

**TOWN OF WHEATLAND  
PLANNING BOARD MINUTES  
January 7, 2020**

Members present: Mike Grasso, Joseph Burns, Jay Coates, Tim Steves, Robert Hatch, Laura Michaels

Members absent:

Also present: Terry Rech, Building Inspector  
Ed Shero, Town Board Liaison  
Raymond DiRaddo, Attorney for the Town

Chairman Coates called the Planning Board meeting to order immediately following the Zoning Board meeting.

J. Coates welcomed Laura Michaels as a new member to the Planning Board.

R. Hatch made a motion to approve the minutes from 12/3/19, seconded by J. Burns and unanimously approved, L. Michaels abstained.

**Old Business:**

➤ *Clearview Farms.*

The County Comments were received. The County stated that the Applicant should check any proposed street names with 911 for duplicates or similar sounding names. There were also comments about Water main extensions and sewer plans needing to be approved by Monroe County Public Health.

Chris Nadler, Brian Powers and Jess Sudol were present to give a summary of the project to the Public in attendance.

This project will be a mixture of townhomes and apartment buildings. The Applicant stated that they will only be constructing half of the number of buildings that are allowed by code, this will result in a great amount of greenspace within the project. There will be sidewalks constructed throughout the project. There will be a self-storage unit constructed for use of the residents of Clearview Farms. The townhomes will have their own driveways and garages.

## ***Public Hearing:***

J. Coates opened the Public Hearing at 7:26 p.m., by reading the following Public Hearing Notice.

### **NOTICE OF PUBLIC HEARING:**

The Planning Board of the Town of Wheatland, pursuant to Section 116-28. A., Section 130-22. F, and Section 130-60. B. of the Code of the Town of Wheatland, will hold a Public Hearing on **Tuesday, January 7, 2020** at 7:00 P.M. in the **Wheatland Municipal Building, 22 Main Street, Scottsville, NY** to consider the following:

The application of Clearview Farms LLC, for Sub-division (Phase 1) approval of Clearview Farms Phase 2 North Project.

The application of Clearview Farms LLC, for Special Exception (Townhouse overall concept) approval to construct (18) 8 unit apartment buildings and (24) townhouse unit buildings for a total of (224) residential units on a 33.88 acre parcel. The project will also include construction of an area of self-storage units.

The application of Clearview Farms LLC, for Special Exception (Townhouse) final site plan (Phase 1).

The parcel is located at the northeast corner of Robert Quigley Drive and Browns Road in a RA (Garden Apartment Residence District) zoning district. The Tax I.D. number is 187.18-1-1.

All interested parties are asked to attend and be heard or to submit written comment concerning this application.

Jay D. Coates, Chairman  
Wheatland Planning Board  
Dated: December 11, 2019

The following comments and concerns were made by the public in attendance:

- ***Ken Soderlund***, 9 Dogwood Lane, Scottsville, NY
  - Mr. Soderlund stated that he is concerned with public safety.
  - Questioned whether Cedar Street will become an open access road.
    - J. Coates stated that it will be a gated road used for emergency vehicles only.

- **Gerry Gallo**, 717 Browns Road, Scottsville, NY
  - Concerned about his septic since his property is lower than the project. Concerned about the change in elevation that will occur with the construction.
    - J. Coates stated that there is a stormwater Plan which is available to review in the Building Department.
    - J. Sudol stated that there is a drainage plan with retention ponds and storm sewer systems, these will take care of any water drainage issues.
  
- **Mike Smith**, 3 Dogwood Lane, Scottsville, NY
  - Concerned about current water issues, what can be done?
    - J. Coates stated that for current issues the Highway Superintendent should be contacted.
  
- **Sara Rhoades**, 129 Browns Road, Scottsville, NY
  - Concerned about the traffic and the speeding currently on Browns Rd.
    - J. Coates stated that the speed would be a law enforcement issue.
  - Concerned about trucks blocking driveways during construction. She had an issue with trucks parking in her driveway the last time they paved Robert Quigley Drive.
  
- **Susan Blatz**, 79 Diana Drive, Scottsville, NY
  - Lives near Nathaniel Drive, wondering if there will be anyone living onsite at Clearview Farms to address issues? Ms. Blatz stated that in her neighborhood, the homeowners have to call the police department for any issues regarding the Nathaniel Drive apartment complex.
    - The Applicant stated that there is currently someone onsite to deal with problems at Clearview Farms.
  
