



TOWN OF AMENIA

4988 Route 22, AMENIA, NY 12501
(845) 373-8860, Ext. 122 Fax (845) 789-1132

ZONING BOARD OF APPEALS MEETING 6:00 P.M – IN-PERSON¹ MONDAY, MAY 15, 2023

REGULAR MEETING:

- 1. PETER KROSS – VARIANCE-IN GROUND POOL
546 SMITHFIELD VALLEY ROAD**

**OTHER MATTERS: SBA / NEXTEL - RESOLUTION
TROUTBECK ADAPTIVE REUSE PLAN –
DISCUSSION AND CONSIDERATION OF COMMENTS TO PROVIDE TO
THE PLANNING BOARD**

¹ A ZBA Board member will be participating remotely via video conferencing from Croton Point Park, 1A Croton Point Ave. Croton-On-Hudson, NY 10520. This member's location will also be accessible to the public.



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ZBA MEETING

MONDAY, May 15, 2023
IN-PERSON and VIA ZOOM

PRESENT: John T. Metcalfe – VIA ZOOM (Croton Falls, NY)
Tracy Salladay
David Menegat
Paula Pelosi
James Wright
Craig Meili – Alternate

OTHERS PRESENT: Rob Stout, ZBA Attorney
John Andrews, Town of Amenia PB Engineer
Peter Kross, Applicant for Pool Variance
Josh Mackey, Attorney for Troutbeck
Barbara Meili, Public
Anthony Champalimaud, Troutbeck

ZBA Chairman, Terry Metcalfe opened the meeting at 6:05pm with the Pledge of Allegiance VIA ZOOM after a motion that was made by Jim Wright, seconded by Paula Pelosi and carried. Chairman Metcalfe announced to the public that for the Troutbeck discussion public comment will be allowed even though the meeting is NOT a Public Hearing. Each member of the public who wishes to speak will be allowed up to 2 minutes to speak. The other agenda items will be first and then the Troutbeck matter last.

Peter Kross – Smithfield Valley Rd – Pool Setback Variances

Peter Kross introduced himself. His application was sent to the Board for setback variances after being denied by the CEO, Mike Segelken. Peter submitted a survey map which showed the property at 546 Smithfield Valley Rd. ZBA Attorney, Rob Stout spoke and said that the matter would have to come before a Public Hearing and that it could be scheduled for the next ZBA meeting in June. Rob also mentioned that the proper application for ZBA would need to be filed because he submitted a Planning Board Application which does not have the specifics required that are required to grant an area variance. Judy has already emailed him the ZBA Application and he is working on it. It will also need to be referred to Dutchess County Planning for sign off. The applicant is seeking a setback variance of 15' from the side yard and 3' from

the rear yard per the Town of Amenia Zoning Law 121-30F. Board members Dave Menegat and Tracy Salladay questioned Mr. Kross as to whether or not the pool could be placed in a slightly different location so that the setbacks could then be met. Mr. Kross says because of the topography and geographic issues that his proposal is the only place for the pool. He says he would need to take some trees down and doesn't want to do that. The neighbors will receive a required Public Hearing notice, mailed certified, and return receipt before the June Meeting. A list of the "neighbors" will be sent to Mr. Kross so that he can speak to them about his proposal and the setback issues. Rob Stout explained to the applicant that the ZBA is interested in how the neighbors feel about the project. A motion was made by Jim Wright, seconded by Tracy Salladay and carried to schedule a Public Hearing for this application to be held on Tuesday, June 20, 2023 at 6pm subject to the applicant providing a full application by the end of this week and referral to Dutchess County Planning.

SBA – Nextel - Conditions for generator

John Andrews, Town and Planning Board Engineer, has been involved in the Planning Board discussion regarding this matter as well. Rob Stout asked John to speak on the matter at hand. John spoke of the history of the Cell Tower and its site on DeLavernge Hill. The 2021 renewal of the Resolution for the Cell Tower on the site brought up the question of a generator. Per the last renewal in 2011, a generator was supposed to be hooked up on the site. There was a permit purchased in the Building Department and an inspection done saying there was a generator, but now in 2022 and 2023 there is no generator, just a cement slab where one once was. The Planning Board asked for a written statement that if SBA was to sell the tower to another company, and if there were new carriers that The Town of Amenia would be contacted for further maintenance and service as well as battery backup since the change in carriers (to T-Mobile from Sprint) T-Mobile is now responsible for a generator. Per a letter dated 3-7-2023, to the Planning and Zoning Boards (see attached) read aloud for the record by John Andrews, T-Mobile is required by the FSA to supply a battery backup (not a generator) for the cell tower when the power goes out. John recommends that the ZBA accepts this letter and agree to amend the previous resolution about a generator. The renewal will then have the conditions updated. Both the Zoning Board and the Planning Board will have to vote on the amended resolution. A motion was made by Jim Wright, seconded by Tracy Salladay and carried to have attorney Rob Stout and (PaulVanCott) prepare a resolution to have the condition amended in the original renewal document pertaining to the generator and for battery backup power when needed. This matter will be on June's agenda as well.

