

PLANNING AND ZONING COMMISSION

Town of Glenville

18 Glenridge Road

Glenville, NY 12302

February 10, 2020

Present: M. Carr, Chairman, J. Gibney, N. Brower Dobiesz, J. Lippmann, K. Semon,
M. Tanner

Also

Attending: A. Briscoe, Code Enforcement Officer, M. Burns, Planner I, C. Heinel, Town Attorney,
L. Walkuski, Stenographer

Absent: P. Ragucci

Meeting called to order at 7:02 P.M.

Motion to approve the Agenda

Moved by: K. Semon

Seconded by: N. Brower Dobiesz

Ayes: 6 **Noes:** 0 **Absent:** 1

Motion Approved

Motion to approve minutes from the January 13, 2020 meeting

Moved by:

Seconded by:

Ayes: 6 **Noes:** 0 **Absent:** 1

Motion Approved

**Beverly J. Emerick
572 Saratoga Road**

**Public Hearing & Final Site Plan
Review**

The site plan application proposes a mixed-use occupancy that includes two (2) commercial tenants on the main floor of the building and one four (4) bedroom apartment on the second floor. An off-street parking and loading area, landscaping and on-site wastewater disposal system are shown on the site plan. The 1.55+/- acre parcel is located within a GB General Business zoning district.

MOTION

A motion was made by Chairman Carr to moved item #2 (Emerick application) to the end of the agenda as there was no representation at this time.

Motion

Moved by: M. Carr

Seconded by: K. Semon

Ayes: 6 **Noes:** 0 **Absent:** 1

Motion Approved

**Mohawk Hudson Land Conservancy
Wolf Hollow Road**

**Public Hearing & Final Subdivision
Review**

Landowner, Robert C. Bintz, Jr. and the Mohawk-Hudson Land Conservancy (MHLC) have proposed an open space subdivision of the 67.4 +/- acre Bintz property located on the east side of Touareuna Road. The existing parcel contains farm fields, scrub/brush land, a small pond with wetland, and forested land. The proposed 5.0 +/- acre lot is located on the far eastern portion of the property, immediately adjacent to Wolf Hollow. It contains forested uplands and steep slopes and is unsuitable for development. This new 5.0 +/- acre parcel will be conveyed to MHLC and will be preserved in perpetuity as open space. A majority of this property is within the RR/A Rural Residential/Agricultural zoning district but the proposed lot is predominately zoned LC Land Conservation.

Mark King, Mohawk Hudson Land Conservancy, was present.

M. Carr stated the county zoning referral was received by the town and the county's recommendation would be to conditionally approve the application with the following conditions: "provide an access easement for proposed lot #1 across the parent parcel (proposed lot #2)." M. Carr asked if the applicant could address the easement.

M. King said he has not yet spoken to Mr. Bintz, the landowner, about the right of way as he just learned today about the county's recommended condition. He's not sure if he's ready to approach him as that will cause a burden for the landowner's property. This application's intent was to use the access on Wolf Hollow Road and not to cross the entire 60 +/- acre property for access to proposed lot #1. This requirement would significantly increase the burden on the land, which the landowner is currently leasing with the option to buy. Another item to consider is MHLC has a conservation easement on the property and the conservation easement restricts the amount of development that can occur on the overall Bintz parcel. This easement gives MHLC the right to inspect the property annually which could

arguably be used to get to the 5-acre parcel should Wolf Hollow Road somehow not exist. He was not aware that Wolf Hollow Road is a road by use and not owned by the county. If the county decided not to use Wolf Hollow Road as a road, but as a pedestrian right-of-way, would they be able to maintain it as a road by use? Do you need vehicles to be a road? These are questions he doesn't have answers to.

C. Heinel, Town Attorney, said the property owners own the dirt under the asphalt when it's a road by use. If this was a town owned road, it would have already converted to town ownership, but there is no similar provision for the county regarding roads by use.

J. Lippmann asked if a definition of roads by use could be provided.

C. Heinel replied roads by use means that the property owners own the parcel, the road itself. It gets its nomenclature from a town law provision. If a town has maintained a road by use where the property owners are the owners of property for a period of 10 years; they have created the road and maintained it for 10 years, then the town would get an easement by prescription essentially and become the owner of the road, after 10 years of use it would no longer be owned by the property owners. However, there is no similar provision under county law. As of right now, the property owners are still the owners of the dirt under the pavement. Whether or not the county has maintained it as its designation of a county highway is something that needs to be worked out between the county and the applicant as to how they want to handle this matter.

M. Carr asked what are the ramifications if the PZC approves this application without requiring or recommending an easement? Is there any potential negative impact?

