

Town of Canton Planning Board

Meeting Minutes

August 7, 2023

Municipal Boardroom - 60 Main Street, Canton

6:00pm

Members Present

Chairperson Ian MacKellar, Eric Barr, John Casserly, Betsy Hodge (zoom), William Myers, Sigie Barr (alternate), Dakota Casserly (alternate)

Members Absent

None

Others Present

Code Enforcement Officer Michael McQuade; Marsha Arnold (zoom), Bill Buchan (zoom), John T. Hayes, Peggy Hayes, Cathy Shrady, Margaret Mauch, Ruta Ozols, Ruth Laughman, Liza Schepps, Bill Hayes, Kathryn Hayes, Evan Comilloni, Toby Irven

Call to Order

The meeting was called to order at 6:00pm by chairperson Ian MacKellar. He noted for the record and those gathered that the public hearing originally scheduled for tonight for the No Dogs Left Behind application had been canceled.

John Casserly made a motion to revisit the tabled motion from the previous meeting (July 10, 2023) made by Bill Myers to have public comment at the beginning and end of every planning board meeting, starting tonight. Betsy Hodge asked if members of the public would be held to a three minute comment period; Sigie Barr asked if they would be held to commenting on the topics at hand. Dakota Casserly noted that the public comment period can address any topic and does not have to be held to the topics at hand. Bill Myers clarified that his original motion was to make the policy consistent with that used at Town Board meetings, which John Casserly agreed was what his motion for this meeting is. As the original motion from Bill Myers was placed back on the table, John Casserly seconded the motion. The motion passed, and the meeting was opened to public comment with a three minute limit.

Public Comment

Chairperson MacKellar opened the public comment period reminding people to state their name and where they are from, and keep to the three minute time limit to add their comments to the record.

Toby Irven

Noted that according to Robert's Rules of Order that the first order of business should be to vote on the agenda presented, and that items can not be added or removed from the agenda once the vote has been taken, and is recommending that the agenda be posted publicly at least the day prior and that Robert's Rules be followed.

Chairperson MacKellar asked Code Officer McQuade if Robert's Rules is required to be followed for the Town Planning Board. Code Officer McQuade replied that the issue of not adding to or removing items from the agenda should be

considered, so that Chairperson MacKellar would open the meeting noting any changes to the agenda, and the Board would vote on the agenda to go forward.

Margaret Mauch

Offered a non-oppositional petition to the board; noted that she was presenting the Planning Board with a petition of over 100 signatures supporting the concerns addressed in the land use document sent to the Planning Board on July 5, 2023. Those who signed the petition agree that “the concerns need to be addressed before a permit is issued to No Dogs Left Behind.” People who signed are “concerned citizens of the Town of Canton, and of St Lawrence County. County-wide concerns affect the local veterinary clinics, rescues, volunteers, fosters, adopters, emergency personnel; as well as social media representation of Canton and our area.” Ms. Mauch noted that allowing the public to be heard is part of the democratic process. She gave a copy of the land use document and petition to Chairman MacKellar to enter into the record (see attached), and stated that the petition remains ongoing.

Dakota Casserly asked Ms. Mauch if there was a signature threshold that would require action by the Planning Board; Ms. Mauch agreed that this is only a statement of agreement from those who signed.

Ruta Ozols

Noted that she read Chapter 7 of the Town Law Manual for Planning and Zoning to better understand the Planning Board process for site plan review and special use permits. She stated that Article 3, section 7-16 indicates the site plan review process is a tool used to ensure that proposed development property fits and conforms to the character of the neighborhood, and protects against adverse impacts on neighboring properties that may result from development. It is also subject to a SEQOR review. Article 3, section 7-17 on special use permits does not allow deviating from what is allowed in the local zoning code, but adds another layer of review for certain uses allowed to ensure that community character and other public health, safety, and welfare concerns are protected; these are also subject to SEQOR review. The Planning Board should, per the Town Law Manual, consider how usage of a property will affect the community, and requires due diligence to protect the environment from foreseeable hazards. Ms. Ozols commented that the Town Planning Board does more than say “yea or nay” to building a new structure.

Cathy Shrady

Also quoting from the Town Law Manual, Chapter 7, Article 1, which states that Planning and Zoning have the responsibility to plan for and regulate the use of Real Property for the community’s health, safety, and welfare. She noted that this clearly states the Planning Board should be taking into consideration the health and wellbeing of the community. One of many concerns raised about No Dogs Left Behind (NDLB) is the impact on animal welfare, as this area is underserved by veterinary care and the addition of these dogs will put additional strain on what care is available. Although NDLB has included a veterinary clinic as part of the application, Ms. Shrady quoted from the July 10 Planning Board minutes and noted that if a veterinary clinic were to be open to the public the property would need to be owned by the veterinarian offering services, and based on discussion the veterinary part of the application would be removed. Ms. Shrady noted that the current application still has the veterinary clinic included in its site plan notes and was not removed as agreed, and that even if this was an oversight and it will be removed in the future, the issue of veterinary care remains unaddressed. Additionally, under Community Connections of the current NDLB application there is an agreement/contract with SUNY Canton indicated, which is a misrepresentation of the facts as there is no current agreement or contract with SUNY Canton. Ms. Shrady stated that she has a copy of the termination of the MOU between NDLB and SUNY Canton dated March 8, 2023 which cites animal welfare concerns (see attached). John Casserly asked if there was a reason for the termination listed in the letter, and Ms. Shrady noted that there was not one indicated other than to ensure animal health and safety.

Presentation

Overview of proposed solar project at 268 State Highway 310, Canton offered by developers.

- Introductions:
 - Liza Schepps - Business Development Manager at NexAmp Solar, owner of Grassy Grove Solar East and Grassy Grove Solar West.
 - NexAmp - founded in 2007 by US Army vets, with a nationwide presence in solar projects. They own and operate all their facilities for the lifetime of the solar project with their own construction management group, asset management group, and operations and maintenance groups. They do not permit/construct the project and then sell it. They have been active in NY State for the past 8 years with over 40 operational projects in the state and another 30 in development and construction. They are the largest owner/operator of community solar projects in NY.
 - Evan - NY State PE with Collier Engineering
- Presentation of the Proposed Projects:
 - Two 5 MW community solar projects proposed at 268 State Highway 310.
 - These two projects are proposed as community solar projects - local residents will keep their current electricity provider, NexAmp plugs these projects into the existing grid and feeds clean, green energy into the grid receiving a green credit to do so. This credit is passed along to residents that subscribe to the project.
 - These are proposed in the rural zoning district and are therefore a permitted use with issuance of a special use permit and site plan review.
 - There are two separate projects - East and West.
 - East Project is fully approved by National Grid and everything is lined up
 - West Project is lagging but already deep in the process.
 - They would like them considered together for SEQR process and Ag & Markets.
 - Both projects are single-access trackers; the panels are in rows from North to South and rotates throughout the day to track the sun.
 - The site plan (including both projects) has been shared with the members of the Planning Board.
 - The proposed location is directly off State Route 310.
 - Full site is approximately 93 acres currently used for agricultural purposes.
 - There are a couple of federal wetlands on site.
 - The developers have a certified wetland biologist who has delineated all the wetlands.
 - There is an existing residence on the site, but that area of the property will not be developed.
 - The projects share as much as is permitted by National Grid.
 - The access road entrance is shared for the two sites.
 - All other requirements must be separate per National Grid and NYSEDA standards.
 - Access road will be constructed along with the East project.
 - West site is still being ironed out with National Grid to confirm capacity for the project exists.
 - The design is assumptive that full capacity is reached - the project can not get any bigger than proposed in the current site plan.
 - Maximum Community Solar project size is 5MW AC - this is confirmed for the East project but not yet for the West project.
 - If the West project is denied by National Grid, the East project will still move forward.
 - No battery storage is associated with this project.
 - Questions were raised about screening requirements for the project.
 - This has already been recommended on the site plan; it will be investigated if this is a requirement per local solar law or just a recommendation.

