

**Minutes for the Ticonderoga Planning and Zoning Meeting held on June 6, 2024,
commencing at 6:00 p.m. with Public Hearings for Chilson Properties LLC, Crammond
Farms LLC, and R.A. White Construction**

Present: Dr. W. D. McTyier, Mike Powers, Ben Leerkes, Walt Lender, Attorney Matt Fuller, Town Clerk Tonya M. Thompson

Others: Joe & Alicia Vilardo, Lee Peters, R.B. Crammond, Rick White, Bruce Crammond, Bonnie Maiolo, Robin & Bill Bondesen, Jamie Easton, Jim & Shari O’Bryan, Steve & Kit Miller, Tony O’Hara, John Reale, Lois Gunning, Attorney Matt Norfolk, Others.

Chairman McTyier opened the meeting with the Reciting of the Pledge of Allegiance.

Public Hearing

Chilson Properties LLC, Fireman’s Field (Regan Development) – Jamie Easton, EP Land Services (Continuation)

Jamie Easton briefly explained his project.

On 12/20/2023 – information was submitted to the Town

- Architectural Plans
- Special Use Permits
- Site Plan Application
- Deed
- Agricultural Statements
- Water/sewer Reports
- Stormwater reports
- SHPO
- APA – No jurisdiction

A meeting was held early February – information was submitted to the Town for all involved Agencies. We received comments back and those plans were done and submitted, we basically put the project on hold because of the sewer issue and this board is certainly aware of that, the capacity issue and what can be done about that. The month of April held a lot of conversations between himself, Derrick and AES in a sense of what has to be done. AES needs to do some follow-up on some things so at that point and the beginning part of May he issued a letter to the Town saying that these are the two (2) options that we are proposing to do; 1 option would be a separation project by our developers, to get paid for that separation requirement for the mitigation ratio as determined by AES and the Town and option 2 was basically providing funds to the overall Town separation project and as AES works on that we are happy to do either one, but he thinks AES has time to resolve that issue and that was the largest outstanding issue for this board. If the board certainly remembers, we talked about some interconnectivity about this project and he sent an email to Walmart, they received it but have not gotten back to him on it, the interconnectivity going from our site up to basically their garden center on the one side where there is a sidewalk to enter on. Per DOT we did a sidewalk all the way up to 22 & 74, we did a path all the way to the end of our property, just as you all mentioned previously in a sense that we are providing connectivity. In regard to some of the comments, he will get into those briefly, certainly we talked about a 60 unit building which is an ‘L’ shaped three story building, the architectural plans have been submitted, but certainly it is very similar to the one in Lake Placid on West Valley Road. The one story building, which is really the retail space of this building will

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be built as needed. Hopefully, we have a tenant to go in there right away when construction starts, but right now we don't have a tenant so construction drawings show this as a phased project, storm water, sewer and everything else is taken into anticipation as a commercial space, we just don't have an end user in that, we are anticipating a day care center. Some of the other general questions from the public, and he thanks the chair for answering some of those questions. This is not Section 8 housing, that would require a voucher from the State to pay for rent and is underneath a certain income level to submit that voucher. This project is not Section 8 housing just by the classification, it is workforce house and because of that you have to work or you have to have income coming in via Social Security or working to actually qualify to live in this space under NYS. So, Section 8 housing will never be allowed in this because the program that the State has set up for grants for the projects and tax abatement for the project at the state level does not allow for Section 8 housing for this location – it is just not allowed. There were some other comments in regards to capacity of water and sewer and things like that in that area, certainly the sewer we have mentioned before and we are aware of sewer issues globally through the Town and this project will, part of AES's separation project will take that into account and what we have done in other communities, whether it is in Albany, Troy or Schenectady where that mitigation requirement is would be an off site set so that we take catch basins and pull them off and dump into the natural waterways. As to water pressure, there is a Pressure Reducing Valve on 74 because originally, we were going to loop the water from 74 where it currently is out and tie it into Park, due to the PRV we actually can't tie those two systems together. (Mr. Easton explained a PRV) Our system certainly has plenty of water pressure off the main for the project that is highlighted in the Water/Sewer report what the status of the water pressure is. We do have one proposed fire hydrant in one corner that meets the fire suppression requirements for the buildings being springled. A fire hydrant has to be located within 600 feet of the project site. There will be some other additional fire hydrants, one is near the future build out. The water portion of this, we are pretty much fine. One of the main highlights in regard to some of the other people's comments in regard to taxes, again, taxes for the taxes of this property is done at the state level or the county level, there is no tax at the local level, most people think of PILOT programs, but that does not happen for these projects at the local level. So, whatever the assessed value is for school and local taxes, those are the fees that the building will pay. Another general question that he saw from reading the comments is when this is built how does it affect my property taxes. This will reduce the value of my property. His general comment is that the value of your house is really dictated by what amenities or what improvements you have in your house. Typically, not so much what your neighbor that is 400 or 500 feet away from you has. So generally, properties are not affected by a project like this for sale value. Currently, those people who are normally seeing woods between their homes and this project site, will continue to see woods.

Mr. Leerkes asked when do you anticipate the sewer to be settled?

