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A P P R O V E D
LINCOLNVILLE PLANNING BOARD
MEETING MINUTES
Wednesday, February 29, 2012

The Town of Lincolnville Planning Board convened on Wednesday, February 29, 2012 at 7:00 PM in the Lincolnville Central School.

PRESENT: Chair: Lois Lyman, CEO Frank Therio Members: Scott Crockett, Paul Crowley, Bobby Winslow. Alternate: Ladleah Dunn.

Commercial Site Plan Review Amendment – Public Hearing:

- 1. Hobo, L.L.C./Owner; Cellardoor Winery/Applicant;
Phi Home Design/Agent;
Map 25, Lots 44 & 45; 368 Youngtown Road
Re: Construct a Warehouse for the Winery**

Shoreland & Commercial Site Plan Review Application:

- 2. Richard A. McLaughlin; Applicant/Owner
Map 1, Lot 87; 12 McKay Road
Re: Resubmission of Original Application to Erect 20' & 30' Canopy
on Front of Restaurant for Summer Season**

Other Business:

- 3. Other Meeting Agenda Items: Annual Fee Review**

Review of Minutes of 1.25.12 because they pertain to this application.

Crowley: Motion to approve 1.25.12 Minutes.

Lyman: Second.

Vote: 5-0 in Favor.

Crowley: Motion to open the public hearing on the application for Hobo LLC.

Lyman: Second.

Vote: 5-0 in favor.

Public Hearing, Cellar Door Winery

- 1. Site Plan Review Amendment – Public Hearing
Hobo, LLC/Owner**

Bill Lane of Gartley and Dorsky is here on behalf of Bettina Doulton, principal at Hobo LLC and Cellar Door Winery. Also present are Bettina Doulton and

50 Mike Roy of Phi Home Designs.

51

52 We previously presented before the Board for approval on the expansion to
53 the winery facility on Youngtown Road. The expansion occurs on the south
54 side of the existing building, a proposed 55 x 100 foot metal structure
55 attached to the existing facility, for purposes of warehousing product. The
56 Planning Board has heard the application and has voted to conduct a site
57 walk and hold a public hearing.

58

59 The changes on the site from the existing facility include: The addition has
60 one curb cut access from Youngtown Road. The drive heads up to a loading
61 area in front of the building. The existing facility is set far above Youngtown
62 Road. The addition will have the same finished floor as the existing facility,
63 and will be at the same grade. This necessitates cutting into the
64 embankment of the hillside, more so than it is now. This is a constantly
65 rising slope through the property as we head further south. The 50 ft
66 addition would be on the same grade; in the front yard it would be one
67 elevation.

68

69 We have depicted some of the existing relocation fixtures on the site that will
70 expand the paved yard area. We depict the shifting of the propane tanks;
71 they are to be set further south and away from the newly expanded apron of
72 the paved yard area. This necessitates continuing the retaining wall
73 structure to be reconstructed further back on the property further south to
74 retain the slope.

75

76 A fair amount of water does come through the property, so significant effort
77 has been made to divert Stormwater, with an installed under drain and a drip
78 line filter. Another Stormwater feature is on the westerly side of the building.
79 Development of that necessitates a wetland impact of 6 square feet. The
80 metal building is going to have a single gable roof, with a relatively flat roof
81 pitch.

82

83 The primary features of this building will have an access of a loading door in
84 the yard area. We show the elevation of the existing building and the
85 addition. The building is supported by the existing power grid within the
86 facility. The warehouse areas do not have much to be shown in the space,
87 but there is a slight modification in the floor plan of the building itself that
88 has been depicted. Additional views are available in the color renderings
89 prepared by Phi Home Designs. The character of the structure will be
90 maintained through the roof line, and depicting that overhead door. As
91 indicated from the other sides of the building, this building is largely in the
92 grade and is made to be minimally visible and as unobtrusive as possible.
93 The site has adequate wastewater disposal, power and water to support this
94 dry warehouse expansion.

95

96 **Lyman:** What will the color of the building will be? What is the lighting
97 situation? Are there going to be fewer lights?