- The site plan has been developed in consultation with zoning code and local solar law requirements per the developers.
- Access road is 20 feet at the front portion, then reduces to 16 feet and 12 feet.
- Photo simulations were shared with the Planning Board.
 - It was noted that the West project slopes uphill and may be tricky for screening; this has been considered by the developers.
 - Proposed species of trees were addressed with 6-8 feet installation height.
 - It was recommended that the developers connect with the County forester Aaron Barringer for planting considerations.
 - Very minimal clearing is proposed.
 - Questions were asked about proposed utility poles - it was noted that the poles are recommended to go along property and field edges.
- SHPO No-Effect Letter has been received and copies shared with the Planning Board.
- The site has been designed in consideration of the NY State Stormwater Manual.
- It was asked if the SEQR process or declaration of lead agency could be accomplished at this meeting; Code Enforcement Officer McQuade responded that the Town engineering consultants are working on the review of the project and this will be considered and the SEQR process initiated at the next meeting.
 - The developers noted they are on the County Planning Board agenda for the upcoming Thursday.
 - Escrow has also been provided per local law requirements and will be approved at Wednesday's Town Board meeting.
 - The developers continued to question the process of declaring lead agency and being held up by the need for comments from the engineering consultants.
 - It was noted that the usual process is to engage Barton & Loguidice (engineering consultants) to generate the lead agency letters, and confirm that the process is run through their office. This will be done once this meeting is complete. Mr. McQuade stated he would be in contact with Barton & Loguidice the next day to follow up.
- Questions were raised about concerns regarding location of the project on active farmland.
 - It was noted that this is still a permitted use in this zone regardless of the current usage of the property.
- NexAmp has projects already located in St Lawrence County, including one that is fully operational and a second that will be turned on by the end of the month.
- It was noted that the County's 239 review will likely recommend against approval of the project due to the presence of prime agricultural soils.
- It was also brought up that once the updated Town Zoning Code is adopted (which is anticipated in the very near future), these parcels will be re-zoned and solar projects will no longer be a permitted use in this location. However as the application was submitted prior to this occurring, this project would not be affected by this change.
- John Casserly made a motion that public comment on this specific project be permitted at this time. Chairman MacKellar noted that there will be a time in the future that public comments will be open for this project. No second was offered; as such the public will be offered the opportunity to comment at the end of the meeting.

Meeting Minutes

This was tabled as previous meeting minutes were not available to the Planning Board at this time.

Agenda Items

1. Old Business

a. Resolution Approving Alternative Entrance to St Lawrence County NY S2, LLC Solar Project (Sol America Energy, LLC)

- Prior to Planning Board consideration, legal counsel Bill Buchan noted that this resolution is the result of a several month conversation involving the Town's highway superintendent, members of the Town Board, and various other parties. The original site plan showed an entrance to the project off the Town road; the highway superintendent felt this proposed entrance should be considered less safe than if it were located off the State highway. The State DOT has indicated that, if asked, it would provide a permit to enter the site from SH 310, and the developers have consented to moving the location. This resolution will ask the Planning Board to approve moving the entrance of the approved project to the State highway as an alternate to what was proposed, which re-opens the site plan. No other proposed resolutions were amenable to the highway superintendent, including a management plan for traffic. This is a very long-standing discussion that has produced this potential resolution. Mr. Buchan noted that he felt the proposed resolution is in the Town's best interest in regards to traffic safety.
- Resolution #8 of 2023 was read out loud by chairperson MacKellar (see attached).
- A question was raised by Dakota Casserly if the Planning Board will be seeing a new site plan from SolAmerica. Counsel Bill Buchan noted that this will be a streamlined method of approving the change without presentation of an entire new site plan, although the Planning Board has the option to demand a new site plan.
- It was also asked if neighboring property owners were involved in the discussions, and it was confirmed that they were not. It was asked if the impact in a shift of the interconnection to neighboring property owners was considered, and it doesn't appear to be best practice to not involve them.
- Mr. Buchan noted that the alternative would be no change to the current approved project, including the entrance location on State Street, which many people including the highway superintendent has indicated would not be a good choice.
- Mr. Buchan recommended that the resolution be amended to add that a new site plan would be presented for the Planning Board's review.
- Dakota Casserly asked if the resolution would then be contingent on the Planning Board reviewing the site plan and approving the changes.
 - Mr. Buchan agreed that the resolution could be amended to add this request, and could also require that they notify the neighbor affected.
- It was asked if the change would affect the electrical entrance; and it was confirmed by Mr. Buchan that this would be the case.
- It was noted that Mr. Buchan would contact the developers regarding the changes in the resolution and updated requirements.
- Mr. Buchan also indicated that it would be reasonable to table the resolution until a site plan has been provided and reviewed by the Planning Board.
 - This was determined as acceptable to all parties concerned.

2. New Business

a. Other

- Code Enforcement Officer Michael McQuade gave Ian MacKellar a note indicating the potential for a restaurant project proposal at the current Frazer Motors site.

- A letter from Michael Frazer was read for the Town Planning Board regarding their application and the plans (see attached). The application for site plan review was included.
- There was discussion about the existing buildings and intentions for developing.

Next Meetings

Upcoming meetings of the Town Planning Board are tentatively scheduled as follows:

- Tuesday, September 5, 2023 at 6:00pm (moved from the standard schedule due to Monday being a holiday)

This meeting will be held in the boardroom of the municipal building at 60 Main Street, Canton. The option to participate remotely will be made possible by way of Zoom Virtual Meeting.

Public Comment

Susan Huntley

Comment offered regarding the 5MW limit for community solar; by putting two projects in the same spot, would the board essentially be approving a commercial size array? It was noted that the projects can be co-located as long as both individually are under 5MW, as long as the grid has capacity for the projects. They are addressed as two separate projects. It was noted that the 5MW requirement is a NYSEERDA standard, and this is not part of the Town zoning or solar law requirements. This is completely in line and compliant with all applicable standards. Ms. Huntley asked the Planning Board to consider how close these arrays are to the Village. It was noted that the Town and Village Boards are working to complete the new zoning code which will accomplish a larger buffer around the Village from solar projects. However this application was submitted prior to the adoption of the new zoning code. Dakota Casserly noted that he felt the Boards should have considered this and done something to prevent it. It was noted by Chairperson MacKellar that the Planning Board does not have that say.

Unidentified Member of Public

Asked for confirmation that the application for the No Dogs Left Behind project is under the current code. This was confirmed. Under the current code this is not permitted to exist as a shelter, but are permitted as a kennel. This individual noted that they are not a kennel which was determined by the County under their main mission by land use. They have been defined by NY State Ag & Markets as a rescue. It was noted by the Planning Board that the Town lawyer is in discussions with the lawyer representing No Dogs Left Behind. Dakota Casserly noted that essentially the use should cease until they get approval, and it was understood that a letter was sent to No Dogs Left Behind that they are out of compliance. It was stated that the Town has no “teeth” to enforce this according to the Town’s attorney, Eric Gustafson. It was asked if the Town law does not cover consequences for not following the code; this was not able to be answered as it is a question for the Town Board.

Unidentified Member of Public

It was asked what is the Town Planning Board’s vision for reinvestment into the Village as opposed to going outside the Village? It was noted by Chairperson MacKellar that the Town Planning Board does not deal with the Village. Dakota Casserly indicated that it may be his personal opinion, but that including the Village as part of the thought process is comprehensive.

Dakota Casserly noted that across the county, it is not out of the ordinary for a business to begin operation without following local land use regulations. Commonly, they are out of compliance and then do what needs to be done to get into compliance. A member of the public noted that Ag & Markets gave No Dogs Behind a 30 day grace period to get into compliance and wanted to know why there is such a grace period or sliding rule for this. The Planning Board can not comment on the actions of other organizations such as Ag & Markets. Why is it allowed for businesses to operate without a permit? It was answered that this is common practice and the way things are done. It was again asked why this is

allowed? Dakota Casserly noted that he agrees with this individual that this should not be allowed. It was asked why there are laws if no one follows them? A significant amount of discussion ensued regarding this topic. Chairperson MacKellar noted that he will be addressing the situation with the Town's lawyer. The member of the public questioned the procedures that were followed in regards to the No Dogs Left Behind situation, and stated there were a lot of errors in the process.

