



# Planning Board

Chair: Robert C. Seem  
2445 Traver Rd.  
Seneca Falls, NY 13148-9751  
Phone: 315-568-5637

Vice Chair: Alan Smith  
2613 Durling Rd.  
Seneca Falls, NY 13148-9713  
Phone 315-568-5422

Secretary: Lawrence J. Kesel  
1234 Middle Black Brook Rd.  
Seneca Falls, NY 13148-9753  
Phone: 315-568-5330

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Minutes of the meeting: October 27, 2020 held at the Town of Tyre Municipal Building

Members in attendance: Robert Seem, Alan Smith, Lawrence Kesel, Henry Bickel, Deborah Geary, Kenneth Hauenstein, Karen Thomson, Doug Jones, (PB alternate)

Representing the Town of Tyre: Donald Young, ESQ., Young Law Firm  
Mike Simon, LaBella Associates  
Craig Reynolds, Zoning Enforcement Officer

Guests: Frank Fisher, ESQ., Representing Bruce Smith  
Jim Rogers, Tyre Councilman  
Mark Travis, Zoning Advisory Committee

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## **Open Town of Tyre Planning Board monthly meeting**

Chairman Seem opened the October 27, 2020 Planning Board meeting @ 6:30 P.M.

### **Attendance:**

All 7 Planning Board members plus 1 Alternate member in attendance.

### **Public Comments:**

**Update from CHA / JFJ Holdings on Site Plan Application for proposed Dunkin Donuts at 1781 S.R. 318.**

No one available from CHA Consulting or Dunkin Donuts present.

Move on to next Public agenda item Frank Fisher, Esq., representing Bruce Smith.

**Update on the Airbnb proposed by Bruce Smith on East Road, Savannah, NY.**

Atty. Frank Fisher distributed a 1-page handout from Mr. Smith addressing comments from the PB September meeting. Discussions followed concerning weekend/Holiday activities, guests, hours, trash removal, party venue and additional concerns raised by the Planning Board. A representative manager will not be present on the property.

Airbnb is the agent representing Mr. Smith. After some time, Chairman Seem suggested we pause and continue discussions during New Business portion of tonight's agenda by moving ahead of Old Business to expedite the time required for Atty. Fisher, PB agreed.

**Approval of minutes of prior meeting on September 22, 2020**

One misspelled word was addressed, correction will be made by the Secretary. Motion brought to accept the September 22, 2020 minutes as corrected brought by Kenneth Hauenstein, seconded by Alan Smith, Oral vote Unanimous.

**Zoning Enforcement Officer Report**

Attended the Zoning Board of Appeals Side yard setback variance request on 10/13/20. Handled four complaints.

Attended meeting with Tyre representatives, Engineering, access points for Dunkin Donuts project. Follow up meeting discussing access points to their property and potential access to future developments that may occur with 3S Gateway representatives, Tyre representatives and Engineering. There are a lot of moving parts to this project, a lot of time being put in by the Town’s team.

Conducted several on-site inspections.

Zoning Office has issued one (1) Zoning Permit as follows.

<u>Permit</u>	<u>Issued</u>	<u>Applicant</u>	<u>At Location</u>	<u>Description of Work</u>
20-24	10/15/20	Timothy Rease	1720 State Route 318	Build Storage Bldg.

**New Business**

**Special Use Permit Application for a Airbnb ay 514 East Road, Savannah, NY**

Moved ahead of Old Business to continue discussions paused during Public Comments earlier tonight o allow Atty. Frank Fisher the opportunity to leave the meeting earlier as no representatives from CHA Consulting / Dunkin Donuts were in attendance tonight. Chairman Seem requested an update from Zoning Officer Reynolds as to status of the Special Use Permit application. Everything seems to be in place regarding the application. This Airbnb has been in operation for approximately a year now since the Town discovered the existence and contacted owner Bruce Smith who resides in another State. Mr. Smith immediately contacted a local Law Firm to represent him expressing embarrassment that he did not realize he was in violation with his business venture which is presently advertised. Review with the Sheriff’s Department indicated that no disturbance issues have been reported in the past year of operation. Discussions continued uncovering Bed & Breakfast owner occupied structure with rented rooms provided with breakfast the following morning listed in the Tyre Zoning Law 2018. Discussions involving the subject Zoning Law that we have lived with for a couple years became apparent that had not addressed all-encompassing issues during the yearlong Zoning Advisory Committee review and meetings. It became very apparent that the Planning Board request the Town Board to initiate a process to propose minor revisions updating the Zoning Law