98

99

100

101 **Lane:** The existing lighting is an incandescent, cut off fixture. Two fixtures
102 are proposed for the façade of the building, and no other lighting is proposed
103 around the perimeter of the addition.
104

105 **Doulton:** We are actually removing some of the lights so there will be fewer
106 lights when the addition is complete.
107

108 **Lane:** Currently, facing south there are three lights. Two of them will be
109 installed on the new façade.
110

111 **Lyman:** Does anyone have any questions about this application?

112 No questions are proposed.
113

114 **Lyman: Motion** to close the Public Hearing.

115 **Crawley: Second.**

116 **Vote: 5-0**
117

118 **Lyman:** We heard this application at the previous meeting and conditionally
119 approved it contingent upon the Site Walk and Public Hearing.
120

121 **Lyman: Motion** to approve the application as it stands.

122 **Winslow: Second.**
123

124 **Discussion:**

125 **Crowley:** The applicant has presented a good application. That evidence is
126 uncontraverted. No opponents have presented any evidence in opposition at
127 today's hearing. Today's Site walk confirmed that the visible characteristics
128 on the land matched the representations in the plans that have been
129 submitted. The only potential issue of any significance was drainage. The
130 drainage structures that are already in place are excellent and appear to be
131 more than adequate. There is substantial evidence in the record that
132 supports the approval of this application. There is a complete absence in the
133 record of any evidence which would support a denial.
134

135 **Vote: 5-0 in favor.**
136
137

138 **2. Shoreland & Commercial Site Plan Review Application:**

139 **Richard A. McLaughlin; Applicant/Owner**
140

141 **Lyman:** Mr. McLaughlin would like to put a 20' x 30' tent up outside his
142 building. Because of his 30% expansion allowance, all he has left is 20' x
143 10'. According to State law the Board must deny his application for the
144 reasons just stated, but he can take this up with the Appeals Board.
145

146 **Lyman: Motion to deny this application for the reasons just stated.**

147 **Winslow: Second.**
148
149

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152

153 **Discussion:**
154 **Crowley:** Doesn't think we should do this so quickly. The Appeals Board is
155 supposed to review the record we create while reviewing this application. In
156 order to do that, the Applicant should present his application, ask questions,
157 and review the sections of the Ordinance that are applicable and make
158 findings of fact as to whether he's met the requirements of those sections.
159 If we find that he has, then we would approve the application. If we find that
160 he hasn't but there is something that is fixable we could approve with
161 conditions. If we find that we can't approve it because it doesn't meet the
162 ordinance, then we would have to deny it. That would be the record that he
163 would need to have on appeal with the Appeals Board.
164

165 **Lyman: Motion and Second withdrawn.**
166

167 **McLaughlin:**
168 I'm applying for a permit to put a 20' x 30' foot canopy in front of the
169 building as noted on your map. The purpose is to provide shelter from sun
170 and rain. It's a temporary structure up for 4-5 months of the year. It goes
171 up in April/May and comes down in September.
172

173 **Lyman:** This would have some tables inside?
174

175 **McLaughlin:** Yes, tables and chairs would be under it. The tent would allow
176 me to book groups of up to 40 people in case of rain. There are
177 approximately 40 seats inside. If it rains with a party booked, it's a problem.
178 This gives me the ability to book parties in advance.
179

180 **Crowley:** Where does it go on the building?
181

182 **McLaughlin:** This will be in front of the building, north toward towards Route
183 1 and the sand beach area. It would protrude 20 feet, and be set
184 perpendicular to the building.
185

186 **Crowley:** So that's on the gable end of the building to the north?
187

188 **McLaughlin:** Yes it is.
189

190 **Dunn:** This would only be used for special events?
191

192 **McLaughlin:** The sides will go up only when it is raining.
193

194 **Dunn:** Will it be used exclusively for special events?
195

196 **McLaughlin:** It will remain out there and serve as a sun shade for normal
197 operation.
198

199 **Crowley:** How would it be built? What would the structure be?
200

201 **McLaughlin:** It's a pipe frame with a canopy over it and canopy sides.
202

