

TOWN OF NEWFANE PLANNING BOARD MINUTES

JUNE 25, 2024

MEMBERS PRESENT:

William Clark, Presiding      Daniel Whorley  
Thomas Mays                      Paul Conrad  
Peter Russell                     James Evarts  
Eoin Walsh

Attending: James Sansone, Town Attorney  
              David Schmidt, Building Inspector

Mr. Clark called the meeting to order and introduced the Board Members and attending officials.

**West Avenue Distillery**

The Notice of the Public Hearing was read by Mr. Clark: Please Take Notice, that the Planning Board of the Town of Newfane will meet June 25, 2024, at 7:00 pm, at the Town Hall, 2737 Main Street, Newfane, New York, to hear and consider an Application for a Special Exception Use and Site Plan Review, submitted by Michael J. Outten, residing at 3438 Ewings Road, Lockport (Town of Newfane), NY 14094, on premises known as 2712 West Avenue, Newfane, NY 14108, for the construction and operation of a 1200 Square Feet distillery, a 1280 square feet tasting room, a 1152 square feet barrel storage room, a 2,368 square feet bathroom, kitchen and office, pursuant to Section 7-2C5 of the Town of Newfane Zoning Ordinance. The premises are zoned Industrial Park (IP). This is a continuation of a Public Hearing in this matter held May 28, 2024, at 7:00 P.M.

Mr. Outten was present with an updated site plan. The Planning Board had provided conditional approved last month pending reports about potential ‘whiskey fungus’, natural and hazardous runoff from distillery operations and evaluations from the Highway Superintendent, Water Supervisor and fire department. Reports about whiskey fungus could not be verified and it seems to only be a problem with large distilleries – Mr. Outten will be producing fewer than 200 barrels. There is an existing berm on the property to control runoff and hazardous runoff is not considered a threat for this distillery operation. The Highway Superintendent recommended a Stop sign be placed at the top of the drive and the Water Superintendent and Fire Chief did not identify any problems or needed actions.

Several residents in attendance asked clarifying questions about the fungus, offsite noise, odors and exposures, but those present generally supported the overall distillery proposal.

A Motion was made by Daniel Whorley, seconded by Paul Conrad to approve the site plan for a Distillery (Four Kings Distillery) in accordance with recommendations from the Highway Superintendent, Water Supervisor and fire department.

All members voted Aye.

Motion carried.

Hearing closed at 7:30 pm.

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**Short-Term Rental Permits**

Mr. Clark opened the second hearing: Please Take Further Notice, that the Planning Board of the Town of Newfane will meet June 25, 2024, at 7:00 P.M., at the Town Hall, 2737 Main Street, Newfane, New York, to hear and consider the following Applications for Special Exception Use Permits, to operate Short Term Rental Establishments, pursuant to the provisions of Section 260-5, Local Law #1, of the Code of the Town of Newfane, NY, at the following properties:

The Board Members reviewed each application and took action as follows:

1. Kelly Bracken/Lakeview Retreat. PB 240022  
1534 Harrison Street, Olcott, NY 14126

Kelly Bracken was present, the Board Members reviewed the application and the Building Inspector's report. A Motion was made by Paul Conrad, seconded by Eoin Walsh to approve the Special Exception Use Permit to operate a Short Term Rental Establishment with a waiver for bedrooms sizes

All present voted Aye.

Motion carried.

2. Scott Hohensee/PB240042  
5969 Ontario Street  
Olcott, New York 14126

Scott Honensee was not in attendance, the Board Members reviewed the application and the Building Inspector's report. A Motion was made by Tom Mays, seconded by Paul Conrad to approve the Special Exception Use Permit with stipulation that the maximum number of renters is 5.

All present voted Aye.

Motion carried.

3. Adam Bowman & Kristina Bowman/The Lakeshore Cottage PB240041  
7125 Lakeshore Terrace  
Appleton, NY 14008

Adam & Kristina Bowman were present, the Board Members reviewed the application and the Building Inspector's report. A Motion was made by Paul Conrad, seconded by Tom Mays to approve the Special Exception Use Permit with no stipulations to operate a Short Term Rental Establishment.

All present voted Aye.

Motion carried.

4. Adagio Living LLC, Bob Moskalyk, Member/PB240040  
1653 Lockport Street  
Newfane, New York 14126

Bob Moskalyk was present, the Board Members reviewed the application and the Building Inspector's report. A Motion was made by Paul Conrad, seconded by Tom Mays to approve the Special Exception Use Permit to operate a Short Term Rental Establishment with a waiver for bedroom size.

All present voted Aye.

Motion carried.

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5. Daniel Maxwell & Laurie Hall/PB240039  
1698 Lockport-Olcott Road  
Burt, New York 14028

Daniel Maxwell and Laurie Hall were present, the Board Members reviewed the application and the Building Inspector's report. A Motion was made by Daniel Whorley, seconded by Eoin Walsh to approve the Special Exception Use Permit to operate a Short Term Rental Establishment with no stipulations.

All present voted Aye.

