



**Town of Canaan**

Planning Board Regular Meeting Minutes – **APPROVED**  
December 20, 2021

**Present:** J. Pierre Gontier, Chair  
Chad Lindberg, Deputy  
Jeffrey Sotek, Planning Board Member  
Mark DeSanctis, Planning Board Member  
David Birch, Planning Board Member  
Jens Braun, Planning Board Member  
Marlene Tuczinski, Planning Board Member

**Absent:**

**Others Present:** Jillian Kasow, Planning Board Clerk; Mitchell Khosrova, Applicant Harding/Polson Representative; William Better, Resident’s representative and Court Reporter; John Harty, Applicant, and Engineer Jordan Valdina; Dan Naylor, Applicant, and Chris Boyea, Associate of Bohler Engineering, on behalf of Applicant Onvo; Ginny Nightingale, Town Board Liaison; Audience: 7

**I. Meeting (In-Person) Call to Order**

Chairman J. Pierre Gontier called the Regular Meeting of the Planning Board to order at 7:03pm.

**II. Minutes Review/Approval**

The minutes of the November 15, 2021 meeting were reviewed and the minutes were approved by a motion made by J. Pierre Gontier and seconded by Chad Lindberg. The vote carried, as follows:

J. Pierre Gontier, Chairman	Aye
Chad Lindberg, Deputy	Aye
Marlene Tuczinski	Aye
Mark DeSanctis	Aye
Jeffrey Sotek	Abstain
Jens Braun	Aye
David Birch	Aye

Result: Motion Carried

**III. Site Plan Review, John Harty, 13191 Route 22, Case 2020-04**

- Septic system observation letter presented and received by Chair.
- Chair explained need for referral to county planning board. ZBA has signed off on the application, ZBA and County noted the applicant is located in an agricultural district and would need an agricultural assessment form, which has been complied with. File is therefore complete.

- Applicant speaks to septic system. Prior residence demolished. Septic system was observed, Harty has installed a new gravity driven septic tank. Trenches have been inspected by engineer Jordan Valdina and in his judgment is in excellent condition and appropriate for use.
- Question on drain out flows: 110 gallons per bedroom per day is required by DOH, existing system at 1,000 gallons for three bedroom meets requirement. Observed and assessed soil and clean stone. Engineer did not do an observation test on effluent.
- Applicant states it was always a functional system.
- Mark DeSanctis concerned about there being no observational test and two 35 foot laterals may be too short.
- Chad Lindberg questioning whether engineer has designed a system at three bedroom with two 35 foot laterals. Answer: no.
- Chad Lindberg requests components of absorption system to be certified to be located on the plan. Applicant concerned about further month delay in next step.
- Chair: 305 Ag requirement is attached to the site plan has been completed, cannot move on this or approve because it must go to county planning because of the proximity to Route 22 (within 500ft) and Chair will refer it. Next review before this board likely not until February.