204 **Crowley:** Will that pipe frame remain up all year?
205
206 **McLaughlin:** No, it will come down in September.
207
208 **Crowley:** How far from the high tide line would this be?
209
210 **McLaughlin:** I wasn't prepared to resubmit tonight. The setback is
211 indicated on the large map.
212
213 **Crockett:** My understanding is that area in question is beyond the 100'
214 setback, so that limits how much you can expand into a non pervious surface
215 area. It increases the runoff near the shoreline. We're only allowed to
216 expand a certain amount.
217
218 **Therio:** The question is, we'd be covering what was previously pervious
219 ground. And you're not supposed to interrupt that. So, based on the permit
220 we granted to the Lobster Pound in 2006, they had 10% of square footage
221 available, which leaves 20' x 10'. Therefore Mr. McLaughlin needs the denial
222 so he can take it to the Board of Appeals.
223
224 **McLaughlin:** Was going to deny that night, but Frank was going to check on
225 something with the state.
226
227 **Therio:** Then we tried to do some redesigns on 2 occasions, and you
228 decided that you wanted it there, rather than pursuing other options. The
229 applicant had no qualms with the fact that the only thing he had according to
230 the record was the 260 sq ft available to him.
231
232 **Lyman:** There is quite a discussion on this in the Minutes of 12.28.11.
233
234 **Crowley:** Is it a 30% volume requirement?
235
236 **Therio:** No, square footage. There's no volume because there are no fixed
237 walls.
238
239 **Crowley:** So it's not considered to add anything to the volume?
240
241 **Therio:** Not to the volume, only the square footage.
242
243 **Crowley:** Are there any other issues that anyone is aware of? Are there
244 any other reasons why this should be approved or denied?
245
246 **Lyman:** The deck is 63 feet from the water within the 75 foot buffer zone.
247
248 **McLaughlin:** It's not a deck, it's just a canopy.
249
250 **Crowley:** There are two issues: The expansion of impervious square footage,
251 and the required setback to the water.

256 **Therio:** They are one in the same, because it's a non conforming building,
257 then that would apply. If it was outside 75 ft mark because it's within the
258 tidal waters, then there would be no issue. But because it's in the tidal
259 waters of 75 feet, that triggers the square footage requirement.
260

261 **McLaughlin:** There is another issue with the 60' setback from the center
262 line. I could easily move it out of that zone, but that would infringe on the
263 60 ft setback from the road.
264

265 **Therio:** We did some triangulations to come up an envelope where he could
266 locate it. Because of the triangulation of the 60 ft setback from the road,
267 and the 75 ft from the water, it is such a narrow strip that it didn't come into
268 fruition until way up near the platform by the road. That doesn't satisfy what
269 he is trying to do. If he can get this appeal, that would satisfy the
270 requirements.
271

272 **McLaughlin:** It could be moved it away from the water and still be
273 perpendicular to the building, and get of the 75 ft high tide mark, and still
274 have it adjacent to the building.
275

276 **Therio:** When we talked, you said that didn't satisfy what you were looking
277 for.
278

279 **McLaughlin:** Not to pick it up and move it to an entirely different place on
280 the lot would be sliding it over against the face of the building and away from
281 the road, it would infringe upon the 60' centerline setback but would get us
282 out of the 75 ft high tide setback.
283

284 **Lyman:** Would you need a variance for infringing on the 60 ft centerline
285 setback?
286

287 **Therio:** There were several options, but this is the only one that satisfies
288 the requirements 100%.
289

290 **McLaughlin:** Reviewing the reasons for denial, I thought it was more than
291 that, but the 30% expansion and it's too close to the water. Now that it is a
292 single issue, I'm thinking that if I slide it back away from the water to get out
293 of the 75 foot mark and orient it, the long side protruding out 30 ft and 20
294 feet against the building side, I might get out of that 75 ft mark.
295

296 **Therio:** He's already got proposed, where he's got the 260 feet coming to
297 him, if he could put it on the parking lot side, and take that 10 foot strip that
298 he needs from the parking lot, he'd be mitigating and it's a buy back.
299

