

**TOWN OF WHEATLAND
PLANNING BOARD WORK SESSION MINUTES
January 21, 2020**

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

Members absent: Tim Steves

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

Chairman Coates called the Planning Board Work Session meeting to order at 7:00 P.M.

Old Business:

➤ ***Krenzer Subdivision***

J. Coates distributed the following memo to the Board from R. DiRaddo, the Attorney for the Town. The memo states that the Planning Board is not bound by deed restrictions in the Subdivision process in this case.

Raymond S. DiRaddo, Esq
Town of Wheatland
Planning Board Attorney

To: Town of Wheatland Planning Board
From: Raymond S. DiRaddo, Esq
CC: Linda Dobson, Supervisor
Date: 1/16/2019
Re: Subdivision Application of RG&E, Michelle Krenzer and Lucas Krenzer
Tax Map Parcel 185.04-1-4.1

Conclusion

Based upon the facts presented in this application, and the documents attached to this memo, in this case the Planning Board is not bound by deed restrictions in the subdivision process.

Background

At the public hearing on this above matter, according to comments made by Kathleen Krenzer-Stein to the Planning Board, and her letter dated December 3, 2019, Ms. Krenzer correctly stated that there are conditions and restrictions of use of the property (Tax Account 185.04-1-4.1) as well as a right of first refusal regarding this property. These restrictions and the right of first refusal are set forth in the will of Thomas J. Krenzer and are part of the source of title of the applicants to this property.

The question posed is whether the Town Planning Board in the subdivision process is bound by such restrictions.

The Planning board has received a letter from Bond, Schoeneck and King, attorneys for the future owner RG& E. The letter outlines the legal issues regarding the title to this parcel, including a discussion of the restrictions and right of first refusal, and cites case law. The letter includes, the will of Thomas J. Krenzer (which sets out the restrictions as to use and the right of first refusal), pertinent parts of the purchase and sale contract signed by the applicants Michelle and Lucas Krenzer as well as the waiver of the right of first refusal from David Krenzer.

I include in this memo the letter from Kathleen Krenzer-Stein (12-3-2019), the executor deed dated May 3, 2016,

Discussion

The subdivision process is merely a method of adjusting lines of a larger parcel, which may or may not facilitate the sale of the property. Whether the title is clear of claims, encumbrances, or restrictions, or the title contains restrictions as to use is a matter of the buyer's concern, not the planning board.

The only requirement of the planning board is to assure that the tax parcel 185.04-1-4.1 is owned by the applicants and/or the owners have granted the applicants the right to seek subdivision approval for the parcel. Lucas Krenzer's authorization to make application is attached.

It is therefore my opinion that the state of title to the parcel, whether the restriction have or have not been violated and whether the proper consents for title transfer have been met is not a matter for the planning board to address. The planning board's is not subject to the title issues and they are the matter for the applicant and his purchaser.

Therefore, **in this case**, given the facts as I understand them, the Planning Board is not bound by deed restrictions in the subdivision process.

The Board completed the SEQR assessment form.

R. Hatch made a motion to determine this to be a negative declaration for the RG&E- Krenzer Subdivision on Wheatland Center Road. J. Burns seconded the motion and it was passed as follows:

Mike Grasso – aye
Jay Coates -aye
Joseph Burns – aye
Laura Michaels – abstained
Robert Hatch – aye

R. Hatch made a motion to approve the RG&E- Krenzer Subdivision with the condition that they do a site plan and building permit. M. Grasso seconded the motion and it was passed as follows:

Mike Grasso – aye
Jay Coates -aye
Joseph Burns – aye
Laura Michaels – abstained
Robert Hatch – aye

➤ *Clearview Farms.*

Chris Nadler, Brian Powers and Matt Newcomb were present to address any open items with a discussion and review session with the Board members.

The Applicant will be back at the February 18th Planning Board meeting.

J. Burns made a motion to adjourn the meeting, seconded by M. Grasso and unanimously approved. The meeting was adjourned at 8:10 P.M.

Respectfully submitted,

Renee Smith