#### **IV. Site Plan Review, Onvo/Route 22 Truck Stop, Flints Crossing Rd and Route 22, Case 2021-05**

- [Clerk's note: Before meeting, application check was returned to applicant pending payment to be made at final disposition.]
- Presentation by Chris Boyea: existing travel plaza is closer to the interstate than the Love's plaza. Applicant's company Onvo is based out of Pennsylvania with four locations in NYS. The applicant is seeking to invest in and upgrade the facility. First project includes replacing in-ground tanks. Seeking to update the diesel canopy, which requires review by Planning Board. Scope of improvements is to replace existing diesel canopy, including removal of one diesel dispenser. The project is important for better competitive operation. Shifting the canopy back allows for pull forward access to the pumps which is consistent with modern truck station designs. Also seeking wider lanes and removal of some outdated services. Taking out old canopy and dispensers, install new canopy and dispensers, with new tanks and piping.
- Mark DeSanctis asking whether EV chargers will be installed. Answer: eventually.
- Jens Braun asking about traffic flow. Answer: there is no significant change in flow.
- Mark DeSanctis asking whether this parcel is connected to parcel across the street. Answer: no, but sold together as a package. Other parcel may be overflow parking area.
- Marlene Tuczinski asking whether there will be services for regular motorists. Answer: yes, current convenience store and gas up front will stay the same.
- Jeff Sotek asking whether any signage will be changed. Answer: Onvo brand sign will be installed, once investment is made and property is updated.
- Chad Lindberg asking whether detail of canopies has been submitted. Answer: not yet, but will need to submit for building approval. Canopy is about three feet in height. Minimum deck height is 14 ft, planning for 14 ft 6", with lights recessed. Applicant will bring in those plans at Lindberg's request.
- Submitted EAF, 0.85 acres total, includes full existing upgrades. Lindberg asking that applicant keep in mind the footprint that includes all future projects. Applicant not aware of any projects that may expand footprint covered by EAF.
- Questions regarding fire suppression and current state requirements.
- Chad Lindberg requesting to see elevations and Chair Gontier requesting lighting information.
- Jeff Sotek requesting that new plans will show new tank locations? Answer: current plan shows that updated information.

- Chair will refer to county planning board, anticipate on the agenda in February. Please send requested material in advance of the meeting.
- Applicant cognizant of steel shortages, anticipates ordering before board action, requesting feedback on potential risk.
- Anything with site plan that may be problematic on county level:

J. Pierre Gontier, Chairman	No
Chad Lindberg, Deputy	Contingent on elevations that are part of the outlying requirements for the submission that has not been seen yet, otherwise in favor
Marlene Tuczinski	Understanding a small portion of total, no.
Mark DeSanctis	Contingent on lighting and overhang needs are seen, see no other issue.
Jeffrey Sotek	Contingent on lighting and overhang needs are seen, see no other issue.
Jens Braun	None
David Birch	None

Information requested: canopy elevations and lighting.

#### V. Site Plan Review, Amanda Harding and John Polson, 111 Schoolhouse Rd, Case 2021-004

- Presentation by applicant’s attorney, Mitchell Khosrova.
- Letter has been received by Chair and board from Attorney William Better on behalf of several neighboring residents, not wanting to set precedent for commercial activities. Khosrova challenges the relevance of these concerns and represents all issues/concerns discussed in the last meeting have been addressed. Applicants believe all requirements have been met.
- Chair clarifies issues regarding term “school.” This section dates back to 2007 when town zoning law was revised, that definition came from the Department of Education when town looked to allow home schooling. The proposed inclusion of overnight stays within the use of the term “school” is problematic. Overnight accommodation could be dormitory, which is not included in zoning law.
- Chair: General municipal law under multiple residence describes a boarding house, multiple dwelling in which less than 30 rooms occupied primarily by transients, staying less than 30 days, with or without meals, provided services as are incidental to temp residents, 2 or more stories in height with two or more families and five or more boarders. A dormitory is five or more persons in cubicle and a dwelling is a building or structure for one or more persons as part of a home, with occupants staying more than 30 days.
- Chair: Canaan Code Enforcement Officer Lee Heim sent an email to ZBA when asked to comment on the school. Specifically:
  - i. Sleeping arrangements: barn was remodeled into single family residents in 2014. CO was issued in 2016, file includes construction plans, two bedrooms, septic certification for two bedrooms with double occupancy (four overnight guests), barn has a CO for long term residential use. What is being described is short term use, more like a motel. New CO will be needed.
  - ii. Question: need to go to ZBA for guidance on type of use and whether permissible. Or is it a yoga studio, and question of other activities. Boarding house is not in zoning law because it is not permissible. This is a commercial operation in a residential area. Controlled by the use chart, will find, temporary lodging is permissible (bed and breakfast, motel), not listed in residential uses but in commercial uses. If use is not listed, it is prohibited. Can have

commercial activity in residential area with special permit so long as the use is permissible and listed within the use chart. School is permissible but overnight stay is not.

iii. Chair: asks board whether these questions should be referred to ZBA for opinion?