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308 **McLaughlin:** So the section that I have and can expand in, I can do that
309 within the 75 foot portion of the water.
310
311 **Therio:** Correct, as long as it's not closer to the water than the building.
312
313 **McLaughlin:** So the remainder would be outside of the 75 foot setback but it
314 would still be perpendicular to the building.
315
316 **Therio:** So you are saying make the building more rectangular to extend
317 toward the parking lot?
318
319 **McLaughlin:** Exactly.
320
321 **Therio:** Would you like to re-diagram that and bring it back to the Board?
322 How does the Board wan to handle it? I don't know what the setback is that
323 he is referring to.
324
325 **McLaughlin:** If it were permissible in theory, if we could get the section of
326 the increase; I have 200 square feet, if I could leave that in the 75 foot
327 setback, with the rest of it outside, if I can engineer that and bring it back to
328 the next meeting, we might be able to go on that.
329
330 **Therio:** As long as you are outside of that setback. And you should still make
331 the 60 foot center line setback on McKay Road.
332
333 **McLaughlin:** Doesn't know if it would make the setback that might be
334 difficult.
335
336 **Therio:** As I'm envisioning your lot, I don't think you have a problem with
337 that.
338
339 **McLaughlin:** We do have time.
340
341 **Lyman:** Would there be room for parking?
342
343 **McLaughlin:** I'd have to make sure it would work.
344
345 **Lyman:** So we are tabling it again and seeing if the redesign will help for
346 mitigating.
347
348 The Applicant will redraw the plan and meet with Frank Friday morning, then
349 return to the Board for review.
350
351 **Crowley:** Are we confident there is nothing else that's an obstacle?
352
353 **Therio:** This is only because it is classified as a non-conforming building. If
354 it wasn't a non-conforming building there would be no issue at all. It's
355 Section C1A.
356
357
358
359

360 **Crowley:** Section A3, states, "Enclosing a deck constitutes an expansion of
361 volume."
362

363 **Therio:** The definition of says that it must have a fixed roof, which he has,
364 and fixed walls, which he doesn't have. The State doesn't have a definition
365 of what a fixed wall is. The Appeals Board decided that they would classify
366 anything over 3ft tall as a fixed wall, because the State doesn't define it. If
367 it were merely volume, it wouldn't be a problem.
368

369 **Lyman:** So if you enclosed it with a planter, then you'd be in trouble.
370

371 **Crowley:** If he can reorient the addition under Section C1, then he needs to
372 meet the 30% limitation under A. To Applicant: You agree that you've used
373 20%?
374

375 **Therio:** The documentation is in the file. In this case, he wants to attach it
376 to the existing building. Otherwise, he can't do this at all, because it would
377 be stand alone as a new building, and that's illegal.
378

379 **Crowley:** I'm looking at Section 16, Shoreland Use Land standards.
380

381 **Therio:** What the Town has done, is taken the lots and buildings as only
382 going under Shoreland zoning. It doesn't appear as Shoreland zoning, but
383 they've put it here so it pertains to every place. In other words, if I have a
384 building that is 40 feet from the road, that's non-conforming. But then you
385 have to take and apply the 30% rule, because they've plugged it into every
386 place in town instead of just for Shoreland zoning. So it is confusing. You
387 won't find it in the Shoreland Zoning Ordinance, where it should be.
388

389 **Crowley:** The section I was thinking of in Shoreland Zoning is 16B, page 24,
390 "All new principal and accessory structures shall be back at least 100 feet."
391 This isn't considered a new structure.
392

393 **Lyman:** That's the high water line for fresh water.
394

395 **Therio:** There are two Standards, because salt water and tidal waters are
396 more forgiving. Fresh waters are not able to recover from phosphorus
397 nitrate. You are allowed to have a 75 ft setback on tidal waters, but the
398 requirement for fresh water is a 100 ft setback. The Ordinance states that
399 nothing new can be added in the buffer zone of the 75 foot tidal water
400 setback. You can add onto an existing structure, but nothing new. The only
401 time I can add anything new, if the lot is non-conforming, and the building is
402 also non-conforming, the State has given us latitude. Because it's such a
403 restricted environment, I can build and 8 x 8 x 8 foot storage shed. That's
404 the only time a new accessory structure can be added.
405

406 **Crowley:** So he has 260 sq ft available. The size of your proposed addition
407

410 Is 600sq ft. So he is short 340sq ft. That only applies because it's within the
411 75 ft setback. So he can use the 261 ft and the 331 would have to be
412 outside the 75 ft setback?

