

MINUTES OF A MEETING AS HELD BY THE
TOWN OF AURORA PLANNING & CONSERVATION BOARD

May 7ⁿ, 2025

Members Present: Doug Crow, Chairman
Norm Merriman
Timothy Stroth
Chris Contento

Alternate Member: William Heidt
Ben Garvey

Absent/ Excused: Laurie Kutina
Angel Griffis
Chelsea Root

Also Present: Liz Cassidy, Code Enforcement Officer
Paul Ernst, ZBA Chairman

Chairman Doug Crow presided over the meeting which began at 7:03 p.m. at the Town Hall, 575 Oakwood Avenue, East Aurora, NY. He led the recitation of the Pledge of Allegiance to the Flag.

Chairman, Doug Crow States there are 6 voting members present at tonight's meeting. Both Alternates will be voting members.

Chairman, Doug Crow asks for a motion to approve the minutes from April 2nd, 2025

Tim Stroth makes a motion to approve the minutes for April 2nd, 2025

Seconded by William Heidt

Upon a vote being taken:

Ayes-6

Noes-0

ADMINISTRATIVE BUSINESS:

- a. Chairman, Doug Crow states he will be unable to attend the June Planning Board meeting. Tim Stroth will cover as acting Chairman.

- b. Chairman, Doug Crow requests an update from Tim Stroth regarding the South Towns Working Group.

Tim Stroth states there was a meeting on Monday, April 28th. He was unable to attend. There was someone present from the county there to speak. Tim states it would be advantageous to have a backup on the list, to attend the meetings and represent East Aurora.

OLD BUSINESS: none

NEW BUSINESS:

- a. Referral from the Town Board for a recommendation for a SUP to operate a BNB at 1756 Hubbard Rd., by Leah Foss

Leah Foss states she is looking to open a BNB. She also has a background in produce farming which she hopes to resume at a later date at this location. This is her third property, with other locations in Darien and Lancaster which are BNBs. She moved into Hubbard Road two weeks ago.

Chairman, Doug Crow asks about the three properties, all BNBs. The Town of Aurora requires a BNB to be owner occupied. Do the other locations not have requirements to be owner occupied? Is your intention for Hubbard Road to be your residence?

Leah Foss states the other locations do not have the same stipulation regarding owner occupancy as East Aurora. She will reside at Hubbard Road.

Chairman, Doug Crow states there is still not a Fire Inspection yet because we are waiting on some of the construction. What construction still needs to be completed?

Leah Foss states egress window installation is required to comply with the code. They are ordered and will require a permit to install due to size change. Once completed she is hoping she can get a Final Inspection. She is anxious to be ready for guests in the near future.

Chairman, Doug Crow reconfirms there are presently eight parking spots. The property butts up to Majors Park.

Norm Merriman asks what the plans are for the barn

Leah Foss states that eventually it will be renovated and become her home.

Chairman, Doug Crow asks CEO, Liz Cassidy, what would be necessary at that stage? The property is zoned RR for the first 200 feet, then agricultural to the rear of the property. Will it require an additional SUP?

CEO, Liz Cassidy states it would require a SUP at that time for a dwelling group.

Chairman, Doug Crow asks Leah Foss to explain the proposed floor plan.

Leah Foss states the first floor will have a kitchen, a common area, and a “zen” room facing Major’s Park, and a storage area. The second floor will have two family suites. Each with two bedrooms, private bathrooms, refrigerator, and microwave. Suite #1 will accommodate up to four guests, featuring one queen and one king-size bed. Suite # 2 will accommodate up to six guests, featuring one king bed, a bunk bed, and a pull-out couch. She will be occupying a small apartment adjacent to the home.

William Heidt states it is difficult to figure out the plan configuration.

Leah Foss reconfirms there are only two suites, with a potential total of ten guests. She is concerned with the safety of her guests and has plans to make sure the exiting is clearly marked in case of an emergency.

Chris Contento asks about floor plan layouts staying the same or are structural changes being made?

Leah Foss states no structural changes are being made.

Chairman, Doug Crow asks for additional questions or discussion.

Tim Stroth states there is a lot of unknown and lack of clarity in the plans.

Leah Foss approaches the bench and indicates on the drawing where the suite separations are to Tim Stroth and Chairman, Doug Crow.

Chairman, Doug Crow states he feels it is necessary to have good plans that are clearly labeled with separation between suites, doors, etc., for the Planning Board to feel comfortable making a recommendation to the Town Board.

Chris Contento asks about the privacy and security for the guests when both suites are occupied.

Leah Foss states she will be installing Schlage touch code locks that she will be programming.

Chairman, Doug Crow addresses the board members asking their thoughts on making a recommendation with conditions or to have the applicant come back with more formalized plan once construction is completed.

Tim Stroth states the board needs to understand what the intent is and right now we can't.

Chris Contento states he feels that a lot of the questions being asked will be resolved in the building permit process. It is not the board's job to dictate the layout, egress, or safety. The code issues should be handled by the Building Department.