Unidentified Member of the Public

Addressing a new topic, this individual noted that this is the first time they have been involved with local government, and that it has been interesting and involved a lot of people. The individual stated that "the present attitude of the Chairperson and the Code Enforcement Officer has turned into one of annoyance and dismissal toward public participation." This person felt this was not anticipated and seems unwarranted. The open meetings law was designed to facilitate public observance of the workings of government, and to prevent deliberate exclusion of public from being able to observe the governmental process. The local governments, the open meetings law, requires that they examine their processes in order to determine whether the public is actually or even perceptually being duly excluded. It was very difficult to find out if there was a regular meeting being held of the Planning Board. Everyone they asked stated the public hearing was canceled. Meetings scheduled a week or more in advance must be preceded by a posted notice given to the public and by direct notification given to the news media not less than 72 hours prior to the meeting. That did not happen. Chairperson MacKellar noted that this was part of why the public hearing was canceled. The member of the public stated that this is in relation to the scheduling of the regular meeting and that notice has to be given. This individual wanted to know where the information was posted, and commented that it is difficult to find anything on the website. It was also noted that if a resolution will be voted on, that information has to be available to the public 24 hours prior. The individual was quoting from "Conducting Public Meetings and Public Hearings," New York State Department of State of Local Government Services; noting these are the people that train the Planning Board for four hours per year. This individual noted that everything in the land use document is information that the Planning Board should have provided for themselves, and that no one had acted on it or cared whether there was a third access onto Route 68 without a permit from the Department of Transportation, who stated that the Planning Board should contact them. Dakota Casserly noted that he didn't know if the state highway curb cut for this access needed to come before the Planning Board as the Planning Board does not approve them. However the member of the public felt that this should have been addressed as the Planning Board is looking at the property and evaluating a new land use. It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner. And this individual noted there is a lot of information that appears to not be shared with those of the public who are interested in what is going on with this project. They stated that it is probably new to the Planning Board that there has been this much interest in anything happening apart from solar, and it is unique for the County and maybe the State regarding what this organization's purpose is. So consider even though the welfare of the dogs is not the issue of the Planning Board, on the application Deb Bridges said 60 dogs can be accommodated in the facility, but they are asking for 150 to come in without any expansion. It was mentioned by Chairperson MacKellar that although the Planning Board may have authority to limit the number of dogs housed at the facility, because they are out of compliance that authority has been taken from the Planning Board because they are out of compliance with the current Town Zoning Code and therefore is not the call of the Planning Board at all. Instead, No Dogs Left Behind would have to apply for a variance with the Town Zoning Board of Appeals. However, if the Town Board had passed the new zoning code, the use as a shelter would have been permitted. At this point, under the existing zoning law they are out of compliance and the owner should not be allowed to operate without a variance from the Zoning Board of Appeals. It was noted by the member of the public that Code Officer McQuade should have been aware of this some time ago. Chairperson MacKellar restated that the decision has been removed from the Planning Board.

Dakota Casserly noted that with the new regulations on pause, the Planning Board should make a recommendation to the Town Board to consider the language regarding shelter use. The member of the public noted that there are two people on the committee reviewing the new zoning code, one of which is Code Officer McQuade, who are siding with the applicant and have a conflict of interest as far as they are concerned and should recuse himself from the review of that part of the code. It was noted that the Planning Board is not involved in the makeup of this committee. Dakota Casserly noted that it

is sometimes the case that new zoning codes are run through the process of adoption without a municipal Planning Board even being consulted, although this may not be best practice. Mr. Casserly noted that the Planning Board should probably recommend to the Town Board that the land use committee reviewing the zoning regulations now, reconsider the language behind the shelter use. John Casserly asked how the process of non-compliance going to the Board of Appeals would work. It was answered that the applicant would have to apply directly for a variance. Mr. Casserly asked if the applicant knows this, and Chairperson MacKellar noted that the Town lawyer has spoken to the lawyer for No Dogs Left Behind. John Casserly wanted to note for the Planning Board that Margaret Mauch, Cathy Shrady, Ruta Ozols, and Leslie Clark have done a lot of work on behalf of the Town and the Planning Board, and should be given a lot of credit for the time and work they have done, and he personally would like to thank them.

Dakota Casserly noted an additional item regarding shelter use in the new regulations, and that it moves out of special permitting regulations to only a site plan review, and therefore not requiring a public hearing. So right now in the rural zone (a majority of the Town of Canton), a kennel would require a special use permit. When the new regulations are adopted, those uses (animal shelter and animal hospital) will move out of the special use permit zone and just require site plan review which does not require notification of neighbors, which he feels might be a mistake. A member of the public noted that they brought this up at the last Town Board meeting and said that a kennel before was grandfathered in, but these are new uses that no one in the Town has had experience with, and if they want to protect the Town they want to be looking at how this is going to affect people and put it under a special use. Mr. Casserly noted that he emailed the consultant working on the Town zoning regulations and her response was the Town moved them out of special use permitting as the rural zone essentially has less regulation overall.

Unidentified Member of the Public

A question was asked about the SEQR process for the proposed solar project. They asked if it was said that a SEQR needs to be done before a public hearing happens? This is not the case - these items happen concurrently usually. However the SEQR is done after the public hearing. It was noted that the Town has to declare lead agency and send out letters for a coordinated review as the first step of the SEQR process. At that time the Town becomes lead agency and conducts the rest of the SEQR review process, including the public hearing.

Adjournment

A motion was made to adjourn the meeting by John Casserly; the motion was seconded by Bill Myers and carried. The meeting was adjourned at 7:50pm.

Date: September 30, 2023

Jeni Reed
Recording Secretary

TOWN OF CANTON, NY PLANNING BOARD

Resolution # 8 of 2023

**Resolution Approving Alternative Entrance to
St Lawrence County NY S2, LLC Solar Project (SolAmerica Energy, LLC)**

Dated: September 5, 2023

WHEREAS, SolAmerica Energy LLC (“Company”) is developing a 5.0 MW AC solar energy generating project (herein the “Project”) in the Town at the lot commonly referenced as 295 NYS Route 310, Canton, NY 13617 and identified as SBL # 74.004-7-71; and

WHEREAS, the Company has applied for and received a Site Plan approval and a Special Use Permit directing the Company to use the existing driveway/access point on State Street for access during the construction, operation, and decommissioning of the Project; and

WHEREAS, the Company and the Town have agreed that an alternate entrance to the site, located along NYS Route 310 in the Town of Canton, as generally depicted in Attachment A, is preferred, and the Company desires to amend its Site Plan and Special Use Permit applications to implement this change to facilitate the issuance of a permit by the New York State Department of Transportation to enter the site from NYS Route 310.

NOW, THEREFORE BE IT RESOLVED, in accordance with the Town of Canton Zoning Law, the Planning Board hereby grants the amendment to the Site Plan Approval and Special Use Permit requested by SolAmerica Energy, LLC to change the entrance to the project site from State Street to NYS Route 310.

