

*****DRAFT*****

PUBLIC HEARING UPON

THE APPLICATION OF BIRCHWOOD ESTATES

TOWN OF FORESTBURGH, SULLIVAN COUNTY.

January 27, 2015

Supervisor Sipos called the public hearing to order at 7:00 p.m.

Roll Call: Present – William B. Sipos, Supervisor
Katherine Barnhart, Councilwoman
John W. Galligan, Councilman
Susan Parks-Landis, Councilwoman

Absent – Michael Creegan, Councilman

Recording

Secretary – Joanne K. Nagoda, Town Clerk

Others

Present – Kenneth C. Klein, Attorney for the Town
Tim Gottlieb, Town Engineer
Susan Hawvermale, Planning Board Chairwoman
David Groskin, Planning Board Member
Robert Sipos, Planning Board Member
Karen Ellsweig, Planning Board Member
Steve Budofsky, Planning Board Member
Glen A. Plotsky, Attorney for the Town
Anne Backlund, Marshall & Sterling

Supervisor Sipos welcomed the members of the newly reformed planning board.

Town Clerk, Joanne Nagoda read the notice of public hearing and Glenn Smith, engineer for the applicant submitted proof of mailings.

Glenn Smith introduced himself and distributed maps to members of the board and the audience. He then gave a brief history of Birchwood Estates and their previous projects that have been approved within Forestburgh, being a baseball field, a volleyball field and now the request for a boy's camp building. Mr. Smith explained that the board informed the applicant to stop coming back every few months and asking for something new and the board requested, basically, a site plan showing improvements both approved and proposed for this parcel. The new proposed building would be 45 x 56 feet, two proposed screened gazebos, a second volley ball court further down the road and then a small miniature golf course down the road. The land between Rod & Gun Club Road and the town line is very restrictive, it's taken up by a lot of wetlands and wetland buffers and the pond, add to that the seventy five foot set back from the road – no other buildings can be built. The only other thing I am

showing is a walking/bike path that may come out of Birchwood Estates into Forestburgh and back. The boys camp building will have a septic system, we have done percolation tests down there, it will just be a normal septic system, nothing that would require any action by the DEC.

Tim Gottlieb – That is the first I have seen the second volley ball court and the miniature golf course there.

Councilman Galligan stated that they are not part of the current application – the current application is strictly for the boy's camp buildings. Mr. Smith replied that when the board asked for a more detailed site plan, that is when these items were added.

Tim Gottlieb – I have no other or further comments than the ones I made in November. Everything is in order.

Councilwoman Barnhart – Understanding that the added items are not up for approval tonight, do you foresee any problems with them. (Asked of Engineer Gottlieb). He replied no. Mr. Smith added that everything is shown outside of the wetland buffer zones.

Mary Ann Toomey – On the map that you showed us last time, there was a swimming pool shown as proposed – where is it? Mr. Smith replied there was never a swimming pool shown – there is a pool already existing on the Thompson side now and that is it. There has never been a pool proposed in Forestburgh at all. Ms. Toomey continued that the septic that you show to the left of this 50 x 54 foot building, Mr. Smith stated that the septic is a couple of hundred feet to the south. Ms. Toomey replied that she sees that on page two, what are the state regulations on the septic and the leaching? Mr. Smith replied that it must meet state health department standards. It has to be ten feet from a property line, ten feet from the structure for the septic tank and twenty feet for the leach field, and we are about two hundred and fifty feet away. Ms. Toomey asked where will the well be located for this. Mr. Smith responded we do not show a well, we intend to run a three quarter inch service line from the water building, which is next to the existing pool on the Thompson side. Ms. Toomey stated that she objects to that. Mr. Smith stated that he had asked the board last time if we could do that – the owner didn't care one way or the other. I don't know if the board had any druthers. It is not a town system we are hooking into, it is a private water system. Attorney Klein stated that he has no issue with this, it is less disturbing that poking another hole in the ground. Engineer Gottlieb stated that he has no problem with it.

Arthur Leany-Levenson – Will there be electric put in the building? Mr. Smith replied yes, we are lighting it. Mr. Levenson asked if it would be lit at night. I am asking about outside lights. Mr. Smith replied we are lighting the inside but not the outside. Mr. Levenson asked how many kids will it be holding and what will be the age ranges. Mr. Smith replied 50 or 60 maximum, mostly ten to thirteen, that range. Mr. Levenson then asked who would be supervising them. Mr. Smith replied counselors, staff and rabbi's. Mr. Levenson stated that his concern now, is that with all the noise last year and a P.A. system last year, now we are going to have up to fifty kids at night here. Mr. J.T. Doyle who is the property manager for Birchwood Estates responded that building will not be used at night. Mr. Levenson asked that this will be a day camp and they won't be there at night at all. You also told me several times that there would be nothing else going in on this property – so I should believe you on that? How far is the buffer between the road and the building? Mr. Smith replied that the building is shown about eighty feet from the roadway. Mr. Levenson asked this is the plan that you have for how long. When you first started, I asked if anything else was going in and was told no – that lasted about a month before you decided to go with the first volleyball court. Then a few months later you wanted to put in the boy's camp building, then when the town asked – you came up with more stuff. What about the rest of the