C. Heinel responded there needs to be more clarification on the what the county is going to do with this road. What are their intentions, particularly since they are recommending an easement across the subdivision?

M. Carr inquired what is the county capable of doing with Wolf Hollow Road i.e. improve it, re-open it, fix it and use it without any issues?

C. Heinel replied up to this point, yes, that's what they have been doing.

J. Lippmann asked what changes will occur, if any, to the road if the subdivision goes through. Isn't it still a road by use?

C. Heinel answered yes, it's still a road by use.

J. Lippmann stated then there is no legal change in the road itself via the subdivision of this property.

N. Brower Dobiesz said if the county abandons the road then there is no access to the parcel.

C. Heinel stated it is her recommendation to the PZC that they do not move on this application until they have clarification from the county on their plans for this road.

M. Carr reiterated that the commission needs to know who owns what, and what the county's intentions are.

M. King asked if the county abandons the road doesn't the town have the option to accept the road? He indicated that the road's status has been like this for approximately 10 years. The county has not given any clarification.

C. Heinel said she would have to look into that matter for verification. That's why an answer is needed from the county on their plans. There are too many questions that need to be answered regarding this road before the commission can move on this application.

A discussion took place regarding the county's position on the road, the possibility of the road being abandoned, and the recommended easement by the county doesn't seem to serve the applicant's intended use of the proposed subdivision.

C. Heinel asked the applicant how are they currently accessing the parcel. What is the plan if students are to visit the property for geological research and where would you park?

M. King said the entire Bintz property has road frontage on Touareuna Road. Visitors would use Wolf Hollow Road. Parking has been on Wolf Hollow Road and a neighbor's property. The county has been inconsistent with allowing parking on the road.

K. Semon stated if Wolf Hollow Road is closed would that include all the parcels that abut it? Would another alternative be possible for access? Does the easement have to go through parcel #2 or could an arrangement be made with the landowner to the south and make Wolf Hollow the right-of-way?

M. Carr asked the applicant if they have reached out to the county.

M. King responded they have reached out on multiple occasions to the county attorney and county manager and they have not provided any answers.

At this time Chairman Carr opened the public hearing. With no comments from the floor the public hearing was closed.

MOTION

The PZC will table this application until the next PZC meeting. This will allow time for the town's attorney to contact Schenectady County and get a response from them as to their plans for Wolf Hollow Road.

Motion

Moved by: M. Carr

Seconded by: K. Semon

Ayes: 6 **Noes:** 0 **Absent:** 1

Motion Approved

J. Gibney stated the land in use issue touches various properties. Does one of those properties own the total length of road or only the section of road that is on their property?

C. Heinel replied every property that abuts the road is an owner of that property and why you see their property lines cross over into the road area. They own the dirt under the road. If the county abandons the road, it may create a situation where each property owner may be responsible for maintenance and repair for their section of the road if they wanted to utilize it.

**Christian & Jonathan Wells
Barhydt Road**

Concept Review

This concept application is for the establishment of a Christmas tree farm on a vacant 6.3-acre parcel located between Barhydt Road and the railroad tracks. The property is zoned Community Business.

Jonathan and Christian Wells, the applicants, were both present.

J. Wells stated they are looking to start a Christmas tree farm on the property. A barn would be erected and solar would be installed. They want to cut and sell Christmas trees, at wholesale, to non-profit organizations.

K. Semon asked if the sales will be on site.

J. Wells replied the trees will be cut on-site and delivered to the organizations.

M. Carr asked if there will be any other businesses there other than selling Christmas trees i.e. landscaping, selling of food, or storage of landscaping materials, stone, etc.?

J. Wells replied no.

J. Lippmann asked what is the intended use of the building.

J. Wells said the building is to store equipment for tree maintenance i.e. watering, cutting, digging, and also trucks. They would also like to sell split firewood out of that location.

M. Carr stated then it is more than just a tree farm if you are selling firewood.

K. Semon asked if they would be harvesting existing trees on the parcel for firewood.

J. Wells said they will have trees that are cut and brought to the location. The splitting and cutting will take place on-site. It is envisioned that small dump trucks would be bringing in the harvested wood.

M. Carr stated the commission reviewed the concept and from discussions with the town building department there is an issue with some potential construction, demolition debris on the property. Do you know where it came from or what it is? Was the debris on the property prior to purchase? Was a phase I or II environmental assessment done?

J. Wells stated there is debris that was an issue with the previous owner. He does not know where it came from or what it is. The debris was on the property when he purchased it and an environmental assessment was not done.