J. Pierre Gontier, Chairman	
Chad Lindberg, Deputy	Meets definition for school, how to incorporate overnight stay. Boarding house transient with yoga use as an accessory use, how it is presented from Wallace Architecture.
Marlene Tuczinski	Refer to ZBA.
Mark DeSanctis	Doesn't a school cater to local community. Believes this is a studio. Commercial enterprise.
Jeffrey Sotek	Not sure reaches definition for school.
Jens Braun	
David Birch	This is a commercial B&B. Issue for planning board about what proper use in this area is, is this use consistent with residential zoning.

- Chair: no precedent here, no series of decisions that set up a precedent. Chair addresses each issue raised by Friends of Red Rock letter.
- Bill Better: Looking at the zoning ordinance, Article V section C(2), no lot may contain more than one single family dwelling and no more than one accessory dwelling. Doesn't allow a single family dwelling, an accessory dwelling, and a private school if converting accessory dwelling into private school, cannot have a single family dwelling and a private school on the same lot. If it is not a permitted use, it is prohibited. Option is to subdivide the parcel where the proposed yoga school is and separate from the house, no authority to have a single family residence and a private school on the same parcel. Private school definition says nothing about overnight accommodations. If it is not permitted in this town, it is prohibited. B&B defined as an owner-occupied single family dwelling to provide overnight lodgings no more than ten transient dwellers/five bedrooms, with breakfast only. Up to 15 transient people in two bedrooms. If it is prohibited, need a use variance. Putting into the context of the use table and whether adheres to definitions, arguing it does not. Overnight accommodations and three meals is a use issue. Fundamental question of how many uses can exist on this lot. Not a complete and accurate definition of what is going on. This is a commercial activity, should not impact neighborhood. On dirt road without streetlights. Requests sending to ZBA for interpretation of zoning laws.
- Chair opens to members: no further comments.
- Chair: EAF Part III, ZBA, school is located in an accessory dwelling unit, which a CO was issued to in 2015, at least one GPS mapper tool recommends using Schoolhouse Rd as a preferred route of travel for through traffic to county route 9. ZBA is willing to accept the engineering report on water and septic and architect's report on ADA design.
- Chad Lindberg confirms there is no need to send to county for their review. Chad would like engineer's and architect's letter to be stamped and signed. Chair makes motion that septic and water supply systems are sufficient that the applicant gets the seal for the septic and water and building code stamped on letter sent would that be sufficient or else referred to county. Chad seconds:

J. Pierre Gontier, Chairman	Yes
Chad Lindberg, Deputy	Yes
Marlene Tuczinski	Yes

Mark DeSanctis	Yes
Jeffrey Sotek	Yes
Jens Braun	Yes
David Birch	Doesn't think it is necessary to approve the letter.

- After discussion among members, Board at a loss for overnight use of the proposal. Members agree for the need to seek an opinion from ZBA. Members agree to send the following questions for clarification to the ZBA:
  - i. Whether accessory dwelling can have dual use.
  - ii. The questions for clarification to ZBA are:
    1. Are there any restrictions on the use of an accessory building where it cannot be used as a school?
    2. Can you have a single family residence and a school on the same lot?
    3. Can a private school include an overnight stay within the definition? If it is, does this add an accessory use to the property, in addition to the already-proposed use as a school, on a residential single-family property?

J. Pierre Gontier, Chairman	Yes
Chad Lindberg, Deputy	Yes
Marlene Tuczinski	Yes
Mark DeSanctis (second)	Yes
Jeffrey Sotek	Yes
Jens Braun	Yes
David Birch	Yes

## VI. Meeting Adjourned

Meeting was adjourned at 9:22pm, motion by Jeff Sotek and seconded by Jens Braun, all in favor.

Respectfully submitted,

Jillian Kasow  
 Planning Board, Clerk