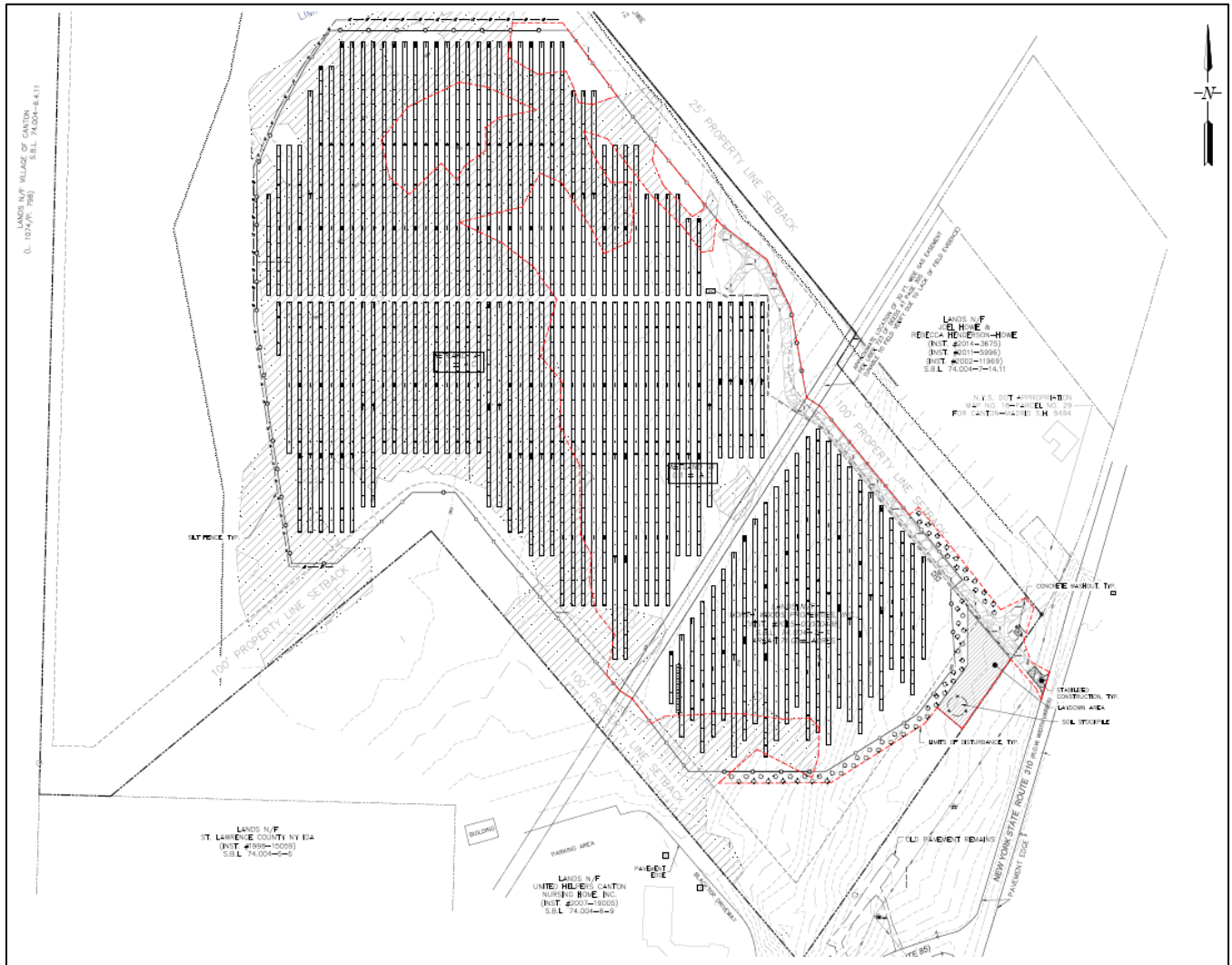
The foregoing resolution was voted upon with members of the Town of Canton Planning Board voting and signing as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain/Absent</u>	<u>Signature</u>
Ian MacKeller, Chairperson	_____	_____	_____/____	_____
William Meyers	_____	_____	_____/____	_____
Eric Barr	_____	_____	_____/____	_____
Betsey Hodge	_____	_____	_____/____	_____
John Casserley	_____	_____	_____/____	_____

Dated: _____
Town of Canton, New York

Ian MacKeller, Chairperson
Town of Canton Planning Board

Attachment A





Jeni Reed <reedvirtualsolutions@gmail.com>

August 7 Minutes - Info

Michael J McQuade <CodeEnforcement@cantonny.us>

Wed, Oct 4, 2023 at 11:38 AM

To: Jeni Reed <reedvirtualsolutions@gmail.com>

Good morning Jeni

see attached resolution also Mr. Frazer's letter was sent Via Email see below
Hi Mr. McQuade,

I have attached the Town Planning Board Application for our project. We are still very early in our planning, as we are refining the exact size and details and location of the new building, and won't be meeting with Brooks Washburn until next week. So a map with the building on it and details on the structure will be forthcoming. But I wanted to get this to you now so we don't miss any deadlines and can keep this moving along.

Allow me to give you some background so you can better understand our plans:

I own the properties along Route 11 that housed both my computer software company, Frazer Computing, and the associated used car lot, Frazer Motors. The software company provided computer software to used car dealers, and Frazer Motors was operated as both a test use for our software, and a learning experience for my employees. I sold Frazer Computing in 2021 and the new owners have not required anybody to return to the office after Covid leaving those buildings relatively empty. So to better make use of those Frazer Computing buildings the hospital is now leasing the space for their administrative people. But the buyers of Frazer Computing did not want to buy Frazer Motors so I continue to own it since I just didn't want the space to be left empty. It has been marginally successful.

I have been working with Les Baker for 20 years since he first came to paint my office above a garage on Court St. He was the builder of all of my buildings and my experience with him has been all I could hope for. And then a year ago he opened Bakers Sizzling Grill in Colton and it has been magnificently successful. He has a passion for the restaurant business, and it turns out he is remarkably good at it. We both feel that the Canton area is hungering for an comfortable place to have a drink and a small bit or a meal. So we have decided to work together to provide one! Look here for Les Baker's existing place: <https://www.bakerssizzlinggrill.com/>. He will continue to own the Colton store as well as this new Canton place.

I know nothing about running a restaurant. For me this is an investment in my property, and in the Canton area. I will be financing the project, and will then lease the building to Les Baker. To make this happen we will remove the existing house where Frazer Motors was operated, and build the restaurant just behind the existing parking lot. Once the house has been removed we will square off the parking lot so it can easily handle 70 vehicles. Again, details on the exact parking lot and restaurant building to come.

I also own a state of the art automotive mechanic shop located below the hill at the back of the property. I intend to continue to lease that building out, and improve it's entrance way, currently located on the Canton side of the property.

I am happy to discuss this with you or any others at any time. Also,
please feel free to reach out to Les as we proceed. More details to come.

Mike

--

Michael Frazer
315-262-5475

[Quoted text hidden]

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Michael J McQuade
Town of Canton
Code Enforcement Officer



Canton (T) Planning Board Resolution SolAmerica entrence off NYS RTE 310 8-7-23_SAE clean.pdf
351K

August 7, 2023

Petition

This is not an oppositional petition.

I am presenting the Canton Town Planning Board with a petition of over 100 signatures of people who support the concerns addressed in the Land Use document that was sent to the board on July 5, 2023. These people agree that the concerns need to be addressed BEFORE a permit is issued. People who signed the petition are concerned citizens of the Town of Canton and of St. Lawrence County. These county-wide concerns affect the local veterinary clinics, rescues, volunteers, fosters, adopters, emergency personnel, as well as social media representation of Canton and our area.

This is a part of the democratic process that community members be heard. Over 100 citizens have taken the time to voice their concerns to you by signing this petition, among them board members of the Potsdam Humane Society. This process of sharing, contacting others and attending meetings has given us and other members of the public the opportunity to participate in local affairs in a positive way.

Margaret Mauch

Detail how high the fence will need to be and where it will be located

The State DOT be contacted to determine if additional permitting is necessary for access to the site off of State Highway 68

Additional concerns were raised about

safety for cyclists and pedestrians near the site

the lack of parking locations for customers and staff

where dogs will be located on the property

environmental impacts from dog waste and urine (SEQR should be completed)

potential for disease

the need for information on the health of dogs brought to the facility

veterinary service impacts

the need for the specification by the town of a maximum occupancy

Cathy Shrady

Ruta Ozols

Margaret Mauch

Michael Heaney

Jouise Bixby 1 Main St., Ste. 203, Canton NY 13617

Keith Popler Keith Popler 1613 St Canton NY 13617

Judi Cohen Judi Cohen Zisban NY 13617

Helen Hutchinson 24 Judson St Canton 13617

Cara Ceffin

5707 County Route 27 Canton, NY 13617

Shirley Butler - Gaspard

392 Pine School Rd, Canton 13617

Alan K. Ferrell

71 State St Canton NY 13617

Edward J. Gordon DVM

78 Hogle Rd Potsdam, N.Y. 13676

Barbara York

78 Hogle Rd, Potsdam, NY 13676

Wesley R. Hunnewell

49 Farmer St. Canton NY 13617

To the Town Planning Board:

As concerned citizens of the Town of Canton and of St. Lawrence County, we urge you to consider the Land Use points as you turn your attention to the new application submitted by No Dogs Left Behind, Inc.