Troutbeck - Adaptive Reuse Plan

Craig Meili, Alternate member of ZBA, recused himself from this discussion because of a conflict of interest in the proposed project. He moved to take a seat in the audience. Rob Stout begins the

discussion by stating that Troutbeck has a proposal for an Adaptive Reuse Plan to be granted a Special Use Permit; Town of Amenia Zoning Law 121-60 before the Planning Board at this time and a Site Plan Approval for Phase 1 if granted the Special Use Permit. The applicant is not seeking any approvals from the ZBA. The Planning Board, as Lead Agency for the Project, has to reach out to the ZBA as one of its contacts for referral as well as the Dutchess County Planning & Development Department. The ZBA needs to write comments to the Planning Board, after their review and discussion of the project, as to their comments of the proposal and to give direction. The Planning Board will then consider those comments in their decision making process for approval. Rob suggests that the ZBA step through the Special Use Permit findings required by 121-63 of the code. There are 12 criteria listed. Rob shares them with the Board by reading them. (Jim Wright asked him to read aloud)

Chairman Metcalfe then allowed people from the audience to speak. He asked them to first state their name.

George Bistransin spoke of the history of the land at Troutbeck and he thinks that it should stay as is to keep the historic nature and value. He speaks to the "enormous" plan that will change Troutbeck immensely.

Next to speak was Barbara Meili. She has written letters and spoken in opposition of the proposed project at Planning Bboard Public Hearings and meetings. She speaks of "representing the public" as this meeting was not known to many and that it is "by accident" that she is here tonight. She asks that the public be given more time. This is the only meeting of the ZBA that falls within the 45 days (from April 25 date of referral letter) for comments to be made. She feels that she cannot represent all of the public and their unique thoughts and concerns. She asks for ZBA to ask Planning Board for an extension for consideration in commenting on the Troutbeck Adaptive Reuse Plan. She stated that the Public was not informed in advance of the size project that was going to be proposed. i.e., a hotel, shuttle buses from parking lots, new buildings for residences, cabins, etc. She was granted another minute by the chairman as her 2 minutes ran out. She then speaks of the neighborhood being Agricultural. There are 2 working farms with equipment going by Troutbeck on all roads daily. It is a bucolic area. Troutbeck is a treasure as a historic property. This will be the largest luxury resort in a number of counties and will bring hundreds of additional people to the area. The construction alone, over a 6 year time frame, is "outsized for the area." There are serious environmental issues...the Webatuck Creek runs through the property. Many serious environmental issues have been documented and need to be addressed. There are definite potential impacts. The land is in a Scenic Overlay District. This proposal will be detrimental to the beauty of the area. As a foundational issue, the property is of "sandy soil". This doesn't mean that Adaptive Reuse means that you can build whatever you want...it means that the concept is rooted in conservation. Adaptive Reuse means the "recycling of existing buildings" no "new construction" as is proposed. The determination as to the terminology of an Adaptive ReUse Plan is to be made by the Code Enforcement Officer, and she has written a letter to him to

make this determination. She goes on to say that his determination (of the adaptive reuse zoning code laws) will then come before the ZBA. She states that the Planning Board itself calls this a “non-conforming use” and they would need a use variance for a permit to expand the non-conforming use to be the path that they need to take RATHER THAN the Adaptive Reuse Plan.

Joshua Mackey, Troutbeck’s attorney from Mackey, Butts and Whalen spoke. He introduced the others present from the Troutbeck team. All SEQRA issues raised by B. Meili have been addressed by the planning Board. The applicant has offered concessions to mitigate the environmental concerns. There is a Conservation Easement which will take up a significant portion of the property. The issue of the Adaptive Reuse Plan; the vehicle by which we are here before you today, was suggested by the Planning Board and their consultants. There is an existing discussion of several Special Use Permits on the property. It begins in 1979. The record shows and is replete with this information. This is for another Special Use Permit and is a big one and is good planning to look at the big picture. This will mean Troutbeck will not be a “piece by piece” project. He thanks the Board for his opportunity to be heard.