Mr. Easton explained from talking to AES, which is the Town's engineer, he thinks it will be a little bit, three to four months, before they get a firm grasp on the scale of what needs to be done or what the mitigation ratio is. That is his take on this, it could be longer than that. The way HCR funding works, the next round will be September 1st, which is when the applications are due. Thos applications once they go in, would not be approved until around March or April of

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2025. Once the applications are approved, it will take to September of 2025 to obtain the necessary governmental finalization. Then you have construction which should take approximately 14 to 16 months to build. So, as outlined in his letter, we are looking at really 2 ½ years minimally before anything goes online from a water or a sewer usage for this project. We do have some time on this, but obviously the goal here is to obtain final site plan approval or conditional site plan approval and a SEQR determination on the project. At this point, certainly, he does not believe he will get a SEQR determination tonight, but the information has been provided and hopefully at the next meeting with the Town Planning Board Attorney that a part II can be completed if it needs to be done before the next meeting, hopefully, that can be done and any conditions that you would deem necessary for a conditional site plan approval can also be listed. Sometimes it is minor, but some of those conditions as previously stated would, well we need a DOT permit, and any other outside agencies permits or approvals you would want copies of those before construction can begin. A condition can be if Walmart gets back to him in time, and do that interconnection all the way to that site, those are conditions that the Planning Board can place on him for the project.

Mr. Leerkes asked about the access to NYS Rt 74 & 9N, they were changed per DOT comments so there will be a side walk.

Mr. Easton agreed yes, next to our road there will be a 5' grass maintenance strip that comes all the way up and out, so there is a 5' wide sidewalk and then what DOT wanted because this is part of the bike trail system, there needs to be a sign per DOT standards. We certainly have them, DOT also recommended sidewalks all the way to the traffic light with push button controls, but he feels they were asking for a lot, people that would be using it, well if I was going to Walmart, I would just be using this strip. DOT due to state government spending being limited looks for developers, we can't put it in physically due to the exiting wetlands and drainage ditch right there. The engineer that Regan has hired is in charge of all the DOT permitting We have added as much as we can to this plan, but most of the stuff that we have not added only deals with 22 & 74.

Mr. Leerkes asked the ratios on the sewer, typically it is 2 for 1, 3 for one on the mitigation.

Mr. Easton stated that it depends on the community and what DEC and your Town engineer says. (He gave some examples in other towns/cities) He continued by asking if the board feels comfortable at this point based upon the information that has been submitted that a SEQR determination and a conditional site plan maybe be considered at the next PZB meeting?

Mr. Fuller stated that his last discussion with Mr. Easton was that Mr. Easton was going to go back and take a look at SEQR and come back with what you wanted to ask the board to do. He does not know that this has been addressed tonight.

Mr. Easton asked in regard to sewer mitigation?

Mr. Fuller stated how you would ask them to make a SEQR determination without that being resolved.

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Mr. Easton noted the resolution is outlined in his letter, in the sense of the two options that are certainly viable for this project in addressing sewer. One was a private separation of the system by the developer or the joint monetary value into the Town wide system. Those two options we are fine with, as mentioned previously, but until we understand the mitigation ratio, he can't design something until that is done. From a SEQR standpoint knowing that we have a resolution in the sense that the application is willing to either one and because we can do either one and the fact that it will be done prior to the CO of the building in which no one is living there til a permanent CO is issued, those mitigation efforts will be done in respect to sewer; he believes that will certainly satisfy this board and answer the SEQR, it will completely address the sewer issue. This building will not come online, we will do the sewer improvements before the CO is issued on the building. The May 2nd letter does discuss the sewer options.

Mr. Fuller stated that the path that he proposed cannot be accomplished by your next meeting under SEQR. You cannot commit to a hypothetical.

Mr. Leerkes stated that the Town Board needs to decide which one they want and then we can make a neg. dec.

Mr. Fuller stated no, you can condition it, but that is a separate process. From sitting here today, this is at least a two month process.

Mr. Lender stated that we can't commit to anything tonight.

Mr. Easton stated that this is fine, it was a question of consideration based upon the information that was submitted and you have told me.

Mr. Fuller explained again that there is a path to get from point A to point B, but you have to come in with the information to do it. It is explained in SEQR. You need to research this yourself.

Mr. Easton thanks the board. He will instruct the applicant to coordinate with an attorney on this very specific topic and that is where we are at. We can keep this public hearing open and he will see what the applicant wants to do. He is planning on being at the next Planning Board meeting, but if there is some reason that he cannot be there, he will certainly let the Clerk know a couple days beforehand if I will not be here.

Mrs. Thompson explained to the board that they will need to schedule a meeting next month as the regular meeting is on the Fourth of July and she is sure no one wants to be here. That needs to be decided tonight and then you will table the PH until that new date you decide on.