Daniel Puzini	Massena, N.Y. ^{2 Highland Ave.}
Laura Frank	Canton, NY ^{9 Nickerson Rd.}
Robin Durocher	113 Judson St. Canton NY
Bonnie Davis	101 W Front St, Rensselaer Falls, NY
John Davis	101 West Front St. " "
Jane Wootling	892 Finnegan Rd Potsdam NY 13676
Mark Berninger	437 Herby Rd. Brasher Falls, NY
Robert DeLoach	56 Judson, Canton
Robin Colton	27 Hamilton St Potsdam 13676
Karen Wells	169 Syke Rd. Canton, NY 13617
Shirley Brown	11 Cedar St, Potsdam NY
Claire Gerard	19 Maple St, Canton
Tina	9 Woods Dr. Canton
Beth Patrick	6 Woods Dr. Canton
Masha Arnold	1678 CR25 Canton

To the Town Planning Board:

As concerned citizens of the Town of Canton and of St. Lawrence County, we urge you to consider the Land Use points as you turn your attention to the new application submitted by No Dogs Left Behind, Inc.

- Environmental Impact & Reasons for a SEQR
- Draft or Current Zoning Law
- Noise
- Animal Welfare
- Dangerous Dogs
- Animal Hospital
- Emergency Evacuation of 500 Dogs in the Event of a Natural Disaster
- Signage
- Access from a State Highway
- St. Lawrence County Planning Board's Identified Concerns

Name / Address	Concerns
Deborah Courtney ^{41 Cycles Rd} Canton	all of above - noise
Leo Boile ^{"1"}	ALL THE ABOVE
Dellie Christ ^{Canton}	ALL OF THE ABOVE
Nancy A. Jones ^{Jackson St Rd} Canton	all of the above
Nancy Jones ^{Jackson St, Rd} Canton	All the above
Kathy Casey ^{Canton}	All of above
Magueline Gauthier ^{Canton}	—
Ann F. Randolph ^{Canton}	All of the Above

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Peter Popiel	Raymondville
Bonnie Boyd	Potsdam Humane Soc. Board
Arsen A. Wing	Potsdam Humane Soc. Treasurer
Jeffrey Bono	Potsdam Humane Soc. President
Randy Payne	Potsdam Humane Soc. Board
Daryl A. Ireland	Potsdam Humane Society / Potsdam Agency
Kathleen Hughes	Potsdam Humane Society - Ex Dir.
Jan Schaeffer	PHS Board
Tracy L. Adde	Potsdam

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Name / Address	Concerns
Elaine Sanderson 7336 CR 27 Lisbon NY 13658	all above, especially safety to the animals
Carolyn Maloney 3634 SH 68 Lisbon, NY 13658	Environmental Impact, Animal Welfare, Noise for neighbors, Emergency Evacuation
GERALD MALONEY SAME AS ABOVE	WELFARE
ALAN LAUGHMAN 407 JUDSON ST RD CANTON, NY 13617	DANGEROUS DOGS
Jane A. McFauland 4 Elm St, Canton NY 13617	
CATHY CROSBY 7 PARK PL. CANTON NY 13617	
David Bradford 28 Sisson St POTSDAM	
CLIFF WESTERLING 892 F. WILSON RD POTSDAM	

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Akiko Prushaw
525 CR 35, Potsdam, NY 13676

DANA HENRY
5562 C.R. 27, CANTON, NY 13617

Jennifer Mitchell
534 French Hill Rd Canton

Animal Shelter volunteer.

Cindy Gabbano
120 Barnes Rd CANTON NY

~~Barbara Henry~~
5542 CR 27 CANTON NY

Peter Feinberg
411 MEADE Rd CANTON

Lushe S. Clark
411 Meade Rd, Canton, NY

Frances S Monroe
10 Hillside Rd. Canton, NY

concerned @ our environment

Ruth Loughman

407 Judson St Rd Canton, NY

Environmental concerns

Sandra Uechi

29 Riverside Dr. Canton, NY
13625

environment

Beverly Snyder

290 Arbuckle Pond Rd Canton, NY 13625

Environment

William Irwin

810 Irish Settlement Rd, Canton NY 13617

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name address	Concerns
Sue Theisen Wright Rd Potsdam	- Health of dogs coming in. - impact on vet care + current rescues
Maureen Carrara River Road Potsdam	Health of Dogs from 3rd world countries - Animal welfare
Courtney Lakota Waverly St. Potsdam	" "
Cardyn Parker Rensselaer Ave Ogdensburg	Animal Welfare
Wendy S. Chambers Cotton	Animal Welfare Animal Welfare
Cyndi Street Canton	Health, welfare
Cynthia R. Hunt Canton	Health & welfare of animals
Michelle K. Pate Aiken Rd, New York	Health + welfare of dogs / vet training issues
Lige Whitehouse Canton, NY	Canton, NY

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William E. Conroy

1678 E R 25 Canton, NY.

Chir Azadeh

442 N. Racquette River Rd, MASSENA

Margaret Mauch

33 Jones Rd, Canton

David Doran

49 Jameson Rd, Canton

Sally E. Vrooman

187 Miner St. Rd, Canton

Jean S. Keeser

30 Sullivan St, Canton

Linda Kenny

9 Park Place, Canton

Fileen Raymond

63 East Main St. Canton

Martha Hodges

2 Highland Ave, Massena

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Jaime Storie

Dolores Dowling

Dolores Dowling

Carolyn Hinkle

Carolyn Hinkle

Richard Hinkle

Richard Hinkle

Betty Lashua

~~Betty Lashua~~
Ronald Lashua

Paul Kiser

PAUL KISER

Andrew Augustine

Andrew Augustine

Allen Ditch



(Kelly Hawk)

Ronald Lashua

RONALD LASHUA

Mairi B. Meredith

Mairi B. Meredith

K

Kerry Hauke

~~Jeannette Kiser~~

Rae Louise Tate

Jane Phelps

Janice M Brothers

Vicky L Dowling

Chad Kerr Jr.

Kelly Hauke

Jeannette Kiser

Rae Louise Tate

JANE PHELPS

Janice Brothers

Vicky L Dowling

CHAD

To the Town Planning Board:

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Mark Markiewicz	488 County Route 46 Massena NY 13662
Eudora Watson EUDORA WATSON	5 Morningside Drive Potsdam NY 13676
Charles Ramsey "Chuck"	33 33 Waverly St Apt 2 Potsdam NY 13676
75 DANIEL LEMPERT Philip Neisser Phil Neisser	1640 CR 53 BRASHER FALLS, NY 13613
Juan Williams-Bergen Jean Williams-Bergen	5 Morningside Dr Potsdam NY 13676
Deb Conrad Deb Conrad	1185 C.R. 25 Canton NY 13617
Walt Conley Walt Conley	75 St 72, Potsdam 13676
	11 Hillcrest Dr Potsdam NY 13676

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SIGNATURE :	NAME & ADDRESS
Valerie Summer	9B Lina St., Ogdensburg NY
Alan H. Hargraves	800 Reddy Rd. Chase Mills, NY 13621
Juan E. Heberling	Lamar Bliss 619 Baker Rd Potsdam NY 13676
Susan E. Heberling	SUSAN E. HEBERLING 619 BAKER RD. POTSDAM NY 13676
Nichole Whalen	9B Lina St. Ogdensburg NY 13669
Ann McLaughlin	ANN McLAUGHLIN 842 BUTTERNUT RIDGE RD CANTON 13617
Allegade We	Hilda Webb 38 Haverhill Rd Canton 13617
Martha Cunningham	13 Morningstar Dr. Potsdam

As concerned citizens of the Town of Canton and of St. Lawrence County, we urge you to consider the Land Use points as you turn your attention to the new application submitted by No Dogs Left Behind, Inc.

[illegible]

July 18, 2023

VIA ELECTRONIC MAIL
townplanning@cantonny.gov

Town of Canton Planning Board
60 Main Street
Canton, New York 13617

Re: Special Use Permit Application No Dogs Left Behind, Inc.

Dear Town of Canton Planning Board Members:

On behalf of No Dogs Left Behind, Inc. (the “Applicant”), we submit this letter to the Town of Canton Planning Board (the “Planning Board”) to address certain questions raised by the Planning Board at their meeting on July 10, 2023 and in further support of the application materials that have been submitted to the Planning Board for a special permit to operate an animal shelter and sanctuary (the “Application”) at property located at 1734 State Highway 68, Canton, New York 13617 (Tax Map No. 89.004-3-44) (the “Property”) in addition to the existing kennel and boarding use on the Property.

As an initial matter, at this time, the Applicant is willing to remove the request for a veterinary clinic from the Application as discussed at the July 10 meeting.