Rob Stout spoke and said that the Planning Board has hosted several Public Hearings (3); and solicited Public Comments and allowed for submission of written comments to be put into the record. This is the next step in the process: to get the ZBA’s comments on the application. The ZBA has a maximum of 45 days to respond and this is the only meeting that falls within that 45 day period. Because of that, The Chairman and he made the decision to allow anyone present at this meeting to be able to speak for a minimum amount of time.

Barbara Meili questions the fact that the agenda was not posted online; and that Troutbeck was on the agenda and she also contacted a number of other people who knew nothing about Troutbeck being on the agenda.

Rob Stout spoke up and said that the Agenda had been posted in the same way that it always is.

Paula Pelosi wanted to make it clear that the ZBA is not voting on anything in regards to Troutbeck. It is only a meeting for Troutbeck’s application to be heard , reviewed by and made comments to the Planning Board for referral as in the Zoning Code per the request from the Planning Board as Lead Agency.

John Andrews spoke of the Troutbeck application to the Planning Board and its completeness and thoroughness as well as the applicant’s changes from the first set of plans to the current set of plans; taking into consideration many of the concerns from public comments. He suggested reading the Applicant’s Project Narrative and SEQRA documents. He and PaulVanCott recently worked with the Planning Board on the Part 2 FEAF form and possible impacts from the proposed project with a written summary. Both he and Paul VanCott are here tonight in person and by ZOOM in case there are questions. The Planning Board has not made any determinations at this point themselves as to the Troutbeck proposal. They are awaiting comments from this board (ZBA) and Dutchess County.

Rob Stout then discussed the Zoning Code criteria below:

Major project criteria. Before granting or denying a major project special permit, the Planning Board shall make specific written findings establishing whether or not the proposed major project:

(1)

Will comply with all land use district, overlay district, and other specific requirements of this and other chapters and regulations, and will be consistent with the purposes of this chapter and of the land use district in which it is located. Applicant provided overview Jan 9, 2023. – Observed that project site is located within the RR (Rural Residential) Zoning District. Bulk and other use regulations outlined for the Rural Residential zoning district are superseded by the Adaptive Reuse regulations outlined in 121-14.2. Adaptive Reuse of the Amenia Zoning Code.

Overlay Districts. The site contains 5 zoning overlay districts; Aquifer Overlay (AO), Scenic Protection Overlay (SPO), Flood Plain Overlay (FPO), Stream Corridor Overlay(SCO) and Historic Preservation Overlay (HPO). The project utilizes the provisions outlined in the HPO to proceed with the proposed Adaptive ReUse Plan. It is clear that the HPO District regulations established with the expansion of Troutbeck in mind embraced the proposed Adaptive Reuse Plan.

Comprehensive Plan - The most recent version of The Town of Amenia Comprehensive Plan designed to guide the Town on zoning and other municipal decisions was adopted in 2007. The Plan contains a vision statement for the Town, goals to achieve this vision, and all supporting information. The review of this information found in the proposed project is in general compliance with the recommendation offered in this document and meets its general aims and in addition specific aims to attract residents, travelers, shoppers, diners and gate keepers.