Resolution #39-2024PZB brought by Ben Leerkes, seconded by Doug McTyier to move the July Planning and Zoning Board meeting to July 2, 2024, at 6:00 p.m. due to the Fourth of July holiday on the regularly scheduled day. **4 – Aye, 0 – Nays. Carried.**

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Resolution #40-2024PZB brought by Doug McTyier, seconded by Ben Leerkes to table the Chilson Properties LLC, Fireman's Field (Regan Development) (Continuation) until the newly schedule July 2, 2024, Planning and Zoning Board meeting at 6:00 p.m. **4 – Aye, 0 – Nays. Carried.**

Public Hearing

Subdivision and Site Plan Review – Crammond Farms LLC: Lot Line Changes located at 534
Old Chilson Road (150.2-1-2.110)

Chairman McTyier noted that this was continued Public Hearing, the board has asked for an APA non or jurisdictional letter and clarity of the representative of the property.

APA paperwork has been received and handed out to the board; Robert Crammond has title to the Corporation for the board to see tonight.

Mr. Crammond is well aware that Bruce Crammond has been trying to go around to the board members and he feels that is not the forum for his discussion, that is a court issue.

Mr. Fuller wanted to clarify that this is a modification to the prior site plan application that had the solar project, that is the trigger for being here tonight.

Mr. Crammond explained that he is doing this for a mortgage, the APA says it is fine as long as he still retains ownership of all the parcels.

Chairman McTyier noted that we saw the lot line changes for the site plan review and asked Mr. Crammond to explain it again.

Mr. Crammond explained that the mortgage is spread out on the entire farm, so he wants to consolidate it down to the solar panels so he defined the boundary for them for a description. He is not looking for a project he is just looking for anything, he is only looking to control his mortgage and he wants to condense it down to separate the solar fields as on each parcel, Bruce Crammond would have his parcel across the street and then he will have his parcel with his house. We are using the road as a visual boundary for each. The APA gave him permission and clarified it as a mortgage subdivision. It is not a full subdivision. If he decides to sell or do anything, he will then need to go through the full subdivision. This is just to control his mortgage. If anything is ever proposed to be built, he would need to come back to this board for approval. It is really so the solar company is left alone to let them operate and do what they need to do and we don't have to keep bringing things down here for site plan review.

Chairman McTyier asked if anyone from the public would like to speak.

Bruce Crammond stated that we are having a dispute over ownership of this property right now, so, he thinks this whole thing should be tabled until we get this straightened out.

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Robert Crammond stated that this is not the place for ownership dispute, this is only for the site plan review.

Bonnie Maiolo stated that this does need to be in a different venue, it needs to be in court; but we need time to get there.

Mr. Fuller explained that this board is to make a determination if this is a valid application in front of you based on the information that has been submitted. Any other issues, which we understand, is not for this venue.

Resolution #41-2024PZB brought by Ben Leerkes, seconded by Doug McTyier to close the Public Hearing at 6:36 p.m. **4 – Aye, 0 – Nays. Carried.**

Resolution #42-2024PZB brought by Ben Leerkes, seconded by Walt Lender to affirm the Negative Declaration from the Original Site Plan Review project in regard to this Subdivision and Site Plan Review from this application– Crammond Farms LLC: Lot Line Changes located at 534 Old Chilson Road (150.2-1-2.110) **4 – Aye, 0 – Nays. Carried.**

Resolution #43-2024PZB brought by Ben Leerkes, seconded by Doug McTyier to declare a complete application for Subdivision and Site Plan Review – Crammond Farms LLC: Lot Line Changes located at 534 Old Chilson Road (150.2-1-2.110) **4 – Aye, 0 – Nays. Carried.**

Resolution #44-2024PZB brought by Ben Leerkes, seconded by Walt Lender to approve the application for Subdivision and Site Plan Review – Crammond Farms LLC: Lot Line Changes located at 534 Old Chilson Road (150.2-1-2.110) **4 – Aye, 0 – Nays. Carried.**

Public Hearing

White – 216 Putts Pond Road (Tax Map #138.4-1-58.100) Use Variance

- Continue operations at this location
- Have been doing it for over 2 years as of last fall
- Property previously was a shop and trucking company since 1982
- It is on a separate deeded lot for its own electric service
- Doing similar thing as other entities in Town/operating out of their own homes
- Calling this industrial would be unfair – just because we make some things
- Small company with three (3) full-time workers – do have some seasonal workers
- Zoning definitions can be seen several different ways-can agree it needs to be fixed
- Looking for permission to continue the use
- Closed on this property around the end of January
- We are making some changes/moving things, cleaning out
- Want to keep the operation behind the shop so nothing is in front
- Willing to put up a fence
- Gate the driveway – keep things at bay so you can see things in the back of the property
- Majority of time not in the shop – we build homes/docks 80% of time no one is there

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- This is not a property where someone is full – time, no constant in and out – may pick up things there in the morning and leave
- We may put up an additional structure/barn in back so everything is stored inside, do not want things out in the snow
- Plenty of property to do that
- Currently not in the house, mold remediation is happening now
- Hopefully be in after the Fourth of July

We are hoping to operate the way we were and get things organized since we now own the property.