Motion carried.

6. Eric Buhyoff/Revocable Trust PB240038  
5581 West Bluff  
Olcott, New York 14126

Eric Buhyoff was present, the Board Members reviewed the application and the Building Inspector's report. A Motion was made by Paul Conrad, seconded by Tom Mays to approve the Special Exception Use Permit to operate a Short Term Rental Establishment with the stipulation that the maximum number of renters is 6.

All present voted Aye.

Motion carried.

7. Dan & Beverly Mandaville/PB240037  
5559 Lockwood Heights  
Olcott, New York 14126

Dan & Beverly Mandaville was present, the Board Members reviewed the application and the Building Inspector's report. A Motion was made Eoin Walsh, seconded by Daniel Whorley to approve the Special Exception Use Permit to operate a Short Term Rental Establishment with the stipulation that the maximum renters is 6.

All present voted Aye.

Motion carried.

8. Susan Funk-Eagle/PB240036  
5631 West Bluff  
Olcott, New York 14126

Susan Funk-Eagle was not present, the Board Members reviewed the application and the Building Inspector's report. A Motion was made by Paul Conrad, seconded by Tom Mays to approve the Special Exception Use Permit to operate a Short Term Rental Establishment with a waiver for bedroom size.

All present voted Aye.

Motion carried.

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9. David Krawczyk/ PB240035  
1782 Lakeland Drive  
Burt, New York 14028

David Krawczyk was present, the Board Members reviewed the application and the Building Inspector's report.

Chairman Clark made the Board aware and questioned Mr. Krawczyk about a pending case he has with Town Court in which he failed to appear for a scheduled hearing. Mr. Krawczyk said he was not available for the Court hearing and noted that the Court issue was related to his private residence, not this Short-Term Rental property and it should not be a consideration in this STR hearing. Chairman Clark said it was a concern, however, because if Mr. Krawczyk showed disregard for the Court there was also potential risk he would not abide by the permit stipulations placed by the Planning Board and required by the Short-Term Rental law.

The residents of the Woodlands neighborhood presented a petition with more than 20 signatures opposing the approval of any Short Term Rental permits in their R-1 single family Woodlands subdivision. Mr. Clark noted that Mr. Krawczyk's STR application can be considered because the Town's Short-Term Rental law allows pre-existing (those in operation prior to enactment of the law) rental units to be approved in the R-1 zone. A Woodland resident commented that the petition should require that the Planning Board deny the STR permit, but Mr. Clark said that a petition is only one of several factors and concerns Board members must weigh in their decision and that a petition must be evaluated in the balance of multiple determining aspects.

Another neighbor of the STR site spoke of concerns with outdoor fires and noise and there were references to incidents of harassment that have occurred in previous years. It was also reported that some renters of the STR are trespassing on neighboring properties. It was unclear if harassment complaints occurred in relation to the STR property or the owners separate private residence. There was discussion about how threatening behavior, potential harassment and trespassing must be reported to the Building Inspector and/or law enforcement.

Chairman Clark further explained that this STR posed unique circumstances because the homes in the Woodland's subdivision are very close together and the density presented concerns about how an STR in this area could impact or alter the character of the community, where it might not be a problem elsewhere.

A Motion was made by Mr. Whorley, seconded by Mr. Mays to approve the Special Exception Use Permit to operate a Short Term Rental establishment with the stipulations there be no wood or smoke exuding fires at the site, that only a contained propane or electric fireplace be used and that the owner monitor activity to ensure compliance with the town noise, lighting and parking ordinances.

Six Board members voted Aye, one member voted Nay

Motion carried.

A Motion was made by Paul Conrad, seconded by Tom Mays to close the Public Hearing at 8:45 pm.

All present voted Aye.

Motion carried.

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**General Discussion**

Joseph C. Ardieta PE of Vanguard Engineering, P.C., representative for Meadowbrooke Apartments was present with a proposal to construct two adaptive apartments, an office/storage building and make improvements to the property which is located 6150 Prospect Street, Newfane, New York. The property was originally zoned Garden Apartments, but is now inaccurately listed as an R1 Residential zone on the current zoning map. Meadowbrooke Apartments has requested that the Town Board rezone the property at 6150 Prospect Street, Newfane, NY from R1 to R 2.

A Motion was made by Peter Russell, seconded by Daniel Whorley recommending that the Newfane Town Board rezone the property at 6150 Prospect Street from R 1 to R 2.

All present voted Aye.

All present voted Aye.

Other topics discussed but no action taken were:

The proposed rezoning of property on Ridge Road owned by Mr. Sorge.

Wrights Corners Cottages

Tree service on Ewings Road and Route 104

Agrivoltaic proposal, Drake Settlement Road

A Motion to adjourn was made by Paul Conrad, seconded by Daniel Whorley to adjourn the Planning Board Meeting.

All present voted Aye.

Motion carried.

Meeting adjourned at 9:15 pm

Respectfully submitted,

Mickie M. Kramp

Secretary

Next meeting, July 23, 2024