John Andrews added that (as Josh Mackey also spoke about) Troutbeck used to come before the Planning Board and “nibble” at permits and approvals for specific buildings and remodels etc. for buildings on site. That’s when the Planning Board asked why they wouldn’t use the Adaptive ReUse Plan for Special Use Permit under the HPO as the base for their proposal for the entire site plan. This also keeps in consideration that at least 50% of the property will be kept in Preservation by Conservation Easement; Historic Preservation Easement; and in their proposal 54% is in these easements and being held by a third party. It still needs some refinement, but if or when the Planning Board approves the project, the property will be encumbered by that conservation easement. Jim Wright asks John Andrews to speak of the other overlay districts and the project in relation to each of them. John says that there are portions of the site that are in the Flood Plain Overlay district. That Flood Plain also has associated with it a Flood Way. A flat plan overlooking the site would show that a couple of facilities overlap the flood plain. However, if looking in more detail, those facilities are elevated and are above the flood plain and are in general compliance with the flood plain requirements. Stream Corridor Overlay – Says that they are in compliance with because of the preservation of areas around the stream. Scenic Overlay – applicant has made proposals in terms of vegetation and planting, screening and other things. A substantial visual impact analysis was prepared for the project. It concludes that the project will be partially visible from Yellow City Rd, NYS Rt 343, the Leedsville Rd corridor during leaf-off condition, and minimal during the year during tree foliage due to distance, topography and density of vegetation landscaping. The proposed parking area is obscured by its distance and lower topography on the property and the density of existing and proposed structures. The buildings that are being proposed to be built are all in keeping with what already exists. I.e., similar materials, similar textures, similar designs, and similar colors that will keep Troutbeck looking “consistent”. Generally speaking, the Planning Board has determined that there might be some impact to the Scenic Protection Overlay, but are not substantial or adverse and appear to be mitigated to the extent that they can be. Aquifer Overlay – Troutbeck itself relies on well water. A Hydrogeologic Evaluation was done and the Hydrogeologist came to the conclusion (with documentation and review) that there would be no impact to the aquifer. They have also done stormwater management with a SWPPP (Storm water Pollution Prevention Plan) that collects and treats the stormwater runoff. It is treated and discharged to ground. Overall , they have stayed within the requirements of each district. Paula Pelosi asked if the applicant has left anything out of the proposal that has been asked for. John Andrews says that the proposal is complete up to this point and concerns have been addressed. John Andrews spoke of the permit process if / when the project is approved. The Planning Board is looking at the application in 2 parts, the first would be the Approval of a Special Use Permit under the Adaptive ReUse Plan and the second would be a Site Plan Approval for Phase 1 of the project. The entire project will be 8 separate

phases over 6.5 years. Each subsequent phase will need site plan approval from the Planning Board when applicable. Phase 1 includes the Gate House, cabins, and some parking and roadway configurations. The phasing of the project was done because of Troutbeck and its business. This way, each phase can be completed while the main Manor House and event area can remain open in the summer months and construction can be completed during the winter months when the restaurant and inn are not as busy. Jim asks Anthony Champalimaud to discuss the 300 guest number as documented. Add up the capacity of every given structure as if they were all full. He says that the ballroom at Troutbeck is 3,000 sq.ft. and that is a capacity of 250 people. If you have that and 80 people sitting in the dining room and then a couple in every guest room and every administrative team member flushing the toilet at the same time it is at its max. This is NOT how Troutbeck is run. There are now only 12 weddings(1 per month) , a maximum of 16 per year at Troutbeck (Used to be many more). He says weddings are taxing on the property, the staff, and adverse impacts may occur as a result of a wedding. Anthony goes on to say that the Troutbeck application focuses on the out of scale needs of lodging on the property and is the basis for the application. Corrections to previous buildings and areas of concern have to be made for the future of any lodging in / at Troutbeck. Anthony also addressed the traffic study that was conducted. Leedsville Rd is deficient in certain elements of signage. Troutbeck would do their utmost to get Dutchess County to improve. Yellow City Rd has signage problems as well; and no speed limit is posted. Over many years, the addresses, the building numbers and the roadways and systems; there are people driving through Troutbeck (where there are private roads). The traffic findings were de minimis based on timing. The report is inclusive of 62 traffic trips (worst case scenario) including existing traffic during the p.m. peak hour, and 97 traffic trips including existing traffic during the Saturday p.m. peak hour(which also occurred on a wedding weekend). The traffic analysis concludes that there are not measurable increases in time at intersections whether on Leedsville or Yellow City onto NYS Rt 343. Paula asked about parking lots and spaces and location of the lot. The largest parking lot will be for 55 spaces and is below the event area. This is nested in some trees and won't be seen as well as the parking for the shuttle buses. This will be dropped by 3 or 4 feet and lined with a retaining wall so that it will be low enough and not seen. Currently the back of "Garden House" can be seen as you go around the turn of NYS Rt 343. Anthony would like that structure to go away. All of the power lines come down into the property from the top, This will be corrected as well through a new restructuring (below surface) electrical service to the buildings. Anthony also specifies that the 54% Conservation area on the property includes much of the buffer area to adjacent properties. This includes properties that would not otherwise have the advantage of a buffer area. In addition they show an entirely new orchard. The final feature of application is that the planning board could make a choice because of the way the Town code is written; to build 168 hotel keys (which results in a building that's upscale) or they could be distributed as individual cabins across the property which would result in a very different land use plan. Or, 64 residences could be built. This is with a 43 acre permit under the Adaptive Reuse Plan Special Permit. Jim asks if anything is changing as far as the relationship with Troutbeck and the HOA. Anthony says nothing is changing. Chairman Metcalfe wants no more input from the applicant or public and wants the Board to make their comments for compilation to the Planning Board.