Matt Norfolk, Attorney for Lois Gunning and Billy Vincent to advocate for them in opposing the Use Variance application. He will try his best to do that by going over the criteria in a Use Variance. He will also discuss the parodies of current unlawful use of the property. There are others related to Lois and Billy that would like to make comments afterward. The first thing he noticed looking at the application, it relies on the current unlawful use going on. There is no new use, this has been ongoing. Respectfully, that cannot be something to rely upon, seeking permission to do the use that he should not be doing now. He submits to you as a board to please do not give that consideration to favor the applicant while he has been doing an unlawful use. In looking at the application and talking to his clients, but with all due respect to Mr. White, it seems to repeat the same thing over and over, well we have been doing it, we have been doing it. Well, in talking with his clients this has NOT been going on. There were some trucks kept there and there were some things done for Mr. O'Hara, but it was not the use of what is being done at the building now. Where do we go, do we need to have a fact finding hearing on this property? He finds this troubling, but the applicant has the burden of a case to prove and this is why. He wanted to start out with that before he got to the criteria. It is unique to him to see an applicant come forward admitting that he is doing something unlawful. Going through the criteria will help him to go into segways on each.

First – the applicant cannot realize a reasonable return – as demonstrated by competent financial evidence. When this was purchased, the use of that lot was for residential property. He bought it for \$372,340.00. In 2023 it was assessed for \$223,000.00 and on the tentative 2024 assessment roll for \$354,000.00 It is not as if he purchased it and it was already commercially zoned and now needs a use variance because of a change of a lawful, existing commercial use. He does not see, other than the realtor, Brannock, letter, that he has come with proof, competent, financial evidence of not being able to realize a reasonable return and it be substantial. He does mean to be critical but does not mean to offend him, but looking at Brannock's letter (and this is all that was submitted for financial evidence of impact) it says he would lose hundreds of thousands of dollars if he doesn't have this revenue. For one, he is a real estate agent, there is no support behind that – then he goes on to say there would be rental loss too, so this is first a family business and now he will be renting it out? What is the purpose of renting it out? Would it be to his own LLC or some other business. He found it a bit incoherent the reasonings behinds Mr. Brannock's letter to show how there would be a financial adverse impact, he doesn't understand where this is coming from and then he went on about commercial lot being \$75K the vacant lot \$15K – well they are all on one tax map parcel now and when he got done with it, he was frankly

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confused of where he was going with this and how denying the use is going to prevent Mr. White from realizing a reasonable return. He bought it as a residential property with no Use Variance. With respect to Mr. Brannock, he gives us comps to use as comparable and they are all except for one – Fort Ann, Granville, Queensbury, Schenectady, he does not see how those are even comps to look at. Respectfully, the applicant hasn't come forward showing that he cannot realize a reasonable return, there is no competent financial evidence.

Second – Alleged hardship relating to the property in question is unique. Mr. White says the shop had been used since 1982 and it was built that way, so that is unique. Well, whether it is unique or not, you look at the characteristics of the sight and is it that unique. As he drove up here, every lot that is on that road is large tract and rural. That piece of property is not so unique that if he doesn't have his shop, he is going to have a hardship, that just isn't so. He doesn't even respond to the question; he says well the use was there so.

Third – Altering the essential character of the neighborhood – (He will finish with the self-created hardship, which he feels is the strongest) looking at the application – will this alter the character of the area; the applicant has the burden and there is nothing in this application saying how that is going to be done; besides what has been done already, unlawfully. There are a lot of questions. There will be large trucks there, he saw the turn, what about lighting – if he improves this will he have overhead industrial lighting. Lois has complained already about the sand blasting and the dust was coming over and then there is the sound, grinding, sanding, sawing; but that alone hasn't been addressed and that is his burden and he can tell you right now that Lois and Billy have already made complaints about the unlawful use that is going on right now. It is going to alter the essential character of the neighborhood. Yes, there is the building there and an open ended garage, they are there, but the use has not been there and that use will change the environment and community, it is a rural neighborhood.

Last – Is this self-created. Looking at the application is quite telling. He was there renting for two years before, well he can't get into Mr. White's head that has led up to this actually, but he goes on to say when the applicant purchased the property with the expectation that prior non-conforming use was grandfathered in. What does that tell you, it tells you that he knew the use was non-conforming. Right there tells you, he had the expectation that the non-conforming use was grandfathered in and remember he had already been there two years renting. Wouldn't you think you would have done some due diligence on this as far as whether the commercial use that he is seeking to do and have been doing while he was renting is lawful or not. He finds it hard to believe and he has listened to him, he seems like an intelligent man, well spoken, it is hard to swallow that he didn't look into it more and his actions now, he knew, but there has been no repercussions, he is working he is making money unlawfully. So, it is self-created. He knew it was non-conforming, he admitted it. He should have checked into that.

One more thing, on the application – adversely affecting the neigh. He will defer to Lois and others to talk about that. He has to be candid; he drove up and it is not a pleasant looking situation there right now. He has one this long enough that if there is an approval, this will not get better and with all due respect to Mr. White, beauty is in the eye of the beholder, but it is unsightly there and it should not be that way in that community, in that area.

