

**Minutes for the Ticonderoga Planning and Zoning Board commencing at 6:00 p.m. on January 2, 2025, in the Conference Room with Public Hearings regarding a Monopine (Sawyer), a Zoning Interpretation (Dixon) and Area Variance (Scriven)**

**Present:** Chairman Dr. W.D. McTyier, Mike Powers, Ben Leerkes and Tonya Thompson, Clerk

**Absent:** Don Meserve, Walt Lender

**Others:** Zoning Administrator Dave Burrows, Lance & Jodi Dixon, Mark Wright, Julie & Troy Scriven, Eric Sandblom and Drew Metzler

Chairman McTyier opened the meeting with the Pledge of Allegiance.

Sawyer Bro's LLC (Verizon Project) – 657 Delano Road (139.2-3-4.000) Wireless Telecomm.

Chairman McTyier opened the Public Hearing.

Jared Lusk, Nixon Peabody LLP, has reached out to the Board with a request to table this application. The APA has presented them with questions and suggestions which will probably need to have an amended application for the board at the next meeting. He has asked to be present at the Go-To-Meeting via online.

The board waited a bit but could not see Mr. Lusk attend virtually. If he appears, the board will acknowledge him.

**Resolution #1-2025PZB** brought by Ben Leerkes, seconded by Mike Powers to table the Sawyer Bro's LLC (Verizon Project) – 657 Delano Road (139.2-3-4.000) Wireless Telecomm until the February 6, 2025, meeting at 6:00 p.m. **3 – Aye, 0 – Nays. Carried.**

Zoning Interpretation – Dixon – 76 Montcalm Street (150.43-7-1.000)

Chairman McTyier opened the public hearing.

Lance Dixon explained that they received a letter in July of 2024 from the Code Enforcement Officer Burrows stating that we were not allowed to use our property for a tourist accommodation. We had been doing some cosmetic changes on their property, they did not have a permit. We were working on it for 2 to 2 ½ months, we were out in the public, we are right on main street not hiding what we were doing. Conversations that we had with people that work within this building kind of gave us the ' what you are doing is fine', so we continued with what we were doing. We get this letter saying that we are using this as a residence, that was the first letter that we got. No, actually the first letter identified it as a short-term rental, the second letter was that it was a residence, so he was a little unclear about how that changed. It is a short term rental; it is our commercial property. We are using it as a short-term rental, a tourist accommodation. We were a little shocked, we put our money into this, we didn't borrow money, but we put our working capital into doing this, since the pandemic, we lost a lot of our business, the state shut us down. We weren't essential, basically. We are still trying to cover for that that,

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along with his family that owns another commercial property with restaurant work. He found the law to support what we are doing. This is used as a short-term rental, a tourist accommodation is basically what it is. It is perfectly defined that way. You have 20 testimony's from people that have used it as a tourist accommodation. We have been paying occupancy tax to the county as a tourist accommodation. It is not a residence; it is not big enough to use as a house to raise your children in; it is a hotel room. Highly managed, highly, multiple layers of management, not just from us but from the underwriters. Our position is that it is an allowed use based on Schedule 1 of allowed uses in the commercial zone. There are certain requirements to be considered a tourist accommodation and we can satisfy all of those things. There is off street parking that is exclusive to that space. We also have something that we didn't get handed in that we are still working on and that is a petition with 50 signatures at this point and we are not finished with that yet.

Chairman McTyier asked the board if they had any further questions.

Mr. Leerkes asked Mr. Burrows if this is an allowed use, is tourist accommodation an allowed use in the commercial?

Mr. Burrows stated that he was not really sure.

Much talking over each other – inaudible.

Mr. Burrows stated that it very well may be, he is going off the Local Law of 2017 which states no 1<sup>st</sup> floor residents within the central business district and this falls within that central business district.

Mr. Leerkes stated that a tourist accommodation is not the same as a residence.

Mr. Burrows went on to say that the Best Western is a tourist accommodation and that is residential, each individual unit is residential even though it is a commercial building, same thing. So, for someone to occupy that, that is actually a residential setting.

Mr. Powers stated that we have run into this before where fire and building codes say one thing and our law says another. So, when you say that the Best Western is residential, where are you getting that, from our law or state law. He is lost.

Mr. Burrows answered the state building code.

Mr. Leerkes read our law – central commercial permitted use; those permitted in service business and under service business there is motels, permitted use.