I. Application for a Special Permit

The Code Enforcement Officer is responsible for interpreting the Town of Canton Zoning Code (the “Zoning Code”) under New York Town Law (*see* Town Law § 267-b[1]; *Swantz v Planning Bd. of Village of Cobleskill*, 34 AD3d 1159, 1160 [3d Dept 2006] [stating power to interpret the local zoning law is vested exclusively in local code enforcement officials and the zoning board of appeals]). On May 23, 2023, the enclosed notice of violation letter was issued by the Code Enforcement Officer indicating a special permit is required to operate an animal shelter at the Property. Therefore, the Applicant submitted the revised application and proceeded with a request for a special permit rather than another type of approval in accordance with the Code Enforcement Officer’s interpretation of the Zoning Code that only a special permit is required to operate an animal shelter at the Property.

Under the current Zoning Code, special permit uses in the Rural Zoning District include “kennels and animal hospitals.” The term animal shelter is neither defined nor used in the current Zoning Code. The term “kennel” is also not defined in the current Zoning Code. It is the Applicant’s position that an animal shelter is analogous and substantially similar to a kennel, and should be treated as a kennel for purposes of the current Zoning Code. Moreover, the law is well-settled that zoning restrictions “must be strictly construed against the municipality [that] enacted and seeks to enforce them, and that any ambiguity in the language employed must be resolved in favor of the property owner” (*Matter of Lodge Hotel, Inc. v Town of Erwin Planning Bd.*, 62 AD3d 1257, 1258 [4th Dept 2009]). In any event, the Property has been used in the past as the official animal shelter for the Town of Canton. In 2013, the Town contracted with the owners of the Property to provide and maintain an animal shelter.

In sum, under the current Zoning Code, a special permit is the only approval required to operate an animal shelter at the Property.

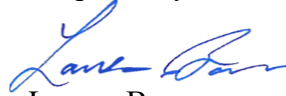
II. No Permit is Required to Operate a Kennel and Boarding Facility on the Property.

The limited issue before the Planning Board is whether a special permit should issue for use of the Property as an animal shelter. The Application does not pertain to the pre-existing permitted use of the Property as a kennel and boarding facility. The property has operated continuously as a kennel and boarding facility since the 1970’s and the use of the Property as a kennel and boarding facility is a pre-existing nonconforming use that has the right to continue at the Property without any permitting.

III. Applicability of the State Environmental Quality Review Act (“SEQRA”)

The Applicant agrees with the Code Enforcement Officer’s determination at the Planning Board meeting on June 5, 2023, that a SEQRA review is not required for this Application. The Application is a Type II action under SEQRA because the application is only for a special permit for use of the property as an animal shelter, not to expand the facility or construct anything on the Property.

Respectfully submitted,



Lauren Baron

Enclosure

cc: Michael McQuade, Town Code Enforcement Officer
codeenforcement@cantonny.gov

Town Board Meeting
Aug.7, 2023

I) According to the Canton Town Law Manual Chapter 7, Article 1:

“Through planning and zoning, towns have the authority to plan for and regulate the development of and use of real property for the community’s health, safety and welfare. The basic premise of planning and zoning balances the well being of the community against individual property interests...”

This clearly states that the planning board should be taking into consideration the well-being, health and safety of the community as it plans and regulates.

One of many concerns raised about NDLB is the impact it will have on animal welfare since this area is already severely underserved with respect to veterinary care and the addition of NDLB dogs will put further strain on the care available.

NDLB has attempted to address this by including a veterinary clinic in its application.

In the minutes from the July 10 Town Planning Board meeting:

Quote: Ian MacKellar asked about the planned veterinary services as noted on the application

- Mr. MacKellar noted that if a veterinary clinic were to be opened to the public, the facility would need to be owned by the veterinarian offering services.
- Based on the discussion, it was determined that the veterinary service part of the application would be removed.

Two points: 1. The current application still includes a veterinary clinic in its site plan notes, it was not removed as agreed.

2. Assuming that was an oversight and it will be removed in a corrected application, the impact on the community relating to the lack of veterinary services for the NDLB dogs as well as community dogs has NOT been addressed.

II) Under the Community Connections section of the current application one of the connections listed is:

“Current agreements/contracts with SUNY Canton to provide animals for their facility to use with students, volunteer, and internship opportunities. ”

That is a misrepresentation of the facts: There is no current contract or agreement with SUNY Canton. Here is a copy of the termination of the Memorandum of Understanding between NDLB and SUNY Canton dated March 8, 2023:

“ Jeffrey:

To ensure animal's health and safety, please accept this letter as a thirty-day (30) notice to formally terminate the agreement between SUNY Canton Spring 2023 Veterinary Science Technology and No Dogs Left Behind.”

Hi Wendy,

Per our conversation today, I am attaching a copy of the Town of Canton Planning Board Application. Reference to "current agreements/contracts with SUNY Canton" is on the last page under "Community Connections."



34 Cornell Dr.
Canton, NY 13617
www.canton.edu

Office of the Vice President for Administration

SHAWN K. MILLER
Vice President for Administration
Records Access Officer
OFFICE: 315-379-3820
FAX: 315-386-7606
millers@canton.edu

March 8, 2023

No Dogs Left Behind
Jeffrey Beri, Founder /CEO

Jeffrey:

To ensure animal's health & safety, please accept this letter as a thirty-day (30) notice to formally terminate the agreement between SUNY Canton Spring 2023 Veterinary Science Technology and No Dogs Left Behind.

If you have any questions, please feel free to contact Wendy Kuceyeski, DVM – Program Director for the Veterinary Science Technology Department at SUNY Canton. Her email is kuceyeskiw@canton.edu and phone is 315-379-3865.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shawn K. Miller', written over a horizontal line.

Shawn K. Miller
Vice President for Administration
Records Access Officer

To the Town Planning Board:

As concerned citizens of the Town of Canton, we urge you to consider the following points as you turn your attention to the new application submitted by No Dogs Left Behind, Inc.

Environmental Impact & Reasons for a SEQR

The County Planning Board at its June 8 meeting, recommended, and we concur, that a SEQR should be completed BEFORE No Dogs Left Behind, Inc. is granted a permit to operate even if there is no expansion at this time.

Because Maple Ridge Kennel was in existence before the Town of Canton Zoning Code was adopted in 1997, there was never a site plan or environmental impact study completed for this property. The new proposal/land use is not the same as for a boarding kennel. It is unlike anything that has been permitted before in the Town. There should be baseline data available in the event that new structures are added when NDLB takes over ownership of the property.

Detailed plans of how the fecal waste will be handled should be provided by NDLB. How will the fecal waste be put into the septic tank? One would hardly expect that that much waste would be flushed down a toilet. Will the septic tank be uncapped daily and fecal waste shoveled into it? How will this extra waste affect the leach field? What practices are necessary to be in compliance with environmental and health and safety regulations?

An operation of the size proposed will generate a significant volume of urine and feces. At the June Town Board meeting, Deb Bridges stated that a 1000 gallon septic tank will take care of the fecal waste. We question whether this is sufficiently large enough given the number of dogs that will be housed at the site.

Wastewater alone weighs the same as water 8.34 lbs/gallon. The density of sewage/sludge is equal to 45.011 lbs per cubic foot. 1000 gallon septic tank = 133.68 cubic feet. $133.68 \times 45.011 = 6,017.07$ lbs. Take 200 dogs \times .75 lbs of fecal matter per dog per day and that = 150 lbs of fecal matter per day. 6,017.07 lbs divided by 150 lbs per day = 40 days until the 1000 gallon tank is full. So the tank would need to be pumped every 40 days at a cost of approximately \$350 each time. Is this practical? Or does the design of the septic system need to be adapted to meet the demands of the increase in the number of dogs as well as personnel on the premises? Wouldn't this require engineering plans?

According to Chris Stevenson, president of Rivers Septic Service, an effluent filter(s) would need to be installed to protect the existing leach field. Joe Brant, Professional Engineer 1, NYS Department of Health, said that the more solids that are added to a septic tank, the more often it would need to be pumped, and the additional suspended solid particles being discharged would shorten the life span of the leach field. The frequent filling of the tank with solids would not allow the solids to settle out as in normal residential use.