(2)
Will not result in excessive off-premises noise, dust, odors, solid waste, or glare or create any public or private nuisances.

(3)
Will not cause significant traffic congestion, impair pedestrian safety, or overload existing roads, considering their current width, surfacing, and condition, and any improvements proposed to be made to them by the applicant.

(4)
Will be accessible to fire, police, and other emergency vehicles.

(5)
Will not overload any public water, drainage, or sewer system or any other municipal facility.

(6)

Will not materially degrade any watercourse or other natural resource or ecosystem or endanger the water quality of an aquifer.

(7)

Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.

(8)

Will be subject to such conditions on operation, design and layout of structures, and provision of buffer areas as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the Town.

(9)

Will be consistent with the goal of concentrating retail uses in hamlets, avoiding strip commercial development, and buffering nonresidential uses that are incompatible with residential use.

(10)

Will not adversely affect the availability of affordable housing in the Town.

(11)

Will comply with applicable site plan criteria in § 121-65D.

(12)

If the property is in a residential district, will have no greater overall off-site impact than would full development of the property with uses permitted by right, considering relevant environmental, social, and economic impacts.

Please see below comments made by the ZBA members about the Troutbeck Adaptive ReUse Plan proposed Project for referral to the Planning Board as per their request.

1. As long as it stays within the concept of what already exists there (at Troutbeck) and it not get too big and the Planning Board keeps track of the development in the phases there should be no problem with the project as proposed for Special Use Permit under Adaptive ReUse.
2. There is much to be said for trust on tastefulness... would like to see the growth in this way with buildings to look the same as far as architecture and color to remain a "Troutbeck look" as proposed in the application
3. The thoroughness and completeness of the Planning Board and their consultant's review has made an easy segue to the ZBA's decision making for their referral. It seems like there are always people in opposition for one reason or another, but after review of the application, there is no apparent reason for the ZBA not to approve of the project.
4. A large quantity of letters from the public question the daily use recharge and calculations. Allan Rappleyea's engineer questions hydrogeologic issues as well. They were addressed with a study and follow up documentation on March 7, 2023 by Tom Cusack. He specifically reported on the Hudson Land Design company employed by Mr. Rappleyea in his documentation and reports that there is no concern about the daily use recharge calculations. It is of great concern that all water supply and usage be taken into consideration before anything is done on the Troutbeck property.

5. Concern was raised that the public be contacted about the questions raised at Public Hearings. The Planning Board is responsible to issue findings under SEQRA; as well as issue a determination on the Special Use Permit and the criteria will be covered in those documents. Please make sure that all comments made to date on this project are and have been addressed before a decision is made.
6. The Adaptive Reuse Plan is legitimate to pursue this project at Troutbeck for Special use Permit. Please make reference to the public about what changes have been made to the plan since its inception so that it is known that their concerns are being heard and that there is a dialogue between them and the applicant. An honest effort is being made with the proposal of this project to improve and expand their business in its historical setting and nature and that Amenia should embrace this kind of entrepreneurship

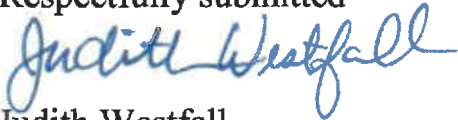
Paula asks about why there is anything about Affordable Housing being addressed about this project. Rob says that because of the size of the project and the criteria involved, that the Planning Board will have to address that issue during the findings. There are supposed to be (per latest submission) 6 staff apartments.

Rob asks the Board to ask secretary to memorialize the individual comments that were made by board members into the minutes as well as the comments made at the beginning of the meeting and to pass them on to the Planning Board by June 9th. A motion was made by Paula Pelosi, seconded by Jim Wright and carried for the above.

The Minutes of the February 21, 2023 were approved by motion made by J.Wright, seconded by P. Pelosi and carried.

A motion was made by P. Pelosi, seconded by J. Wright and carried to adjourn the meeting at 7:45pm. The next meeting will be June 20, 2023 at 6pm.

Respectfully submitted



Judith Westfall
ZBA Secretary