William Heidt states he agrees with Chris, however he is still confused. He is counting more than five bedrooms, more than ten occupants, eight dedicated parking spaces for BNB. Is this really two family suites? In looking at the arrangement of furniture in the eating area. When looking at it, it feels like it is a hotel arrangement. Not geared toward two families sitting down to breakfast. This is geared toward five or six different couples and maybe a family. What he sees in this planning and letter does not match what he is hearing. There is not enough clarity that this will truly be and going to remain an owner-occupied BNB limited to ten transient occupants. He feels we'd be approving something not defined. Or we approve based on that and just rely on the building department to enforce the code.

Ben Garvey states it is a great idea. However, he agrees that there is still a lack of clarity and struggles with identifying spaces in the current presentation. It is good that you also have some long-term plans as well.

Norm Merriman is excited about the future farming idea and the farm to table options for the guests. But he also feels there is a lack of clarity, and he is not currently comfortable making a recommendation to the Town Board.

Chairman, Doug Crow asks for a motion.

Chris Contento makes a motion to table the SUP application by Leah Foss at this time pending a revised floor plan layout of rooms, kitchenettes, closets, suites, egress windows, as well as the parking and lighting, which have specific criteria that needs to be met.

Chairman, Doug Crow seconds the motion

Upon a vote being taken:

Ayes- 6

Noes-0

Motion carried

- b. The Building Department has accepted an application for a SUP to operate a Treehouse Hotel at 1897 Davis Road, by Jyl and Ricardo Rivera.

Chairman, Doug Crow asks the applicants for explain their present request for a SUP

Ms. Rivera states they would like to offer overnight stays in the treehouse for guests possibly attending a wedding at the property venue, or perhaps the newlywed couple, or maybe just someone who wishes to experience an overnight stay in a treehouse. It is a separate parcel from the front of the property.

Chairman, Doug Crow asks where the front parcel ends?

Ms. Rivera states the front consists of the front house, a garage, the shop, and then the driveway that goes around. The back parcel includes the large barn, the café, and the blueberry fields.

Chairman, Doug Crow confirms there is no dwelling on the back parcel. But why are using the term Hotel?

CEO, Liz Cassidy states the applicants do not need to reside on that parcel, but in close proximity to the parcel.

There are multiple people talking.

William Heidt asks to have guest arrival explained.

Ms. Rivera states they use the VRBO or Airbnb platform which provides a mapped Copy of the property with parking outlined, a lockbox with key to enter the unit and the checkout process.

Mr. Rivera adds they offer valet service.

Ms. Rivera explains there are designated parking spots. From there they are driven to the treehouse by way of a golf cart.

William Heidt expresses his concern about multiple units and due to the fire code, the requirements for a hotel.

Tim Stroth reconfirms the original building permit was issued in 2020, and will the septic system comply with ECHD?

Mr. Rivera states the septic system has been sized to accommodate the café and the treehouse as well as, any future treehouse sites. It was a large hurdle to overcome, to comply with ECHD. But we are now within a few weeks of tying up

loose ends and being complete.

Tim Stroth reconfirms there is presently no CO. Tim also asks for the approved plans to see elevations to see how high the treehouse is, and dimensions including the spiral stairway. Tim asks if this is an accessory building or personal residence.

CEO, Liz Cassidy states it is not a residence. It is an accessory building not a personal residence. The principal building is the storage warehouse.

CEO, Liz Cassidy retrieved the treehouse plans to provide requested information for the Board.

Multiple people talking.

William Heidt reconfirms there will be no stove as it is not allowed in a hotel. It also helps navigate away from the owner-occupied status.

CEO, Liz Cassidy also confirms that the Commercial Zoning in this location allows for a hotel. The arrangement without cooking facilities is a hotel. But it is not considered a hotel for Eric County Public Health.

Tim Stroth asks CEO, Liz Cassidy if we consider the height from the ground or the first floor. And, if it's an accessory building it is not supposed to exceed 20 feet. Are there any code requirements for sprinklers, spiral stairways, and ingress/egress for emergency vehicles? Also, will this be a new SUP?

CEO, Liz Cassidy states this will be an amendment to the existing SUP.

William Heidt expresses his support for the treehouse. The unique business with a great concept.

Chairman, Doug Crow acknowledges that with the thought of adding additional units in the future, it will require a closer look at safety concerns.

Chris Contento expresses, we need to navigate and find the avenue to get there. What the applicants have done so far is amazing. It is difficult to dot "I's" and cross "T's" when we're talking about treehouses. Our challenge is how we can help you accomplish your vision to get there. It is already loved by the people in the town and from people outside the Town.

Norm Merriman states he is in agreement with Chris Contento.

Chairman, Doug Crow states he feels we are at the stage where we can comfortably

make a motion.

Tim Stroth makes a motion to recommend to the Town Board to approve the amendment to the current SUP subject to confirmation of code compliance and eliminate the overnight accommodation prohibition.

Chairman, Doug Crow seconds the motion making it clear that this is for a single treehouse.