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Lois Gunning stated when she came before the board before for the first hearing, she said she was nervous, but she is not quite so nervous this time. She has lived on Putts Pond Road for 85 years total and believes she can speak about the neighborhood and the community can be harmed or helped by certain activities so she will start out with – Putts Pond Road has been the hub of the Community of Chilson since the first settlement was made, it includes Eagle Lake, Hall Road, Bear Pond Road and even the lower Chilson area of Killicut Mountain Road. At various time throughout the year, people from all of those areas may use the pavilion there at the community house, the Fire Department is there, the Cemetery is there and the Church (the Church does not operate full-time but we are working on that as a founder's group). These services are used for gatherings of all kinds and everyone is welcome to share all that is offered from chicken barbeques, pork dinners, rentals of any kind of group activities. Putts Pond Road is a hub of all of that and that is very important to this decision. Our community on Putts Pond Road is a neighborhood, not only for those that reside on the road, but the surrounding area. It brings her to Mr. White's application and how his business so far has done nothing but harm to our neighborhood, nothing but harm. It appears that he bought the property for his business only, he has made a pretense of wanting to live in Chilson, his home has been and still is on Black Point Road. His application for a home business permit was denied by this board. However, he is asking to do the same activity, but under a different umbrella. You have all seen the pictures that she provided (on file) for these activities and it can get much worse. He has moved the primary work to the back of the garage now in hopes that the neighborhood would accept that. Well, we don't. There are between 30 and 40 houses on our road and there are several new members to the neighborhood. Two summer places that only come during vacation time and one new full-time resident. They have purchased their property under the belief that the road is a rural residential road, what would they then think if they suddenly find out that it is not a rural residential road and it is something other to accommodate a business such as what Mr. White is running. The zoning ordinance that we rely on for the protection from just such business operations and illegal actions will be forever clouded if these activities are allowed to continue. The ordinance was developed over a long period of hard worked time by some dedicated folks who wanted to take care of all people and not surrender the neighborhood to one person. A person who was well aware of the rural residential zoning laws, even though he denies that, he knew. He had been down that road before. Anything that is lost for him is self-created and he knew about it prior to doing any action. The total environment is at stake there, there is a long time crossing – deer, turkey and wildlife – in particular down across Mr. White's house and they come across to her lawn. We have seen none since this operation began. The dust from all the trucks, cars, motorcycles, commercial garage trucks, pickup trucks all are contributing to contamination of the air we breathe and the noise pollution that we are subjected to. There is a lot of traffic on the road anyway, especially in the summer. It goes to Putnam Pond Campsite; you have a trail head up there that can accommodate maybe 30 cars on a weekend. They fish, they camp, they hike – they can reach multi ponds from that trail head and multi mountains. We are asking that the Zoning board consider the character of our neighborhood. It has always been collegial. We know what other people are doing. The visitors too, come for rest and recreation. The owners of the property in the stated reasons by the Town of Ticonderoga for developing a zoning ordinance in the beginning as a rural residential area and not one that is appropriate for a manufacturing enterprise. She has just one last thing to say. In the 90's she interviewed some elderly people in Chilson and that was for a reason, but she wants to read what was said and they

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were talking about being on the front porch on Putts Pond Road in their memories because they were all 80 and 90 years old and she asked them, why do you think people came up and settled and learn to live in this community and they said that they were hard workers and they had a lot of grit and then they rose to leave and one old lady stopped and looked up toward the hill and she had a far away look in her eyes and she turned and said in a soft voice, the secret of Chilson's charm is the sense of community. That must be a legacy, we of Putts Pond Road want that to be our legacy. It is a community and a neighborhood. Thank you.

Jim O'Bryan is Lois Gunning's son-in-law and lives on the same parcel of land that Lois and Bill do. His comments tonight are based on things that we talked about last time when he was here. He would like to submit into the record some of what he mentioned when he last spoke before this board regarding the request for a Zoning Variance for the property formerly owned by Chick and Sharon O'Hara on County Route 39, Putts Pond Road. As a landowner whose property lies directly across the road from the property where R.A. White wishes to open a manufacturing business, he opposes any consideration for allowing any modifications of the area's current designation as rural residential. A designation originally given to the Putts Pond region because of the beauty and peacefulness. The peacefulness of the area is the main reason why his wife Shari and he made the decision to build a home there. It has been submitted that a Zoning variance should be granted based on Chuck O'Hara's previously operating a business on his property. He can attest that based upon his nearly 50 years of being in and around this property that Mr. O'Hara did operate his private trucking business out of his home, but as a sole trucker hauling pulp, wood and later asphalt. For a short period during the late 70's, early 80's, Chuck tried a second driver and running two pulp trucks, but the cost and upkeep on the older trucks became too much so he did away with the old trucks and purchased one International of which he drove himself until he replaced it with his last truck, which was also a brand new Champlain Peterbilt. The distinct difference between Mr. O'Hara's business and the one being considered is Mr. O'Hara did not provide a service or take business into his garage, other than to help a neighbor every now and then. Chuck did help him every now and then with his farm equipment and every now and then he helped Chuck with his farm equipment at times because we were neighbors, but we never exchanged any fees to each other. That was just good neighbors. He certainly did not manufacture anything in that garage. His garage was built so he park and work on his own equipment, which he did for years without any impact on his neighbors quality of life. Something that a manufacturing business would have a hard time guaranteeing for neighbors. He also wanted to reiterate something that he previously stated and that is that all jobs are important to our community. Especially those that are tied to manufacturing, but only manufacturing that is properly positioned to have the least amount of impact of those living there and the natural resources that are found there. There is a very good reason for our Zoning process and how the process was framed to guide our community. Allowing for a variance to build a manufacturing business in a rural residential area on property which directly abuts one of our state's great wilderness tracts, that property abuts the Pharaoh Lake Wilderness Tract on two positions all the way across the western end of it and halfway up the south line. That would be a major mistake and one that would put us in a bad position to deny other requests for variances in the future. He asks that Mr. White's request for a zoning variance on Putts Pond Road be rejected and that the Town work with Mr. White to find a more suitable location. Jobs are important, he understands that Mr. White is trying to run a business, but the parameters have to