413
414 **Therio:** He started off with a rectangle; now he is going to cut it in half,
415 elongate the shape of the building, so it satisfies his requirement.

416
417 **Crowley:** So we are suggesting that in order to meet the requirements, the
418 Applicant can use the 261 square feet and the 330 left has to be outside of
419 the 75 ft setback, and it has to be more than 60 ft from the center of the
420 road.

421
422 **Therio:** What he could also do in addition, if he wanted to give up some of
423 the parking area, and give up back 349 feet, he could have a wrap around.

424
425 **Crowley:** So he could put the structure where he wants to if he mitigated by
426 taking some of the impervious area and planting grass on it.

427
428 **Therio:** Yes. That could be his driveway.

429
430 **McLaughlin:** So we are talking about vegetative area at the same time.

431
432 **Lyman:** We can be.

433
434 **Crowley:** Would that vegetative area be within 75 ft? Because he's taking
435 space within 75 feet, so wouldn't the mitigation have to be within 75 feet?

436
437 **Lyman:** It is.

438
439 **Therio:** In this case, he is swapping one spot for another. Now he has
440 stone in front of building, that's currently part of the area that is already
441 being used. Because it's covered, he can mitigate that because it's not
442 adding volume. He can do that because it's already there.

443
444 **Winslow:** So what you are offering to do is take the 261 sq ft from the
445 parking lot, which is already impervious surface, and trading it for a covered
446 area. That's the trade off.

447
448 **Therio:** In my interpretation he can do that, because it's already there.

449
450 **Crowley:** There are 2 different categories of impervious land. We have
451 impervious land within 75 ft and impervious land that's not within 75 ft.

452
453 **Therio:** Correct. That's contiguous. If it's impervious outside the 75 feet
454 setback, that's not an issue. It's not protected outside of the 75 ft area.

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462 **Crowley:** If this is the Shoreland area, and if the Applicant wants to put a
463 600 sq ft addition inside this area. To mitigate, he has to mitigate developed
464 area within this same Shoreland area, within 75 ft.
465

466 **Therio:** He's giving up the already used pervious surface, and swapping it.
467 (Demonstrates at the board, off camera)
468 Here's the building. And it's impervious surface, there is no volume and it's
469 not a new structure, he's not adding any impervious as long as it's on
470 existing impervious area.
471

472 **Crowley:** So there won't be 600 ft within the 75 feet.
473

474 **Therio:** We aren't sure where it falls within the setback. It doesn't matter
475 where it is. If he's willing to swap the already non-conforming mitigated
476 space of the parking area for the tent, he's fine.
477

478 **Crowley:** What if he wants to plant grass so he can put the tent where he
479 wants to in the first place?
480

481 **Therio:** He can do that if he's outside the 75 ft line.
482

483 **Crowley:** But he can't do it inside? So his only option is to put part of the
484 tent, the 260 sq ft that he wants in the location that he wants, and put the
485 remainder of the tent on impervious area that is beyond the 75 ft, as long as
486 it's on existing impervious area.
487

488 **Therio:** We tried to make it stand alone. So here's the road and the 60 ft
489 setback, we measured here. We did a curve, and then did the same thing
490 within the 75 ft setback. It didn't make sense, because the whole idea was
491 to provide shelter from the rain. He also didn't want to use the platform,
492 because it's the same scenario. He needs something to attach to the
493 building. This is the most ideal.
494

495 **Crowley:** A wrap around tent?
496

497 **Therio:** If it meets his requirements. He may come back to the Board and
498 say that it won't work because of parking needs. He'll be losing 341 sq ft of
499 parking area.
500

501 **Crowley:** There is impervious surface area between the building and the
502 water. Do you have seats out there?
503