After continued discussion regarding the Special Use Permit Chairman Seem stated that we cannot accept the Special Use Permit at this time, nor can we reject it. The Town of Tyre cannot penalize property owner Bruce Smith who resides outside New York State for an oversight on his part approximately a year ago when he advertised rental property with Airbnb. He wanted to do what is right when situation was identified to him by immediately contacted local legal representation to help assist resolving the oversight on his part. The other reason for this pause in this Special Use Permit Application is the obvious fact that the Airbnb type business was never addressed by the Zoning Advisory Committee during their very lengthy research additions upgrading and introducing the present Tyre Zoning Law back in 2018. The Town of Tyre cannot shut down Mr. Smith now due to our inability to foresee this situation in the Zoning Code. There presently is no slot to insert Airbnb into the Zoning Law, we need to review and identify other problem areas to be corrected and recommend updates to the Town Board to update the Tyre Zoning Law. Chairman Seem requested recommendation from Atty. Young how to proceed. The Planning Board should ask ZEO Reynolds how to proceed as his job is to interrupt the zoning code. Craig agreed this was the best way to move forward, tighten up and do things right. Mike Simon indicated that LaBella had some issues with the zoning code and will continue to review with the ZEO. This is going to take some time, applicant may continue operation as in the past until we provide an updated issue of the Tyre Zoning Law. Open communications will continue between the Town Representatives, Mr. Bruce Smith, and his legal representative. To clarify the record.

Tyre Planning Board has not accepted the Special Use Permit application as complete. Tyre Planning Board seeks confirmation as the applicant seems willing to accept revocation indefinitely until zoning code issues are resolved and Zoning Law updated. No enforcement activities at the property in the year or so of operation. If enforcement involvement is requested, property owner will be notified immediately.

### **Old Business**

#### **Proposed Dunkin' Donuts store at 1781 State Route 318, Waterloo, NY**

Chairman Seem reminded the Board that no action was taken last month, we are not ready to move forward other than SEQR part 2 & part 3 have been completed, we can review these with no action taken. We should see where we are on the project, asking Mike Simon to update us as to where we stand. Mike referred to his Site Plan Review memo dated October 22, 2020 of which everyone had already received a copy of the primary comments for the applicant's consideration. Of the 37 comments, 34 are well within the applicant's ability to address. The remaining 3 all which appear first in the memo are significant and will require some time to resolve.

The first comment involves access to and from the site important not only for safety reasons but for long term planning along the commercial corridor. Ultimately permits and approvals from NYS DOT need to be obtained once configuration is determined. Second comment addresses the previous subdivision approval included a grading easement, must be worked out with the applicant and owners of the adjacent property. Third comment requires detail-explanation how the "Drive Thru & Mobile Lanes work".

SEQR Full Environmental Assessment Form (FEAF) Part 2 Identification of Potential Impacts was reviewed and discussed answering each line of the 18 questions.

SEQR Environmental Assessment Form (EAF) Part 3 Narrative Attachment was also review and discussed in its entirety.

FEAF Part 2 & EAF Part 3, complete review completed. No Action taken.

Continue discussion possible change to the monthly meeting day of the Board.

Chairman Seem reminded everyone we discussed this topic in the past and to give extra thought to evening conflicts and personal commitments. We re-examined the possibility of changing the monthly meeting day. Considering the schedules of the Planning Board members as well as the monthly commitments of our consultants, we collectively could not identify a suitable alternate date other than our current 4<sup>th</sup>. Tuesday of each month. Chairman Seem will pass this information along to Supervisor McGreevy and the Town Board.

**Correspondence**

All Tyre Departments received notices from the Town to exercise caution in submitting expense request. Our operating budget will be reduced for 2021 due to COVID-19.

**Training**

Congratulations to our Zoning Board of Appeals members for completing 2020 Training requirements before the Planning Board. First time since NYS Law required mandatory training annually for Planning Board and Zoning Board of Appeals members.

**Motion to Adjourn**

8:15 pm moved by Kenneth Hauenstein, seconded by Karen Thomson, Unanimous

Respectfully submitted,

*Larry*

Lawrence J. Kesel

Town of Tyre Planning Board Secretary

**NEXT REGULAR MONTHLY MEETING DECEMBER 22, 20120**