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fit within, whether it be Town Law, State Law or Federal Law – we have to meet those guidelines. With that he will thank you.

Lee Peters is an adjacent property owner. He would like to start out with saying he has respect for Rick, he is a builder and a very good builder; he has seen what he does, but he is opposed to a variance on his property. He feels that Rick should look for someplace else to do the manufacturing. This situation is different than an existing property owner who just wants to do something different with their property so they apply for a variance. Rick rented this property, he started the manufacturing process, he knew it wasn't allowed, he continued to do it. Rick is a builder and he knows what Zoning is. This notice that we received as adjacent property owners says right here in bold print, "continue with prior owners use of the property – including welding, grinding, etc" – he haven't lived up in Chilson as long as Lois has but he has lived there for 23, 24 years and he is sure Chuck O'Hara did some welding once in a while, but basically, from what he saw, Chuck got in his truck and went to work, came back and parked his truck and went in the house. Once in a while he would bring the truck into the garage, it seems for whatever reasons, but that is it. Let's just say that he did do all of these things, that would be a non-conforming use and a lot of times non-conforming uses are just that, they continue their non-conforming use. To come along after two years, that means nothing. Chuck stopped the trucking business around 2009, and what happened before on that property has no meaning now, legally. Basically, in a nutshell, if the board approves this variance, what you are doing is opening up the entire road to what could be any kind of manufacturing because any applicant knows what this is, it would set a precedent and you would have very little choice to approve what they wanted to do for manufacturing and just as Lois said, there goes what Chilson really is. It is zoned now, locally, rural residential and APA rural residential and it should stay that way. Thank you.

Rick White would like to touch on a couple of points. If we look at some of the comps that Mr. Brannock did, the reason they are not so close is because it is a special situation. There are not a lot of places that have had a shop like that, that have been for sale to say that is what it went for and that was just to give everyone an idea of the closest things that we could find to relate to this. As far as the financial hardship, it comes to simple accounting, let's say you own a business and you are going to rent the shop and charge say a thousand dollars a month you know, so that is \$12,000.00 a year and in twelve years that is \$120,000.00. We had rented the shop, and just like many other businesses that are operating out of their home, very similar, an excavator, loader, we build homes and we had no reason to believe that we would not still be allowed to operate there. At one point, when the house first went on the market there was no way we could afford it, it was over \$500,000.00 and we had gotten a message from Tony's sister that she had offers on the house and he had told her originally that if you get something, give him a change to make an offer if he could afford it; knowing that we were way far off from the original and even being able to make an offer. He was told that there was an offer on the house and that it was a granddaughter or a relative of Mrs. Gunning's that was going to rent the house and someone she knew was going to buy it and rent it and allow us to continue to operate in the shop to pay rent. Apparently, this only became a problem when they found out that I wanted it and they found out because we kept working under contract because there was no other place to go and he doesn't just own a house on Black Point, he owns a house in town also. We had no reason to believe we couldn't operate, so she had walked across the street and talked to Mo O'Connor pumping the