Mr. Burrows again stated that Local Law #1 of 2017 is written that within central business district in the central commercial, no first floor residential is allowed – it does not specify short-term, it does not specify long-term, that is where the conundrum lies. In his opinion, on the

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second floor it is allowed and a couple meetings before this we ran into this with another first floor unit.

Chairman McTyier stated that was a totally different case.

Mr. Burrows stated that his thought process is that we need to hurry up and review these laws including this one.

Chairman McTyier asked if the board was ready to close the public hearing.

**Resolution #2-2025PZB** brought by Ben Leerkes, seconded by Mike Powers to close the public hearing on Zoning Interpretation – Dixon – 76 Montcalm Street (150.43-7-1.000) at 6:10 p.m. **3 – Aye, 0 – Nays. Carried.**

Chairman McTyier stated that from what he is reading in the law this sounds mainly like a commercial enterprise.

Mr. Powers agreed, it is here.

Mr. Leerkes explained his understanding of the first floor thing is about permanent residences.

Chairman McTyier stated that if we grant your appeal and you go ahead and do your project and it is a short-term tourist thing; if anyone ever moves into that long term then that is the Zoning Officers job to follow up on that.

Mr. Dixon agreed.

Mrs. Dixon noted that it is not set up for a residence.

**Resolution #3-2025PZB** bought by Ben Leerkes, seconded by Mike Powers to grant the appeal of the Zoning Interpretation for Dixon – 76 Montcalm Street (150.43-7-1.000) that central commercial business has permitted uses as seen in Schedule I (Motel) and further as follows from the Towns Zoning Law Article VII Section 7.14.3 Motels and Tourist accommodations:. Where permitted in this local law, motels, hotels and tourist accommodations shall conform to the following requirements A Minimum land area per each unit shall not be less than 1,500 square feet. B. Off-street parking shall be provided in accordance with Schedule II of this Local Law. 5.50 Off Street Parking #1. Off Street Parking Spaces: For any permitted use of premises hereinafter established, parking spaces shall be provided and maintained off the street in accordance with the standards specified in Schedule II of this Ordinance , and any use already established shall conform to these standards to the extent that it conforms at the time of adoption of this regulation. Schedule II #6 Tourist accommodation: One (1) for each accommodation unit plus one (1) for each including hotels and motels employees . **3 – Aye, 0 – Nays. Carried.**

Area Variance – Scriven – Lot 9 Roger’s Rock Club, Baldwin Road (160.40-1-8.200) - Single family residence w/ attached garage

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Chairman McTyier opened the Public Hearing.

Eric Sandblom gave a brief overview of the project for the Scriven's.

- Single Family Residence – Lot 9 of Roger's Rock Club
- Walk-in/Walk-out basement
- Attached garage with unfinished space above
- Septic system
- Lot requires a 50' set back from the lake front – given the odd shape of the lot there is a wooden area which is the ideal location for a shed so it -A. won't be seen by the neighbors B.- not seen from the lake itself
- The members of the Club itself gave 100% positive feedback

The actual Variance is on the setback of 50'. To do 50' would put it in that wooded area of the lot, there is a steep hill coming off the neighbor's driveway which runs through the center of the lot so to put it 50' back would put it right on the edge of that driveway on a steep hill. To make it accessible we would have to build up land or a lot of site prep which would disturb trees which is a strong negative to the project; however, the variance requested of 30' would put the shed on an already flat area that gives good separation from the neighbors driveway and is fully hidden from the other neighbors property and the lake. Not disturbing mature trees and keeping the structure hidden seems to be the best solution, it is a less than 100 foot square shed, log style construction, similar to a lean to for a very Adirondack feel. The area is already flat and clear of trees at the 30' setback. The Planning and Zoning board looked over the plans for the development.

Mr. Sandblom went on to ask if the question of a retaining wall can be heard at this time also? The site around the house has a pretty steep slope of about 20%, a waiver was received from DOH for the slope regarding the septic system, but also because of the slope and configuration of the house it is required or really necessary to have a retaining wall coming out so the driveway can be located in front of the garage and have a walk out basement along with the stormwater infiltration basin to meet the LGPC requirement. The retaining wall proposed would be 5' high at the house and remains that way around the house and then goes down to 2'. Ticonderoga Regulations state that a front yard set back shall be measured from the road unless it is lake front property which would be measured from the lake which is the front. We were thinking it could be interpreted as a front yard where we want to put the 5' retaining wall regulations call for 4' in the front yard. This may be subject to interpretation with the lake being the front yard. The retaining wall would actually face the side yard with this shaped lot.