property? Mr. Smith replied there is nothing else proposed. Mr. Levenson asked for how long? Does that mean in a couple of months down the road you will come up with something? Mr. Smith responded that he didn't believe so. Mr. Levenson continued that is what you told me before and this is the third time I have been here in a couple of months. Now it is starting to cost me money to take time off from work to come here to voice my opinion. So I really don't believe you on that one either. Will there be a P.A. system? Loud music? Mr. Smith replied there are no loudspeakers up anyplace or in use. You may hear the kids around the pool. Mr. Levenson replied the kids don't sing that good. It's not just the kids. Can I ask the board, is there a volume limit? Or a noise ordinance? Supervisor Sipos replied that we do not have a noise ordinance – this has come up when we were discussing Lost Lake, it has also come up within Lake Joseph from the motor club – we do not have a noise ordinance on our books at this time and they are very difficult to enforce. We have no control over what goes on in the Town of Thompson. Mr. Levenson stated that is why he can't complain about the pool, as it is in Thompson. But this will be 110 feet off of my back door. As it is now I have to shut all of my windows when it's nice out because of the noise.

Supervisor Sipos asked what would be the hours of operation for the day camp. Mr. Smith referred to Mr. Doyle, who responded from dawn to dusk. I wouldn't tell you five o'clock, because there are a lot of kids there. Supervisor Sipos asked if he would say the length of time is maybe eight weeks a year. Mr. Doyle responded from maybe April to October.

Councilwoman Barnhart asked what activities are envisioned for that building. Mr. Doyle replied camp activities and school. Mr. Smith added recreational and educational. Mr. Doyle stated it is more of a classroom type setting.

Susan Hawvermale asked if they oldest child is twelve or thirteen, what is the youngest? Mr. Doyle stated at twelve or thirteen they are getting ready to start yeshiva – as for the youngest, I would say three years and up. For the most part they are there from July through August. Ms. Hawvermale asked if others are allowed to use the camp – those who are not residents. Mr. Smith replied no – the use is a housing development and the camp is an accessory use to the housing development. It is strictly for residents. Most of the parents are gone come Labor Day. Mr. Doyle added they may come up for a weekend in the fall occasionally. Once September comes and school starts the building gets shut down. June 20th may be the earliest the building would be opened. Mr. Smith stated there are 37 homes in there currently and there are three or four foundations poured – the original approval from the Town of Thompson is for 70 homes. They are not selling as fast as originally thought. Ms. Hawvermale asked if they are weekend homes. Mr. Smith replied they are full time all summer and weekends in the fall. Very rarely are they occupied during a few weekends in the winter.

Councilman Galligan asked if the spruce trees on the border should quiet it down. Mr. Smith admitted he forgot to mention that – they show a line of spruce trees running along the road for screening and some noise abatement. Mr. Levenson asked how many rows of trees will there be. Mr. Smith replied we show one row of white pine or evergreen trees, in front of your parcel and your neighbor's parcel. Mr. Levenson asked if it could be extended to two or three rows of trees. Mr. Smith stated they could do two rows staggered for more closure.

Councilwoman Landis asked how this will be shown on the tax roll – will it be residential, or a school or recreational – how. Mr. Smith replied in Thompson it is show as residential development and the homes are taxed. Councilman Galligan stated it would be up to our assessor. Councilwoman Landis stated that you said they would be using it for a school and prayer will they ask to make it exempt?

Ms. Hawvermale asked how many children will be there during summer. Mr. Smith nor Mr. Doyle could answer that question. Mr. Doyle offered that it would vary, depending upon who decided to come up for the weekend. She stated but there are 37 homes at this point, and all of the children will be coming from those units. Mr. Smith stated that no children are transported in – this is strictly for the residents of Birchwood Estates and it is not a commercial day camp. There will be no busing, no vans – strictly residents. Mr. Doyle added that there will be a building occupancy limit – so regardless of the number of kids, the building may not be occupied by more than what is posted. Mr. Smith added that this building is strictly for the boys –there is already a girls camp building on the other side of the development. Ms. Hawvermale asked if these homes are single family occupancy or are they multi-family? Single family was the response.

Councilwoman Barnhart asked why the trees end where they do – why did you not run them the full length. Mr. Smith stated he concentrated on the area of the ball fields and where the camp building is going – areas where there will be the most activity and most exposure to the neighbors.

