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**TOWN OF WESTERLO**  
**PLANNING/ ZONING BOARD**  
**WESTERLO, NY 12193**

**DATE:** July 22, 2024

**LOCATION:** Richard Rapp Municipal Building

**Board Members:** Chairman George Spahmer, Rich VanInderstine, Barbara Maughn, Sean Leary, Guy Weidman, and Alternat Member William Hall

**Town Attorney:** George McHugh- not present

**Town Code Enforcer :** Jeff Pine- présent

**Non-Members Present:** Rebecca Haaland, Post Planning Board Members (Beau Loendorf, Angela Carkner), Town Board Member Josh Beers, Town Clerk Karla Weaver, and 6 Town Residents.

**Open Meeting:** The meeting was called to order at 7pm with the Pledge of Allegiance and roll call

**Statement from Chairman:** As chairman of the newly formed Planning and Zoning Board, I am honored to open our inaugural meeting. Our primary purpose is clear: to ensure that development in our community aligns with the regulations set forth by the State of New York, Town of Westerlo zoning laws and our comprehensive plan. Tonight, as we address our first cases involving special use permits, we are committed to upholding these standards with diligence and fairness. Bear in mind that many of us are new to planning functions and will becoming up to speed over time, thru formal and on the job training. I ask for your patience as we work thru this transition from ZBA to PB/ZBA.

**Minutes:** Chairman Spahmer made a motion to approve the June 3 minutes, that had to wait because none of the Members at the last meeting could approve them. Member Leary seconded; motion was carried by Members Spahmer, Leary and Weidman, Members VanInderstine and Maughn abstained. Member Weidman made a motion to approve the June 24<sup>th</sup> minutes. Member Leary seconded; motion carried all in favor.

**New Business:**

Chairman Spahmer informed the audience that the board will be starting with the new business first since it will be faster. SUP 24-2 Glavin. The applicant is requesting a special use permit as per LL3 of 2022 to place a travel trailer on his vacant parcel and to install a 500-gallon septic tank to be pumped out. The applicant explained he has 57 acres of land for recreational use and would like a trailer to make it more mouse proof and easier to come up for a few weeks in the Summer and for Hunting season. The parcel has a drilled well, electricity and septic. Member Leary asked if the tank is under ground. Applicant said yes. Member Leary asked what kind of trailer is this an RV?

CEO Pine gave some history to the Board. RV is a park model that is under DOT. It is registered and under the local law was made to review the park model not as a house but a registered RV.

Member Maughn asked if the septic tank is big enough. Applicant felt it was for when he is there. Chairman Spahmer asked if it has a level device for when it needs to be empty. No. Bill Hall said you

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could make that a condition. Member Maughn asked about an address for 911 and if the driveway can take a heavy tanker. Application will look into address and talk to gas line to make sure tanker truck will work.

With no other questions or comments Chairman Spahmer declared the PB/ZBA the lead agency and made a motion to accept the application 24-2 and deem it complete. Member VanInderstine seconded; motion carried all in favor. Member VanInderstine made a motion for a Public Hearing for SUP 24-2 for August 26, 2024 at 7pm. Chairman Spahmer seconded; motion carried all in favor.

**Old Planning Board Business:**

Special Use Permit 24-1 Boosted Coatings. Application is seeking a Special Use Permit for a commercial use in the RD/A zone as per zoning Article 8 Section 8.40 (3) c. The commercial use will be located in a preexisting building located in the Old Shepards Resort Complex. This building is being rehab to accommodate this use.

Chairman Spahmer stated this is a unique situation previous board voted but there seems to be a problem with procedural issues. We should start over. Training we have received in making legal decisions all require procedures. Albany County Planning Board recommended to disapprove. CEO Pine stated the applicant filled out the SEQR Long Form, board never reviewed it. He disagrees with the County who recommends industrial vs commercial. County wants to rewrite zoning laws. County never received other packet with DEC information.

Chairman Spahmer suggested for an engineer to look at SUP. Article 10 says some can be waved. Engineer would know. CEO Pine gives the Members definitions for Industrial and Commercial. Comprehension Plan mentions commercial on Route 32 corridor. Member Leary definitely not industrial not a manufacturing. Body shops are more manufacturing.

Chairman Spahmer wonders about the chemicals used. The applicant stated the Department of Environmental Conservation (DEC) gives a list of chemicals that are restricted. None are what she uses. Member Weidman has an email from Beau for quantities under thresholds. Facility all particles of dust are controlled all powder coating have to follow this.

Bill Hall Alternat stated the Planning Board was not looking for the engineer for the site plan but for environmental. CEO Pine says no need for site plan since building is already there. The County Planning Board checks for parking, signs, lightning, storm water or water management operation or noise. This is an existing building with master septic, building is renovated up to code, better than before. Member Maughn asked for the DEC decisions. Member Weidman says the DEC is okay with Shepards.