- **Elaine Driscoll**, 11 Browns Road, Scottsville, NY
  - Ms. Driscoll asked the Applicant if any part of this project will consist of subsidized housing?
    - The Applicant answered “no”.
  - Ms. Driscoll stated that she has lived in her house for 50 years and has never had an issue with Clearview Farms. Traffic is an issue, but that is not the fault of the Applicant.

- ***Gloria Slater***, 711 Browns Road, Scottsville, NY
  - Questions about buffers.
    - J. Coates stated that the Board is still waiting on that information from the Applicant.
  - Question about the process, can this be denied?
    - J. Coates stated that it can be denied, but this is a permitted use of the property. The Board makes sure that the Applicant follows the code and complies with the regulations.
  - Is there a timeline for the town homes being sold?
    - J. Coates stated that the Applicant suggested that it is a possibility in the future, but that there are no plans at this time.
  
- ***Tina Gallo***, 717 Browns Road, Scottsville, NY
  - Concerned about people parking along Browns Road.
    - J. Coates stated that would be an enforcement issue.
  - Concerned about having more people moving into Town without a Police Department.

The Public Hearing was closed at 8:00 P.M.

T. Rech stated that there is an issue list being created. The Board will be meeting on January 21<sup>st</sup> to review these issues. J. Coates suggested that the Applicant be present at that meeting.

### ➤ ***Krenzer Subdivision***

J. Coates stated that the Attorney for the Town is currently reviewing this Application based on the letter from Kathleen Krenzer-Stein, and a new letter from RG&E's counsel, so this item will be held over till the January 21<sup>st</sup> meeting.

# BOND SCHOENECK & KING

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December 27, 2019

Raymond Diraddo  
Attorney for the Town of Wheatland  
P.O. Box 15  
22 Main Street  
Scottsville, New York 14546  
[Ramma5@aol.com](mailto:Ramma5@aol.com)

Re: Subdivision application of RG&E, Michelle Krenzer and Lucas Krenzer;  
Tax Map Parcel Number 185.04-1-4.1

Dear Ray,

As counsel for RG&E, we are writing in response to the December 3, 2019 letter sent by Kathleen Krenzer-Stein to the Town Planning Board. In her letter, Ms. Stein contends that Michelle and Lucas Krenzer are prohibited from selling any portion of their property based on two provisions contained in the will of Thomas Krenzer.

Enclosed is a document signed by David Krenzer that releases his right of first refusal with respect to the portion of the property being subdivided and conveyed to RG&E.

Ms. Krenzer-Stein also points to the will provision stating that the property may not be conveyed for five years following the date the property was transferred by executor deed to Michelle and Lucas Krenzer. Based on our review of the relevant case law, and consultations with Stewart Title, we have concluded that this five-year prohibition on selling any portion of the property is unenforceable as an unreasonable restraint on alienation.

In Wiesenthal v. Young, 280 A.D. 590 (First Dep't 1952), the Appellate Division considered a covenant in a deed prohibiting the grantee from selling, transferring or leasing any portion of the property for two years and further stating that the grantor could waive the covenant if the grantee paid \$1,000. The court concluded that the clause attempted to impose an illegal restriction and was void. The court relied on De Peyster v. Michael, 6 NY 467 (1852), noting that since New York's highest court issued that decision, the settled law in New York has been that a covenant prohibiting alienation can be enforced only where the grantor has a reversion in the property. Here, as in Wiesenthal, the language does not expressly set forth any such reversion. These cases are cited as good law in 56 NY Jur 2d, Estates, Powers, and Restraints on Alienation, Section 505.

756006.1 12/23/2019

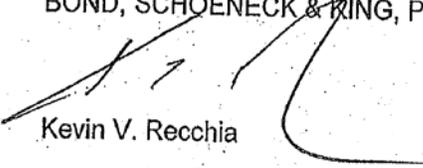
December 27, 2019

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Accordingly, we respectfully request that the Planning Board grant subdivision approval at its January 7, 2020 meeting.

Best regards,

BOND, SCHOENECK & KING, PLLC



Kevin V. Recchia

Admitted in New York and Florida

KVR/jm

The representative for the Applicant, Corey Tuffiano from DDS companies was present at the meeting. He stated that he made the changes to the map that were discussed at the last meeting. The following statements were added to the map: it is not approved as a building lot, and that the pipeline runs through the property.

**New Business:**

None

**Future Business:**

None

R. Hatch made a motion to adjourn the meeting, seconded by T. Steves and unanimously approved. The meeting was adjourned at 8:17 P.M.

Respectfully submitted,

Renee Smith