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septic tank as to who bought it and he told him and then the complaints started rolling in and he was no good after that. He does not know why, never came across the street and said, we have a problem with this, can you change, except for the dust in which he mitigated immediately with the sand blasting. To his knowledge, there was never really any problems. Very close by there is a trucking company, there is a logger down the road with all kinds of equipment, there is a firewood business, all these places in the Town operate the same way we are and in similar fashion. Not only that, as Jim pointed out, Chuck did weld for him, but no money was exchanged, well if you really want to look at the legal law part of that, you don't have to exchange money for it to be a zoning violation. Whether you were doing it for someone else, you weren't allowed to do that. These uses have all been done for a very long time there, we can argue back and forth, well, Chuck just welded once in a while, he did this and that. He worked on his own trucks, he worked on tractors, he did all kinds of stuff. Obviously, we do things a little bit different than him, we don't have semi-trucks that we own, we do get some deliveries just like a lumber truck, just like anything under construction might and it is not even once a week, or even every two weeks, it is randomly. Whenever we need something whether it is used there or taken to a job site where we are working. Sometimes it is more convenient to have it dropped off there and haul it where it is needed. It depends on where we are at the time. So, the hardship is, it wasn't created by him, he is operating like many other businesses in the Town right now and we can talk about the legalities of the zoning, but maybe their attorney doesn't understand how things have been done around here for a long time. This has been allowed everywhere in the Town for a very long time and at one point, he thinks it was when Bill Grinnell was in office, the board voted that they were going to grandfather existing places and not allow any new ones to operate outside the zoning. Well, we have new buildings and things operating outside of the zoning, so nothing has changed. We are not any different than anyone else, so he feels we are the same as all the other businesses in operation. So, if you tell us we can't operate, are you going to shut everybody down? He would be glad to use another building at the suggestion of Dave, like what about Hacker Boat? That would really not work for us because it is not on a main road, do you know that Hacker Boat is on a rural residential and no one lives there; however, in the zoning there is a clause that allows house construction there. Not Hacker Boat, not a trim shop where kitchens or whatever is up there. You can say well, it is wood working, it is kind of the same well, that is against zone. So, you can't get a loan for a commercial property that is not commercial, it is a rural residential lot. You go to the bank and they will say they are not going to give you a loan for that because it is not zoned for commercial, you can't operate there. We haven't created the zoning problem, we are not looking to expand our operation, we aren't going to get any bigger there, eventually, we will move out of there and probably just store our excavators and stuff like that there. We are trying to get a shop some where in town where we will be visible and people can see us with a store front, but there is nothing available right now and there is nothing available in Ti, or Schroon Lake, so, it has put us at the point where we are backed into a corner. We don't want to lay everybody off, how do you run a business when there is nowhere to go? Which is why we ended up purchasing this, he said, well, instead of moving, why don't we just buy this. It gives him another house and then we can move out of there when we find a store front that is suitable for us to do something with. That is the end goal for us, but he feels there is only a problem for us to be there after we purchased the house. He doesn't know why that is, but we can paint a horrible picture of anything we want and make it look as bad as we want. They have never come across the street to

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say Rick this is really bothering me, can we do something about this, except for that sand blasting that he got a phone call from Jim and it immediately stopped. This was not something that we normally do, it is not standard practice to do sand blasting. There are trucks up and down that road all the time, there is logging going on, there are garbage trucks, we are not increasing traffic on it. He has a couple of pick-up trucks that are in and out of there and if those are creating so much dust, they are not creating any more dust than the road is. He does have a motorcycle that he drove up to put in the garage and then he drove it out to put somewhere else, apparently that was a lot of dust, a trip in and out. If his driveway is creating that much dust, come across the street and say something and maybe he would look at doing something, but he has not heard any complaint from anyone about that and there is certainly no dust leaving that shop and going any where else. It is just unreasonable to think that anything that we are doing in back or inside is going anywhere else. As far as the deer, he can't speak for the deer on her property, but they are all over the place behind his house and the evidence is there if you want to go look at it, it is not hard to find. We are not affecting wildlife, the turkeys are still there, he is a hunter, he doesn't want to affect the wildlife, he does plan on hunting in the back of the property. That property is almost ¾ of a mile deep it is long and narrow. Last thing we want to do is disturb bear and deer and turkey or anything else, he enjoys the wildlife just as much as anyone else. The thing is 80% of the time we are not even there, how hard can it be if 80% of the time we are not even there. We all know that it doesn't align with the zoning, which is why we are here trying to get permission to operate on the property as we were because someone had a complaint. We are operating like many other people in the Town and in the North Country.

Resolution #45-2024PZB brought by Mike Powers, seconded by Walt Lender to close the Public Hearing at 7:30 p.m. **4 – Aye, 0 – Nays. Carried.**

The board went through each of the Zoning criteria and answered each for a Use Variance and the findings are below. (See full resolution)

Resolution #46-2024PZB brought by Ben Leerkes, seconded by Doug McTyier to deny the application from Richard White for a Use Variance regarding the property at 216 Putts Pond Road (Tax Map #138.4-1-58.100). **4 – Aye, 0 – Nays. Carried.** (See the following full Resolution)

Planning and Zoning Board of the Town of Ticonderoga

Resolution No. 46 of 2024PZB
Adopted June 6, 2024

Introduced by Ben Leerkes
who moved its adoption

Seconded by Doug McTyier

RESOLUTION CONCERNING USE VARIANCE APPLICATION FOR

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**PROPERTY AT 216 PUTTS POND ROAD, TICONDEROGA, NY
TAX MAP PARCEL 138.4-1-58.100**

Whereas, applicant Rick White previously has applied to the planning and zoning board for an appeal of a determination of the Town's building inspector dated October 27, 2023, finding that a proposed commercial business of welding, sanding, grinding, and fabrication of steel to manufacture products 216 Putts Pond Road, Ticonderoga, NY, Tax Map Parcel 138.4-1-58.100, is not a permitted use of the above referenced property; and

Whereas, the planning and zoning board previously affirmed and upheld the building inspector's determination by decision dated January 4, 2024; and

Whereas, the applicant has returned to the planning and zoning board with a use variance application for the proposed use set forth above for the property referenced above; and

Whereas, the planning and zoning board held a public hearing whereat the applicant and all other interested parties were permitted to attend and voice comments on the use variance application; and

Whereas, pursuant to New York State Town Law §267-b and Town of Ticonderoga Zoning Law §9.20(2)(e)(x)(1), no use variance shall be granted by the planning and zoning board without a showing by the applicant that Town's Zoning Law has caused unnecessary hardship, and in order to prove such unnecessary hardship the applicant shall demonstrate to the planning and zoning board that for each and every permitted use under the Town's Zoning Law for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created; and

Whereas, the planning and zoning board has reviewed the application materials submitted by the applicant and accepted the testimony of the public and the applicant on the matter and is prepared to render a determination on the use variance application.