504 **McLaughlin:** This wouldn't be called impervious. The pea stone has
505 drainage underneath. It's designed to carry water.
506

507 **Crowley:** I am not as conversant for Shoreland zoning purposes of what is
508 considered impervious and what is not.
509

510
511

512 **Therio:** Grass is pervious. If pea stone is put on top of the grass, it's
513 accepted as impervious. The water will kill the grass.
514
515 **Crowley:** There is impervious surface on the water side, where there is
516 some seating now?
517
518 **McLaughlin:** I submitted a large map with the first application. The pea
519 stone area runs out to 30 feet long. So the pea stone itself is considered
520 impervious, then it's already there.
521
522 **Therio:** But he's only going to get a sliver doing that. It's not going to
523 accomplish what he needs, and that is to put tables out there in a large area.
524 **Lyman:** Frank and Rick have gone through this thoroughly.
525
526 **Therio:** Would you like to table this for tonight, and we'll meet and see what
527 exactly we can do to make this work?
528
529 **McLaughlin:** Yes. We can meet Friday morning.
530
531 **Crowley: Motion: Table this application to give the applicant and the**
532 **CEP an opportunity to rework the application and present it at the**
533 **next meeting.**
534 **Winslow: Seconded.**
535 **Vote: 5-0 in favor.**
536
537 **Crockett:** If they come to an impasse, does he have to re-present?
538
539 **Motion and Second withdrawn.**
540
541 **Crowley: Motion: Based on the facts in the record and the**
542 **uncontroverted evidence that the Applicant has approximately 261**
543 **sq ft of impervious area that he would be allowed to cover with this**
544 **new 20' x 30' structure within the Shoreland zone; he lacks the 349**
545 **sq ft required in Section 12 of the Ordinance under section C-1A. The**
546 **applicant has failed to demonstrate that he meets the requirements**
547 **of the Ordinance. Therefore, the application is denied.**
548 **Second: Winslow.**
549 **Vote: 5-0 in favor.**
550
551 **Winslow:** The Applicant will plan the new plan and we will review it.
552
553 **Therio:** Yes. This way he's covered both ways. If his new plan is acceptable
554 we can approve it, and if not, he can go before the Appeals Board.
555
556 **McLaughlin:** Before the Appeals board is called in, I'm not sure how to start
557 that process.
558
559 **Therio:** You have 30 days to file an appeal.

563 **Crowley:** In a few days, he will have the measurements and a better idea of
564 what he wants to do.

565

566 **Minutes of 9.28.11**

567 Crowley recuses himself from approving the Minutes of 9.28.11, because he
568 was presenting in the meeting and there is a conflict of interest.

569

570 **Lyman: Motion to Approve the Minutes of 9.28.11 as amended.**

571 **Dunn: Second.**

572 **Vote: 4-0 in favor.**

573

574

575 **Winslow: Motion to accept the Minutes of December 28, 2011 as**
576 **submitted.**

577 **Second: Crockett.**

578 **Vote: 5-0 in favor.**

579

580 **Crockett: Motion to approve Minutes of 1.23.12.**

581 **Second: Winslow.**

582 **Vote 5-0 in favor.**

583 **Fees Review Discussion:**

584 **Crowley:** With the current economy, it's unlikely that we will have
585 subdivision application. In an effort to show folks that the town is open for
586 business, and to stimulate the economy, I suggest we cut these fees back to
587 half the current amount.

588

589 **Lyman:** Not sure how much it costs to process these. We were also going to
590 drop pre-application fees but for the subdivision Preapplication, the Town
591 Office is involved in the expenses required. There is no fee for pre-
592 application for commercial site plans.

593

594 **Winslow:** Doesn't see a need to drop the fees. The Board agreed to
595 maintain the fees at the current rate in 2010.

596

597 **Winslow: Motion to keep the fees the same.**

598 **Crowley: Second.**

599 **Vote: 5-0 in favor.**

600

601 **Crowley: Motion to adjourn.**

602 **Second: Lyman.**

603 **Vote: 5-0 in favor.**

604

605 Respectfully Submitted,

606

607 L. Jaye Bell

608 Recording Secretary

609

610

611

612