No mention has yet been made of how liquid waste will be handled. This needs to be addressed in a detailed plan of waste management also. When the dogs' cages are hosed, where does that waste water mixed with urine, soap, disinfectant, etc. go? It should not be allowed to contaminate the ground water, wetlands or surface streams in the area or the site. How is it even possible to sanitize the outside kennels within the fenced area that have been placed on a gravel base?

According to the US Fish and Wildlife Service's Federal Wetlands Mapper, there are three federal wetlands located on the property at 1734 SH 68, Canton. One is a 1.54 acre Riverine habitat (Classification code: R4SBC), another is a 0.41 acre Freshwater Emergent Wetland habitat (Classification code: PEM5E) and at the back of the property, there is a 0.99 acre Freshwater Pond habitat (Classification code: PUBHh). These classifications are explained on the mapper: <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/> .

That being said, having spoken to Aaron Smith at the U.S. Army Corps of Engineers-Buffalo District, "there are no definitive maps of federally regulated wetlands or waterways. Therefore, it is often not possible to determine US Army Corps of Engineers jurisdiction based solely on an in-office review. In most cases, a site inspection is the only definitive means of determining the presence/absence and extent of wetlands, streams, and other conveyances of water that may be present on a parcel."

In an email from Aaron, "As discussed, under Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers regulates the discharge of dredged or fill material into waters of the United States, including freshwater wetlands. Certain types of activities, such as land-clearing using mechanized equipment and/or side-casting, in a jurisdictional water would likely be regulated under Section 404 of the Clean Water Act. The Corps of Engineers does not regulate any adjacent area or buffer zone surrounding a wetland. Our authority is limited to the edge of the wetland or ordinary high water mark of a water (stream, river, pond, lake, etc.). If any work is proposed involving the placement of fill in a water of the U.S., including wetlands, a Department of the Army permit would likely be required."

While the State Wetlands are regulated by acreage, there is no size requirement for site inspections by the Army Corps of Engineers. In order to build to the edge of a Federal wetland, the dimensions of that wetland need to be delineated and flagged to know the actual boundaries.

Aaron C. Smith
Monitoring and Enforcement
US Army Corps of Engineers - Buffalo District
Auburn Field Office
7413 County House Road
Auburn New York 13021
(716) 879-6332 (office)
(716) 863-6676 (cell)

Draft or Current Zoning Code?

The Town of Canton Draft Zoning Code with definitions will be on the agenda for review at the next Town Board meeting on July 12.

The following was presented to the Town of Canton Board:

June 14, 2023

I understand that the Zoning Board and the Town Board have worked diligently and with much deliberation to produce a comprehensive new Town of Canton Zoning Code. I would assume that you are eager to finalize this project.

Before there is a final vote on the Code in its entirety, I would ask that you consider a proposal and reasons for a delay in regards to kennels/rescues/shelters/animal hospitals.

On December 15, 2022, NYS passed a law that regulates kennels/shelters/rescues. It would be advantageous to learn what these new state laws are and to incorporate them into the proposed Code. The definitive language in the Canton draft code is confusing and needs to be clarified. There may, also, be conditions that the Town would want to address that are not part of the new State regulations that would be unique to the Town of Canton. Kennels/rescues/shelters must be in compliance by December 15, 2025. It would be helpful to any proposal for a kennel/rescue/shelter/animal hospital to have the Town and State laws consistent with each other. Doesn't it make sense to align Town Code laws with state regulations at this time?

In consideration of the lack of clarification and NYS Shelter Regulation Chapter 683, I am requesting that the Canton Town Board initiate a moratorium on the Draft Code until substantive language re: kennels/rescues/shelters/animal hospitals, etc. can be incorporated into new law that better protects the Town. Or delay voting on the proposed Code until the next board meeting in order to review the new state laws applicable to this section. Or if the Code is passed, to include an exception to not put into force that section of the Code until language is examined and determined to be in compliance with the state standards.

Definitions and changes in the draft code may affect the NDLB application. Decisions on the application should wait until the Draft Town of Canton Zoning Law has been approved.

Noise

To date, 16 noise complaints as a result of persistent barking have been filed. The operator of NDLB pled not guilty and, therefore, a trial date has been set for July 17. NDLB doesn't even have a permit and already there are costs to the Town monetarily and in time spent.

The noise problem has not been resolved which means the current fencing and structures are not adequate to deal with the noise. 1734 SH 68 is not the right location for this business. The noise can't be mitigated unless the elevations of the surrounding properties can be lowered so that the sound of barking doesn't rise out of the fenced enclosure. That's not likely to happen. Property values are going to be affected due to the relentless barking and the health of local residents has already been affected.

This is no longer a quiet, rural neighborhood. Noise was not of this persistent magnitude when Styles Bridges managed Maple Ridge Kennel. Will issuing a permit to NDLB "preserve and protect the character of the neighborhood and the health, safety and welfare of the community"? Aren't these considerations for the Planning Board and not just the letter of the Code?

The 14.5 acre property is too small for the proposed large numbers of dogs. There are too many environmental unknowns. The terrain makes it impossible to mitigate the noise levels created by the barking because of the higher elevations of the surrounding properties.

Animal Welfare

The purpose of/reason for a business applying for a permit is most certainly the jurisdiction of the Town Planning Board. The mission of NDLB is to provide animals rescue, care and re-adoption into loving homes. These dogs are coming from around the world. This process involves the welfare of the dogs.

The new kennel/shelter laws passed in December of 2022 came under the NYS Department of Education. NYS Agriculture and Markets will be the enforcement agency when the law goes into effect on December 15, 2025.

Until then, the Town could be the available governing entity that could have oversight of the dogs following permit issuance. Care of the dogs is part of the mission of NDLB and should be taken into consideration as part of the permit process.

The Town Planning Board can choose to set conditions that would meet what is required by law. NDLB should be working toward compliance with the new laws as other rescues are doing and outline the steps that have been taken and will be taken to become compliant with the new requirements.

Dangerous Dogs

Some of the imported dogs, due to traumatic experiences and backgrounds, are not able to be rehabilitated and therefore are not suitable for adoption. NDLB claims that these dogs will stay at the facility until their deaths. Two dogs have already escaped from the property. The draft Zoning Law 70-59 Kennels E. states "All outdoor pasture/recreation areas shall be enclosed to prevent the escape of the animals." Will these dogs be loose on the property for exercise? Will these dogs have to spend the rest of their lives confined in a caged enclosure? Is this humane?

On NDLB's Facebook page, some dogs have been described as escape artists capable of scaling 10 foot walls. Is the fencing that has already been installed adequate to keep the dogs confined? Fencing is an important issue as a structure currently in use on this property.

Article 7 of the Agriculture & Markets Law relating to Licensing, Identification and Control of Dogs, New York Consolidated Laws 2019 has a Section 123 that addresses and defines Dangerous Dogs. This was a concern brought up by members of the St. Lawrence County Planning Board at the June 8 meeting. Section 16-7 of the Town of Canton Zoning Code is entitled Dangerous Dogs and references Article 7 of the Agriculture & Markets Law.

New York Consolidated Laws, General Municipal Law - GMU § 209-cc. Notification of presence of wild animals and dangerous dogs

The knowledge of the presence of dangerous wild animals, and dangerous dogs, in the context of emergency services responses, is necessary to protect public safety and the safety of emergency services personnel. The term "dangerous dog" means a dog found dangerous pursuant to the provisions of [section one hundred twenty-three of the agriculture and markets law](#). Except for pet dealers as defined in [section seven hundred fifty-two-a of the general business law](#) and zoological facilities and other exhibitors licensed pursuant to [title 7 U.S.C. sections 2133 and 2134](#), and in the case of dangerous dogs except for licensed veterinarians in temporary possession of such dogs, every person owning, possessing, or harboring a wild animal or a dangerous dog within this state shall report the presence thereof to the clerk of the city, town, or village in which such wild animal or dangerous dog is owned, possessed, or harbored. Such report shall be filed annually on a date to be determined by the state fire administrator in the manner prescribed by the state fire administrator. A separate report shall be filed for each street address at which any such wild animal or dangerous dog may be found.