Upon a vote being taken:

Ayes -6

Noes -0

Motion carried.

- c. Referral from the Town Board for the review and recommendation of an ODA application for 1040A Sweet Rd., by Kevin & Erin Meehan

Chairman, Doug Crow welcomes the applicant and asks what they are going to be Doing

Mr. Marrs introduces himself as the builder, representing the applicant Kevin Meehan. He states Kevin wishes to build a 30' x 40' shop on his property, 1040A Sweet Road, which is an open development originally. It is for personal use to work on personal vehicles, store some personal vehicles in the winter, and storage. It is for personal use.

Norm Merriman reiterates that it is a garage to work on and store personal vehicles. There will be no living quarters.

Mr. Meehan confirms there will be no living quarters.

Chairman, Doug Crow asks if there will be a vehicle lift installed.

Mr. Meehan states not at the present time. He also states the neighbors have similar structures and the direct neighbor has signed off.

William Heidt acknowledges there are multiple lots with a shared driveway. He asks if the driveway should be improved for the accessibility for emergency fire vehicles, and building material deliveries. It is too small by today's ODA requirements. Although it would be unfair to require the applicant the brunt of the necessary Improvements. However, there should be a turnaround point created.

Mr. Marrs states they have had no problem. It is like driving a pick-up truck.

Tim Stroth asks CEO, Liz Cassidy if there is any recourse since this is clearly not up to code.

CEO, Liz Cassidy states that would be a question for the Town Attorney. We have never required an applicant to improve a shared driveway.

Tim Stroth asks what the plans are for the shed existing. That was part of the ZBA approval. November 1st.

Mr. Meehan states it will be moved temporarily while the shop is being built. Once the shop is built, the contents of the shed will be moved into the new shop. It will be sold or demolished.

William Heidt states he struggles that it is not practical that this applicant is required to have his driveway 20 feet wide while the rest of the properties use and have access to it. How do we remediate this concern? The possibility that anyone utilizing the shared drive are improving, adding on to, or developing, there should be a percentage put into a joint fund toward improvement, like a HOA. Once it hits the mark for the required improvement, the concern can be corrected and more compliant.

Mr. Meehan states the only problem he sees is if he gets this approval and contributes his percentage into the kitty, and everyone else declines or does not make any improvements. Then his money is tied up in the fund.

Mr. Marrs states the cost to widen the shared drive would be excessive. By the time the fund were accumulated the cost of the project will have increased as well.

Chairman, Doug Crow would like to make a motion to the Planning Board recommend to the Town Board to approve the building of the garage as planned in the Site Plan under this preexisting ODA and the setback variances approved by the ZBA.

Chris Contento seconds the motion

Upon a vote being taken:

Ayes -5 Noes -0 Abstained -1 William Heidt Motion carried.

d. DEC Wetland regulation changes

CEO, Liz Cassidy discussed the new regulations surrounding DEC wetlands and the increasing number of wetlands possibly in the town as shown on the map provided.

CEO, Liz Cassidy indicated applicants may need to submit to DEC for a Jurisdictional Determination.

Chairman, Doug Crow asks how that department will make the determination. Is that a subjective determination or do they rely on a website?

CEO, Liz Cassidy responds we will take it on a case by case basis.. The DEC does not want an excessive number of applicants coming in.

This will extend the time frame in which people's projects would take. On the other hand, if we don't send them for a jurisdictional determination and it comes about that it is within the DEC jurisdiction and there is an issue we will run into with both the town and the property owner.

Chairman, Doug Crow asks how we will find out. So, if you don't refer someone for Jurisdictional Determination and randomly two years later a DEC inspector notifies your office or property owner.

CEO, Liz Cassidy states it could be a complaint. There are multiple DEC inspectors that live in the area or just travel through and can see it.

There is more training coming. Hopefully as we go through that process we can figure out when it's important for us to seek those determinations and when it may not.

William Heidt indicated that applicants can hire a consultant to do the Jurisdictional Determination and submit it to the DEC for review and approval.

Ben Garvey discussed the stages of review of a project for Jurisdictional Determination.

Chairman, Doug Crow states based on the information we have do we have, the Building Department have the applicant get the determination prior to bringing to the Planning Board or make it conditional before it goes to the Town Board?

CEO, Liz Cassidy states depending on the project and proximity to possible DEC regulated wetlands we will likely ask for Jurisdictional Determination in advance,

COMMUNICATIONS: none

PUBLIC COMMENTS: none

CORRESPONDENCE: none

Chairman, Doug Crow asks for a motion to adjourn.

Tim Stroth makes a motion to adjourn at 9:00 pm

Seconded by Norm Merriman

Upon at vote being taken:

Ayes-6

Noes-zero

Motion carried.

**THE NEXT SCHEDULED MEETING WILL BE WEDNESDAY May 7th, AT 7:00 P.M.
AT THE TOWN HALL, 575 OAKWOOD AVENUE, EAST AURORA, NEW YORK**