Show ingress/egress. It was stated one driveway would be the entrance and one would be the exit **ok**
8. Provide a detailed certification by an engineer **ok**
9. Show an area for the fundraiser tents (up to 150 people) **ok**
10. Define the areas of the temporary parking. **Not on the road.** Since it would only be used in the summer, list as seasonal **ok**
11. Label the generator house and show the tank **ok**
12. Show the buried fuel tanks for the Yogi house and main house. Label that the fuel tank not being used is locked **ok**
Note- tank not labeled locked on the map but the attorney put it on the record
13. Show details on the snow removal area for the upper parking lot **not done**
Mr. Khosrova said they will not use this parking lot in the winter

MOTION TO APPROVE THE SITE PLAN AS PRESENTED CONTINGENT ON THE WATER AND WASTEWATER SYSTEM BEING UPGRADED TO CAPACITY BY THE DEPT. OF HEALTH AND WITH THE DEPT. OF HEALTH'S APPROVAL TO ACCOMMODATE 50 PEOPLE, WITH THE TENTING TO ONLY BE ALLOWED FROM JUNE 1ST UNTIL SEPTEMBER 30TH- Chad Lindberg Second- David Birch

Rollcall Chairman Pierre Gontier-yes
 Marlene Tuczinski-yes
 Jens Braun-yes
 David Birch-yes approved
 Chad Lindberg-yes
 Mark DeSanctis-no
 Jeff Sotek-yes

A fee of \$75.00 (cash) was collected.

Site Plan Review for Bervy's Self Storage at 30 flints Crossing Road to add a rooftop solar array to the buildings

Andrew Petersen of Monolith Solar represented this application.

Mr. Petersen said this was originally presented to this Board before he joined Monolith Solar. He stated the owner wants to put solar on top of the self storage buildings. A contract was signed with the owner and it sat on the desk at Monolith for about a year.

Pierre asked the Clerk if this had gone to the County yet and she said no, not the updates that Mr. Petersen had recently submitted to the Board. Pierre said this has to have County Planning review. Pierre said he had written a history on this for the Board members. It cannot be approved tonight anyway since they must hear back from the County. The Board has looked at this site a few times and the last look was for a rearrangement of the storage buildings. Pierre said the original submission of this showed they would use more electricity than 110%. He stated while the Planning Board was reviewing the reconfiguration of the buildings Monolith applied to the ZBA for a hardship. He said a hardship can be granted under 3 conditions however if the answer to **any** question is yes, then it must be denied. This is a self created hardship and that means denial.

David said this is only under ZBA ruling for a variance. Pierre said no, the hardship does pertain to the Planning Board and this Board does have to look at it. An approved site plan **must be issued before** a Special Permit can be done. Pierre stated the ZBA could not approve the hardship since it is **self created**, so it was changed to an area variance. Mr. Petersen said it is approved already so all the Planning Board has to do is approve. He said the Town Attorney said it is okay. Pierre said the ZBA cannot break the law or write the law. The Planning Board has to see that **all** conditions have been met. David argued that the ZBA has already approved it. Pierre said he is not overruling the ZBA decision but he can deny it under spot zoning. Mr. Petersen said it is not spot zoning, the ZBA did not zone anything. Pierre tried to explain again why he considers this spot zoning. Jens asked why the self storage on Route 295 in East Chatham is approved if State law does not allow it? Pierre said Canaan does not allow solar farms and that is what Chatham approved under (those self storage buildings are in the Town of Chatham). Mr. Petersen said any solar they do for storage buildings all goes into the grid; they do not use any of it. Pierre reminded Mr. Petersen that this is not allowed under Canaan's solar law. David asked if the ZBA broke the law? Pierre did not answer. Pierre said his position on this is that what the ZBA did was spot zoning. Mr. Petersen said the ZBA did not spot zone, only granted a variance. Pierre said their decision is spot zoning. Variances allow something that should not be. David kept arguing that it is allowed since the ZBA approved it and the Planning Board did not have any reason to review it. Mr. Petersen said everything corresponds to NYSERTA rules. Pierre said he would talk to the Town Attorney but he reminded the Board that they are not bound by what the attorney says.

Mr. Petersen asked if it could be sent to County Planning in the meantime? Pierre said he did question why County Planning sent a different opinion this time when the application was sent down by the ZBA when in the past they had a very different opinion with some concerns.

Jens read a portion of the solar law aloud in which it states the facility can only produce 200 kw but this is 110% and this is **not** consumed on site. David asked why the Planning Board should object? Pierre said if it shows it is spot zoning this Board **cannot** do it (approve it). Mr. Petersen repeated it is not spot zoning, it is only a numerical issue. Pierre disagreed. Mr. Petersen said the ZBA lets him vary from the law. Pierre said he cannot break the law. Pierre stated he has real problems with an area variance.

Pierre said there was not a new application form as had been requested. Mr. Petersen asked the Clerk if she wanted one and she said that was up to the Board. In light of the fact that Mr. Petersen withdrew his original application when he was told that solar farms were not allowed under our law, the Board said yes they wanted a new signed/notarized application. Mr. Petersen said he would deliver one on Wednesday (8/22). This application will be sent down to County Planning for review.

Review and approval of the July 16th minutes

MOTION TO APPROVE AS WRITTEN- Pierre Gontier Second- Chad Lindberg

Roll call

Chairman Pierre Gontier-yes	
Marlene Tuczinski- abstain	absent 7/16
David Birch-yes	
Jens Braun-yes	adopted
Chad Lindberg-yes	
Mark DeSanctis-yes	
Jeff Sotek-yes	

There was no more business before the Board.

MOTION TO ADJOURN- Pierre Gontier Second- Jens Braun All in Favor

The meeting was adjourned at 9:50pm.

Respectfully submitted,

Tammy C. Flaherty
 Planning Board Clerk