Such clerk shall forward a copy of such report to each state police troop, county sheriff, and municipal police agency having jurisdiction over the location of such wild animal or dangerous dog. A copy thereof shall also be forwarded to each fire department, fire corporation, or fire company serving such location and to each ambulance or emergency medical service department, ambulance corporation, or ambulance or emergency medical service company serving such location. In lieu of forwarding a copy of each report, the clerk may compile the contents of the several reports, and forward the compilation.

Any person who fails to report the presence of a wild animal or dangerous dog as required in this section shall be subject to a civil penalty of not more than two hundred fifty dollars for the first offense, and upon being found guilty of a second or subsequent offense, by a civil penalty of not less than two hundred fifty dollars or more than one thousand dollars. Except as otherwise provided by law, such a violation shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a criminal penalty or punishment and shall not impose any disability upon or

affect or impair the credibility as a witness, or otherwise, of a person found guilty thereof.

Animal Hospital

Non-veterinarian practice ownership is restricted in NYS. There needs to be an in-person veterinarian available to see to the needs of whatever number of dogs will be on the property if there is to be an animal hospital on site. Who will that be? Online veterinary care from Hong Kong is not adequate to address emergency situations and critical care.

Emergency Evacuation of Dogs in the Case of a Natural Disaster

The St. Lawrence County Planning Board suggests the following condition of approval for the Town's consideration: Detail how 500 dogs will be transported to and from the property and accommodated in the event of a State-declared natural disaster.

Signage

The sign should be down lit and be turned off nightly by 10:00 P.M. Light pollution at night is already a problem here.

Access From A State Highway

Before an assessment can be made of the traffic pattern on the property, there needs to be a clear definition of what the land use will be eg. kennel, doggy day care, shelter, animal hospital. The parking lot is a third access from the state highway which requires a permit.

Thomas Campo
NYS Department of Transportation
Permit Coordinator Highway 7
317 Washington Street
Watertown, New York 13601
(315) 785-7981

St. Lawrence County Planning Board's Identified Concerns

The Town needs to clarify how it wishes to define this type of land use, either through a Zoning Board of Appeals Interpretation of current uses, or the inclusion of an animal shelter/rescue use in its current zoning code. Alternatively, the applicant could seek a use variance.

Detail how 125-275 dogs will be housed in the existing usable facilities



Jeni Reed <reedvirtualsolutions@gmail.com>

Fwd: Dog Sanctuary**Ian Mackellar** <townplanning@cantonny.us>

Tue, Aug 1, 2023 at 10:27 AM

To: Eric Barr <ebarr1522@gmail.com>, John Casserly <johnccass45@gmail.com>, Eric Gustafson <ericj@pgnylaw.com>, Dakota Casserly <dakotablu@gmail.com>, Myers Bill <myersw@canton.edu>, Hodge Betsy <betsyhodge22@gmail.com>, "Michael J. McQuade" <CodeEnforcement@cantonny.us>, Jeni Reed <reedvirtualsolutions@gmail.com>, Barr Sigie <sigie@earthlink.net>, Mary Ann Ashley <mashley@cantonny.us>

Ian Mackellar
Chairman
Canton Town Planning Board

----- Forwarded message -----

From: **Jennifer Mitchell** <mitchejk6@gmail.com>

Date: Mon, Jul 31, 2023 at 3:08 PM

Subject: Dog Sanctuary

To: townplanning@cantonny.gov <townplanning@cantonny.gov>

Dear Chairperson MacKellar,

Please require a formal environmental review -- an SEQR -- before you make any decisions about the No Dogs Left Behind special use permit. I am so concerned about the impact on the groundwater and the Little River. I want environmental experts to identify any wetlands on or near the property that might be affected.

I am an animal shelter volunteer, and I know that the waste is significant. The EPA has called for careful composting of dog feces because it is a hazard carried into the natural system through stormwater. Only 20 dogs produce two tons of feces waste -- and that's just one kind of waste that's involved here and that could definitely hurt our natural environment. See their fact sheet here: <https://cfpub.epa.gov/npstbx/files/pet%20care%20fact%20sheet.pdf>

We enjoy such a beautiful natural environment here, and water is essential to it. I really need to see that the Canton Town Board considers requires full environmental assessment of this proposal. Otherwise, the impacts will come, one after the other, for many years into the future.

- Please require a full SEQR before you take any action.
- I am also concerned about the possible spread of dog-borne parasites that we don't even have yet in this country. They can't be picked up in the early health screenings done on these dogs.
- Please also amend your zoning laws to explicitly address the details of animal shelters and kennels. I really hope you will not approve this proposal when you don't even have detailed laws or regulations to cover this kind of facility. Thank you!

I found the County board's response to be so thorough, it gave me confidence that government is trying to keep our beautiful environment safe and healthy. I really hope that the Town Board will agree with the County or act on all its recommendations. According to *North Country This Week*, those recommendations include the following (see quote below my signature).

Thank you for your consideration and protection of our precious natural environment.

Sincerely,
Jennifer Mitchell
Colton, NY

"If the town Planning Board approves the special use permit and site plan, county planners have a number of recommended conditions for approval.

County officials want the town to clarify "how it wishes to define this type of land use, either through a Zoning Board of Appeals Interpretation of current uses, or the inclusion of an animal shelter/rescue use in its current zoning code. Alternatively, the applicant could seek a use variance."

Another caveat is specific detail about how 125 to 275 dogs will be housed in the existing, usable facilities, long a sticking point by critics who say the facilities will likely be overwhelmed by the volume of dogs coming in.

Officials at the county also suggest details about how 500 dogs will be transported to and from the property and how they will be accommodated in the event of a State-declared natural disaster.

Waste is also a key issue the county wants more details on, specifically about where waste receptacles will be located and how deceased dogs will be taken care of.

Signage was also an issue, with county officials saying it should be detailed how signs will meet all dimensional and form requirements.

Fence details also should be provided, according to the county, including how high the fences will need to be and where they will be located.

County officials also suggested contacting the State Department of Transportation to determine "if additional permitting is necessary for access to the site off of State Highway 68.

Additional concerns were also raised during the meeting, including safety for cyclists and pedestrians near the site, the lack of parking for customers and staff, where the dogs will be located on the property, environmental impacts from dog waste and urine, the potential for disease, the need for health information about each dog brought to the facility, veterinary service impacts and the need for the specification by the town of a maximum occupancy."

*Town of
Canton*

New York

Est. 1805

Town of Canton
Code Enforcement Office
60 Main Street
Canton NY 13617

Phone: (315) 714-3659 Office Fax (315) 386-4881

Cell Phone (315) 244-0600 Email Address: codeenforcement@cantonny.us

NOTICE OF VIOLATION

May 23, 2023

No Dogs Left Behind Sanctuary

1734 NY-68

Canton, NY 13617

RE: 1734 SH 68 Parcel No.: 89.004-3-44

VIOLATION Number: 23-0009

Our records show you are the current owner or occupant of record of the above stated address. Accordingly, be advised inspection of this property reveals a violation(s) of the ordinances of the Town of Canton. The violations are as follows:

Offense Code: **Section 56: Sub-Section: 56-1 Authorization of Planning Board**
Offense Description: **By authority of the resolution of the Town Board of the Town of Canton adopted on April 14, 1987, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Canton Town Planning Board is authorized and empowered under 276 of the Town Law to: Approve, conditionally approve or disapprove plats showing lots, blocks or sites, with or without roads or highways. Approve preliminary plans and approve the development of entirely or partially undeveloped plats already filed in the office of the County Clerk. Adopt such rules and regulations as it deems necessary, consistent with the New York State Town Law, to approve plats.**

Conditions Found: **Operation of a (Animal) Rescue Shelter at property without Special Use Permit being Issued**

Offense Code: **Section 70: Sub-Section: 70-10 Permits**

Offense Description: **No use or structure shall be established or erected on land developed until a permit has been issued by the Code Enforcement Officer, who shall issue such permits in accordance with regulations in this chapter. Permit applications shall be obtained and filed with the Town Clerk.**

Conditions Found: **Operation of a (Animal) Rescue Shelter at property without Special Use Permit being Issued**

It is your responsibility to arrange for the correction of the above stated violation(s) within a TEN (10) DAY period commencing from the date of this notice, and UPON RECEIPT contact this office at 315-714-3659 to arrange for an inspection prior to the expiration date of June 22, 2023

Michael J McQuade

Michael J McQuade
Code Enforcement Officer