J. Lippmann asked the applicant if he has any concerns with what was dumped on site having any effect on his ability to grow trees?

J. Wells said he doesn't have any concerns. He has to cap the areas in order to put new soil down to grow the trees.

M. Carr informed the applicant he will need the following: a formal site-plan, details on the building itself, how much firewood is being brought in, a stormwater pollution prevention plan (SWPPP), a list of any herbicides or pesticides that may be used.

C. Heinel stated there is another issue with the proposed use. The town does define the production and/or sale of trees on a lot greater than 5 acres as a farm. That is not an allowable use within the Community Business zoning district. If you were to proceed with this intended use of the property you would have to apply for either a use variance or explore your options on getting such a variance.

J. Wells asked if he didn't use all the acreage for the trees would it be allowable.

C. Heinel replied that the code defines the property as greater than 5-acres and does not take into consideration how much of the acreage is being used. If the property is greater than 5-acres, and the applicant is intending to use it for that purpose then it is defined as a farm under the zoning code.

A discussion took place regarding use variances and the difficulty in obtaining them. It was also mentioned that the applicant could investigate requesting a zone change for that parcel.

**Beverly J. Emerick
572 Saratoga Road**

**Public Hearing & Final Site Plan
Review**

The site plan application proposes a mixed-use occupancy that includes two (2) commercial tenants on the main floor of the building and one four (4) bedroom apartment on the second floor. An off-street parking and loading area, landscaping and on-site wastewater disposal system are shown on the site plan. The 1.55+/- acre parcel is located within a GB General Business zoning district.

Luigi Palleschi, ABD Engineering, was present along with the applicant.

L. Palleschi gave a recap of the project. It is a conversion of an existing building with the possibility of two tenants on the first floor and a 4-bedroom unit on the second floor. Modifications to site plan removes the extra curb-cut on Saratoga Road to a DOT entrance off Saratoga Road, the parking lot has been changed to be in conformance with a worse-case scenario as a possible micro-brewery, a dumpster location has been added, grading and stormwater areas were added, the septic was designed by A. Frank and that approval is already in place, and landscaping is to include mulch beds and street trees along Saratoga Road.

L. Palleschi said he received an e-mail from M. Burns which noted the storage pods are to be removed before site plan approval. There are several storage pods on site and are there because the contractor is renovating the building. The applicant would like to request that condition be changed to the storage pods being removed prior to the issuance of a C.O. The contractor needs the storage pods there to renovate the building.

C. Heinel replied that storage pod containers are not allowed by code in the Town of Glenville. They cannot be on the property and would advise the commission they should not issue any final approval as long as they are on the property.

L. Palleschi asked if a single-family home owner was doing renovations wouldn't they be allowed to have a storage pod.

C. Heinel replied they are also not allowed to have a pod. However, an application can be made for a permit from the Town of Glenville which only lasts for 30 days.

Christopher Ludovici, applicant's contractor, stated there are 4 40' storage units next door and a U-Haul dealership up the street that has many boxes on their property.

L. Palleschi said the storage pods are only on the site for the renovation of the project. It is no different than having a contractor's office trailer on site.

C. Heinel said it is different for contractors versus a private owner.

C. Ludovici stated he owns the storage pods.

M. Carr asked how long have the storage pods been on the property.

C. Ludovici said the pods have been there since November 2019. They have stopped work on the site while waiting for their application to be finalized.

K. Semon asked if the argument is that Ms. Emerick is the property owner, and Mr. Ludovici is the contractor, can the town work with that until the stage of occupancy is reached?

A. Briscoe replied it is something they can work with.

M. Carr asked what is the time frame for this project.

C. Ludovici responded once he receives the deck permit, one pod will be gone, as that pod has only decking materials.

M. Carr asked how long does it take to build a deck.

C. Ludovici said it would take 30 days.

M. Carr asked what is the time frame to complete the project in its entirety.

C. Ludovici said he is thinking between 4-6 months.

A discussion took place regarding the process for projects that come before the town.

An additional conversation took place with regard to the storage pods.

C. Heinel asked what is in each of the storage pods.

C. Ludovici replied decking material, cabinets, sheetrock, tools, etc. All owned by the contractor.

C. Heinel stated it was her understanding that these pods were part of the owner's parcel and not part of the contractor's use. There are certain exceptions for a contractor do to work on a property and to store materials on the property while they do work. However, she would like to see regulation of how long these pods are going to remain on the property as they are regulated in the Town of Glenville. She would like to see them moved to an area where they won't be seen from the road to minimize the visual impact of those pods.