Now therefore, be it:

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Resolved, that the planning and zoning board hereby determines that, in accordance with the Town Law of the State of New York and the Town's zoning law, as to the criteria for a use variance:

1. *"That for each and every permitted use under the Town's Zoning Law for the particular district where the property is located";*

Findings: The applicant submitted no information as to any allowed use in the zone where the property is located, for any of the criteria for a use variance.

2. *"The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence";*

Findings: The applicant submitted information from a local real estate broker attempting to show that the applicant's property may be worth less if the applicant cannot obtain the use variance. That is not the required proof. The applicant did not provide any information as to income, expenses, for any use allowed in the zone, and failed to submit competent financial evidence.

3. *"That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood";*

Findings: The applicant did not submit relevant information to support this requirement. The applicant argued that a past private use by a prior owner justified the applicant's request. In addition, the applicant argued that because he had used the property for his requested use for 2 years that he should be allowed to continue it but the past unapproved use does not justify a uniqueness finding.

4. *"That the requested use variance, if granted, will not alter the essential character of the neighborhood"; and*

Findings: Neighbors spoke of the rural residential character of the neighborhood with state hiking and forest lands and residential houses surrounding the property. Allowing a commercial intensive use would negatively impact the character of the neighborhood.

5. *"That the alleged hardship has not been self-created".*

Findings: The applicant said in its application for this part of the test

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“applicant purchased the property with the expectation that the prior non conforming uses were grandfathered in and would be allowed to as pre-existing non-conforming uses”. This shows that the applicant knew the prior uses were not allowed. It does not appear the applicant sought any opinion from the Town’s building inspector regarding the zoning status. This all makes the hardship self-created. Property owners and buyers are required to know the law applicable to the property.

Based on the above analysis, the requested use variance is denied.

All of those in Favor

Doug McTyier, Chairman	AYE
Ben Leerkes, Board Member	AYE
Mike Powers, Board Member	AYE
Walt Lender, Board Member	AYE
Don Meserve, Board Member	ABSENT

SEAL

Tonya M. Thompson, Town Clerk

Nelson – 10 Virginia’s Path (150.59-8-3.100) New residence, accessory structure and driveway
The board has acknowledged that there is no written reply from Lake George Park Commission and the applicant is not present for the board to ask questions.

Resolution #47-2024PZB brought by Walt Lender, seconded by Mike Powers to table the application for Nelson – 10 Virginia’s Path (150.59-8-3.100) New residence, accessory structure and driveway to the July 2, 2024, Planning and Zoning Board meeting commencing at 6:00 p.m. in hopes of seeing a letter from the Lake George Park Commission. **4 – Aye, 0 – Nays. Carried.**

Bondesen – 48 Black Point Road (150.67-5-10.000) 20’x24’ addition to east side of house

- 20’x 24’ addition
- East Side of House
- One story
- 1 Bathroom
- 1 Bedroom
- Another bedroom will be turned into a closet
- Lake George Park non-jurisdictional

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- APA – Non-jurisdictional
- French Drains for run off
- No Issue with County Road

Resolution #48-2024PZB brought by Ben Leerkes, seconded by Doug McTyier to declare no Public Hearing is necessary for the application of Bondesen – 48 Black Point Road (150.67-5-10.000) 20’x24’ addition to east side of house. **4 – Aye, 0 – Nays.**

Resolution #49-2024PZB brought by Mike Powers, seconded by Doug McTyier to deem this a Type II SEQR action for the application of Bondesen – 48 Black Point Road (150.67-5-10.000) 20’x24’ addition to east side of house. **4 – Aye, 0 – Nays.**

Resolution #50-2024PZB brought by Ben Leerkes, seconded by Mike Powers to declare a complete application for the application of Bondesen – 48 Black Point Road (150.67-5-10.000) 20’x24’ addition to east side of house. **4 – Aye, 0 – Nays.**

Resolution #51-2024PZB brought by Doug McTyier, seconded by Mike Powers to approve the complete application for Bondesen – 48 Black Point Road (150.67-5-10.000) 20’x24’ addition to east side of house. **4 – Aye, 0 – Nays.**

Other Business

Resolution #52-2024PZB brought by Ben Leerkes, seconded by Doug McTyier to accept the minutes for May 2, 2024. **4 – Aye, 0 – Nays.**

Resolution #53-2024PZB brought by Mike Powers, seconded by Walt Lender to adjourn at 7:55 p.m. **4 – Aye, 0 – Nays.**

Respectfully submitted, Tonya M. Thompson, Town Clerk