Chairman McTyier stated that this would be site plan not on this variance.

Mr. Leerkes stated that the lake is the front yard – a bit more discussion was held.

**Resolution #4-2025PZB** brought by Ben Leerkes, seconded by Doug McTyier to close the public hearing for the Area Variance – Scriven – Lot 9 Roger's Rock Club, Baldwin Road (160.40-1-8.200) - Single family residence w/ attached garage at 6:25 p.m. **3 – Aye, 0 – Nays. Carried.**

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**Resolution #5-2025PZB** brought by Ben Leerkes, seconded by Mike Peter to grant an Area Variance for Scriven – Lot 9 Roger’s Rock Club, Baldwin Road (160.40-1-8.200) - Single family residence w/ attached garage at 6:25 p.m. per the following:

1. The benefit cannot be achieved by other means feasible to applicant
2. This will not have an undesirable change in neighborhood character or detriment to nearby properties
3. The request is not substantial
4. The request will not have adverse physical or environmental effects
5. The alleged difficulty is self-created (which is relevant, but not determinative)

**3 – Aye, 0 – Nays. Carried.**

Site Plan Review - Scriven – Lot 9 Roger’s Rock Club, Baldwin Road (160.40-1-8.200) - Single family residence w/ attached garage

Mr. Sandblom reviewed the plan again as above (under the Area Variance)

Mr. Leerkes noted that this is a very small shed.

The board went over the application it appears complete and continued to discuss the retaining wall.

Mr. Sandblom stated that it is made of keystone or locksystem and also, we are capturing all the water in the driveway above it to go underneath for the storm water. There will be a swail on top of it to carry it to a basin that will go to an infiltration system.

Mr. Burrows explained that zoning states that there are no exclusions for unnecessary retaining wall unless it is over 4’, that was in the front yard over 4’ and over 6’ on the side yard. That was where the question came in because when he looked at the lot, he couldn’t tell whether it was front or side.

The Planning and Zoning board decided that the retaining wall would be on the side of the house and therefore 5’ feet is allowed.

Chairman McTyier asked if the county was contacted regarding this project.

Mr. Burrows stated that they were and he has not heard.

Mr. Leerkes stated that we only need 30 days.

Mr. Burrows agreed and that 30 days has expired on their response time.

Mr. Leerkes went back to question the septic – this is private (yes), and that is in the back (yes) and it has to be pumped (yes) and this has passed all the jurisdiction requirements.

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Mr. Sandblom stated that the Town has jurisdiction, but the State Health Department has to grant the waiver because of the slop exceedance. What we designed is a Presby; an advanced enviroseptic system. Which is approved for slopes up to 33%, this is about 20%. The Park Commission has new septic regulations that we have to adhere to but they do not issue a permit.

The board went through the EAF form finding very minimal environmental impact with this project.

**Resolution #6-2025PZB** brought by Ben Leerkes, seconded by Mike Powers determining No Significant Environmental Impact for the application by Scriven – Lot 9 Roger’s Rock Club, Baldwin Road (160.40-1-8.200) - Single family residence w/ attached garage. **3 – Aye, 0 – Nays. Carried.**

**Resolution #7-2025PZB** brought by Doug McTyier, seconded by Ben Leerkes determining that no Public Hearing was necessary for the application by Scriven – Lot 9 Roger’s Rock Club, Baldwin Road (160.40-1-8.200) - Single family residence w/ attached garage. **3 – Aye, 0 – Nays. Carried.**

**Resolution #8-2025PZB** brought by Mike Powers, seconded by Ben Leerkes declaring a complete application by Scriven – Lot 9 Roger’s Rock Club, Baldwin Road (160.40-1-8.200) - Single family residence w/ attached garage. **3 – Aye, 0 – Nays. Carried.**

**Resolution #9-2025PZB** brought by Ben Leerkes, seconded by Dough McTyier to approve the complete application for Scriven – Lot 9 Roger’s Rock Club, Baldwin Road (160.40-1-8.200) - Single family residence w/ attached garage. **3 – Aye, 0 – Nays. Carried.**

Other Business

**Resolution #10-2025PZB** brought by Ben Leerkes, seconded by Doug McTyier to accept the minutes from December 5, 2024. **3 – Aye, 0 – Nays. Carried.**

**Resolution #11-2025PZB** brought by Doug McTyier, seconded by Ben Leerkes to adjourn at 6:48 p.m. **3 – Aye, 0 – Nays. Carried.**

Respectfully submitted, Tonya M. Thompson, Town Clerk