CEO Pine informed the Board they must continue with the application the old planning board started. County Planning Board denied it. The Board needs to look at the county conditions and if the applicant can't address the conditions, they need to deny the application and start over. The Board can approve the application with a majority vote.

Chairman Spahmer told the board the Town Attorney stated they could start over. Members asked where the Attorney was? Chairman informed the Board he was told Attorney McHugh will no longer be giving the board legal information. The Town Board wants separation representation from the Attorney and separation representation from the PB/ZBA board. Members of the Audience asked who is

supposed to be given legal information? Town Clerk Weaver stated this applicant has been waiting since April, if you start over you have a public hearing, another Albany County meeting etc. CEO Pine stated you need to decide to override or agree with the County. Angela felt the engineer fee was very high for a small business owner. Also stated DEC has no problems.

Many of the Board Members have seen the Albany County Planning meeting and felt the Attorney misrepresented the Town of this SUP. Member Weidman felt they should read through the recommendations and address each one.

Member Maughn was impressed by the applicant handling of issues and thought the DEC had no concerns. Beau stated the DEC was notified had no concerns and did not want to visit site.

Chairman Spahmer suggested they read and discuss the recommendations from the Albany County Planning Board:

1. The Town should strongly discourage the proposed powder coating facility that is industrial in nature as it is incompatible with the adjacent properties in the Rural Development/ Agricultural zoning district. The applicant should consider the relocation of the proposed use in more suitable zoning district in the Town such as the light industrial zoning district.

*Board Members agreed that this is a commercial permit not an industrial according to definition.*

2. The Albany County Planning Board strongly discourages the proposed use considering its impact on the existing land uses and to protect community character as per the General Municipality Law Section 239-L.

*Member Weidman stated CEO Pine has showed us the other commercial properties around like the hair salon, antiques, two Solar farms and the business all in the same property, plus the other resort. Chairman Spahmer stated the comprehensive plan speaks to number one and two. State Route 32 is where the commercial property is supposed to be as a corridor. Objective 1.2 on page 64 of the comprehensive plan. Provide for a commercial zone on Route 32 corridor.*

3. The Town should consider the precedent setting nature of approving special use permits that allow significant changes in the Rural Development/ Agricultural Zoning District.

*The Members are all in agreement that is commercial zone after being divided for Solar fields and other business is good fit for area.*

4. Review by the New York State Department of Environmental Conservation to determine potential contamination of toxic materials into the ground and water due to the proposed usage of powder coat and cleaning of metals in the facility.

*Member VanDerstine asked about a floor drain. No- Applicant no material is being cleaned at the facility all out sorted. Uses brake cleaner. Sandblasting is done off site. Powder not liquid. None leave building.*

5. Review and permits by the New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway should be required.

*CEO Pine Shepards already have the driveway. They say this on everyone. They have the paperwork from DOT.*

After reading and discussing the recommendations Chairman Spahmer asked the applicant about the hours of operation. Applicant works full time this is a side business. Hours are by appointment only. Customer contact. no walk in. no drop offs. One person operation. Has a sign on building with 911 address.

Chairman Spahmer was not sure of a vote. Member Weidman stated we must just make a decision not keep putting it off. Spahmer was worried about procedural. Member Maughn stated following the right process about disapproving Albany County Planning Board. Alternat Hall stated you can put conditions on the approval.

CEO Pine should you use short or long form? Members felt it matches type 2 short form

Member VanIlderstine made a motion to accept the unlisted short form. Member Leary seconded; members voted: Weidman, VanIlderstine, Maughn, and Leary YES Chairman Spahmer Abstained. Motion was carried.

Member VanIlderstine read the Short Environmental Assessment form. There was a negative declaration. Chairman Spahmer read the Impact Assessment Environmental Form. All was a negative declaration.

Member Weidman made a motion for a negative declaration on the Environmental impact Assessment. Member VanIlderstine seconded; Members votes as follows: VanIlderstine, Weidman, Maughn, Leary YES. Chairman Spahmer abstained. Motion carried.

With no other questions or comments Member Weidman made a motion to approve SUP 24-1 Boosted Coating with the conditions they meet all the DEC requirements and maintain them. Member Leary seconded; Members voted as follow: Weidman, VanIlderstine, Leary, Maughn voted YES. Chairman Spahmer Abstained. Motion Carried.

**PUBLIC COMMENTS:**

Sue Cunningham thanked the Board for a hard decision and great job

Angela stated no help in the process, no attorney, great questions

**CLOSE MEETING:**

Chairman Spahmer made a motion to close the meeting at 9:27pm. Member Weidman seconded; motion carried all in favor.

Respectfully submitted,

Claire Marshall