Ms. Hawvermale questioned if the building proposed for the Forestburgh side is only for daytime use. Mr. Smith replied yes. It will be a board and batten, one story building.

Supervisor Sipos asked Clerk Nagoda if we had received the 239 review from the county. Clerk Nagoda replied yes, we received it today, and the county planning department has deemed this to be a matter for local determination.

Mary Ann Toomey – Mr. Smith, earlier you had said that when and if this building is constructed, there will be only one toilet/bathroom. Mr. Smith responded there will be only one bathroom – if it has one or two toilets or a toilet and a urinal, I don't know yet. She continued and asked if this building will also use the bathroom for the volleyball court and the pool. Mr. Smith informed her that next to the pool on the Thompson side there is already a cabana with a bathroom.

Supervisor Sipos stated to Mr. Levenson that since you live across the street, the noise is the pertinent issue with you, to which he replied yes. Supervisor Sipos asked Mr. Smith if an additional row of staggered trees is a problem. Mr. Smith replied no, even though Mr. Levenson's house sits higher than the road and trees. He added that the Town of Thompson does have a noise ordinance, so if any residents have an issue, they can call the Town of Thompson.

Jacob Billig, Attorney representing Birchwood Estates stated that yes, Thompson does have a noise ordinance and all you have to do it pick up the phone and complain. We are aware of the concerns of Mr. Levenson and are indicating them to the developer, we are trying to be good neighbors. The community building that was built on the Thompson side is something that the community is very proud of. It is a handsome looking building and I am sure that the same quality of work will be done on the Forestburgh side. Aesthetically, I am sure it will be pleasing.

MOTION by Councilwoman Barnhart, seconded by Councilman Galligan to close the public hearing at 7:28 p.m. Vote: 4 ayes – 0 nays. Motion carried.

Attorney Klein asked if we have yet done the SEQRA and declared a negative declaration. Clerk Nagoda informed him that we declared lead agency status on the project but had not yet done any SEQRA.

Supervisor Sipos read and completed the SEQRA short form Environmental Assessment Form (EAF).

MOTION by Councilman Galligan, seconded by Councilwoman Barnhart to make a negative declaration on this proposed project. Vote: 4 ayes – 0 nays. Motion carried.

MOTION by Councilman Galligan, seconded by Councilwoman Barnhart to approved the proposed boy's camp building with a five foot high staggered two rows of trees and there will be no exterior lighting or sound. Vote: 3 ayes – 1 nay. Motion carried.

MOTION by Councilwoman Landis, seconded by Councilwoman Barnhart to enter into executive session for the purpose of litigation and personnel and insurance and invite Attorney Plotsky, Attorney Klein, Clerk Nagoda and Anne Backlund of Marshall and Sterling. Vote: 4 ayes – 0 nays. Motion carried.

MOTION by Councilman Galligan, seconded by Councilwoman Landis to reconvene into regular session at 8:15 p.m. Vote: 4 ayes – 0 nays. Motion carried.

The following resolution was introduced by Councilwoman Barnhart, who moved its adoption, and seconded by Councilwoman Landis to wit:

WHEREAS, the driver's license and driving privileges of Town of Forestburgh Superintendent of Highways Daniel S. Hogue ("the Highway Superintendent") have been revoked for a period of at least one (1) year effective on February 1, 2015 by reason of a conviction for driving while intoxicated; and

WHEREAS, despite the apparent eligibility of the Highway Superintendent to obtain a conditional driver's license that would permit him to drive to and from his place of employment and during the course of his employment, the Town of Forestburgh has been informed by its insurance carrier, Selective Insurance Company, through Marshall & Sterling, the Town's insurance broker/agent of record, that for a period of three (3) years covering the 2015-2016, 2016-2017 and 2017-2018 policy renewal terms, the Superintendent of Highways shall be excluded from coverage under its policy of insurance and has issued an endorsement to such insurance policy excluding the Highway Superintendent from operating all vehicles, including heavy equipment, whether owned or unowned by the Town of Forestburgh; and

WHEREAS, continued operation by the Highway Superintendent of any vehicles, including heavy equipment, whether owned or unowned by the Town of Forestburgh, in the course of the performance of the duties of his office or in connection with any business of the Town of Forestburgh, exposes the Town of Forestburgh to liabilities uncovered by insurance and possible cancellation of its insurance coverages; and

WHEREAS, pursuant to Town Law §64 the Town Board of the Town of Forestburgh has the power of management, custody and control of all Town property, to contract for insurance indemnifying the Town against any loss arising from injuries to persons or property, and such additional powers as shall be necessarily implied therefrom.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Forestburgh hereby finds, determines and directs that, effective immediately and until further action by the