C. Ludovici said the storage pods will be removed when the job is complete or before.

K. Semon said give the angle of the parcel he doesn't think there is a place to hide the pods on this lot.

A. Briscoe agreed it would be difficult to conceal them on this lot. He agrees that as long as they are being used for the contractor's materials and used only for this project they remain until they are not needed; i.e. once the deck is up the pod containing decking material is removed, same for the cabinets, etc.

J. Lippmann stated ultimately a C.O. will not be issued until the pods are removed.

A. Briscoe said that is correct.

M. Carr asked about the dumpsters within the 40-foot parking setback and were there specifications on the dumpster.

L. Palleschi said it's not a parking spot so he thought it was ok. They are proposing 6' white vinyl fencing along 3 sides of the dumpster and that note will be added to the plan.

M. Carr inquired as to how much of the property will be paved for parking.

L. Palleschi said the entire area. He stated at the previous PZC meeting they wanted to bank the parking spots, but was told they would have to come back before the PZC. The proposal is to pave now so the applicant won't have to re-appear before the commission. The drainage and stormwater work for the parking lot and would benefit the worse case user. Since there isn't a tenant now this can be used to help market the plan.

M. Carr asked about the landscaping and lighting.

L. Palleschi said the landscaping will be added to the plans with the names and sizing. There will be some building mounted lights (LED downward facing lighting) near the doorways and some pole lights. They will be residential lights and will submit cut sheets with the final plans. The arborvitaes are already installed, but several need to be replaced when the weather breaks.

M. Carr asked counsel what would happen if the project takes two years to complete.

C. Heinel replied that conditioning of periodic removal of the storage pods could take place.

C. Ludovici said he could remove two pods immediately reducing the number to three pods on-site.

A discussion took place as to how to monitor the removal of the storage pods and would conditions be needed.

At this time Chairman Carr opened the floor for the public hearing., With no comments from the floor the public hearing was closed.

MOTION

In the matter of the final site plan review application by Beverly J. Emerich for a mixed-use occupancy, two commercial tenants on the main floor and one four-bedroom apartment on the second floor with off-street parking and loading area, landscaping and on-site wastewater disposal system, located at 572 Saratoga Road, the Planning and Zoning Commission hereby conditionally approves the application. The Commission's decision is based upon the following findings:

1. The proposed use does conform to other applicable provisions of the Zoning Ordinance, including, but not limited to, landscaping requirements, building design, off-street parking requirements, building setbacks, fence requirements, sign regulations, storm water management and erosion control requirements, etc.
2. The proposed use does exhibit adequate and logical vehicular access and circulation, including intersections, road widths, curbing, and traffic controls.
3. The proposed use does exhibit satisfactory pedestrian and bicycle access and circulation, including separation of pedestrian traffic from automobile traffic, the placement and usefulness of on-site sidewalks and walkways, the accommodation for pedestrians at adjacent street intersections, and overall pedestrian and bicyclist safety and convenience.
4. The proposed use does exhibit adequate and logical location, arrangement, and setting of off-street parking and loading areas.
5. The proposed use does exhibit adequate and logical placement, arrangement, size, and design of buildings, lighting, and signs.

6. The proposed use does provide for the adequate type and arrangement of trees, shrubs, and other landscaping elements, as they relate to visual and noise buffering of adjacent sites and the reduction of visual impacts from the street.
7. The proposed use does demonstrate adequate provisions for the collection and/or disposal of storm water, sanitary waste, and garbage.
8. The proposed use will allow for adequate on-site snow plowing and snow storage.
9. The proposed use does demonstrate adequacy and durability of structures, roadways, utilities, and landscaping in areas with moderate to high susceptibility to flooding, ponding, and/or erosion.
10. The proposed use does retain existing trees and vegetation for aesthetic reasons, and minimize soil erosion and siltation.
11. The proposed use does protect adjacent properties against noise, glare, light pollution, odors, litter, unsightliness, or other objectionable features.
12. The proposed use does provide suitable open space for buffering and/or recreation purposes.

Conditions of Approval:

1. Two of the storage pods will be removed immediately that are not necessary to the project.
2. The applicant will agree to periodic pod removal. As one phase is completed and the pod is not needed, it is to be removed from the property.
3. The Town of Glenville building department will make periodic inspections to make sure this process is proceeding.
4. Lighting plan, landscaping chart and dumpster enclosure specs will be added to the site plans.

Motion

Moved by: M. Carr

Seconded by: J. Gibney

Ayes: 6 **Noes:** 0 **Absent:** 1

Motion Approved

With no further business the meeting was adjourned at 7:55 P.M.

Lynn Walkuski
Stenographer

Linda Neals
Town Clerk