

**TOWN OF CLARKSON
PLANNING BOARD MEETING
November 20, 2018**

The Planning Board of the Town of Clarkson held their regularly scheduled meeting on Tuesday, November 20, 2018 at the Clarkson Town Hall, 3710 Lake Road, Clarkson, NY at 7:00 p.m.

PRESENT

Board Members

Conrad Ziarniak, Chairperson
John Jackson
William Rowe
Dave Virgilio
Leslie Zink

Support Board Members

Richard Olson, Town Attorney
*J.P. Schepp, Town Engineer
Susan Kelly, Bldg. Dept.

*Excused

CALL TO ORDER

Conrad Ziarniak called the meeting to order at 7:00 p.m. and led all those present in the Pledge of Allegiance with a moment of silence honoring Veterans, military service members and first responders. Conrad Ziarniak read aloud the agenda and the Legal Notice for Public Hearing.

PUBLIC HEARING

Applicant: Nicholas Stumpf/Kojak's Novelty & Tobacco, Inc.

Property Owner: Aaron Ritchie

Property Address: 2176 Lake Road

Tax ID#: 029.03-1-31

Zoning: RS-10

N. Stumpf gave an overview of his application. He would like to open a retail tobacco store at 2176 Lake Road (downstairs). The building currently has a dog groomer and a hair salon. He would be selling tobacco, pipes, cigars, electronic cigarettes; no JUUL devices, cigarettes, or paraphernalia. He stated that his family has been in this business for 35 years (Dewey Ave. Smoke Shop) and takes ID issues seriously. There would be no lounge area and no smoking inside the building. Hours of operation would be Monday-Saturday, 10 am-9 pm; Sunday, 12 pm-6 pm. A. Ritchie (property owner) stated that there are two vacant suites in the building, two suites used for a hair salon, and one suite used for a dog grooming business. C. Ziarniak asked about available parking. N. Stumpf answered that there are 7 spots allocated for his proposed business.

C. Ziarniak asked the public for their comments.

Joan Klafehn, residing on Lake Rd., asked why the business is not located in Hamlin. N. Stumpf answered that there weren't many acceptable location options. J. Klafehn asked how his business would affect traffic in the area. N. Stumpf answered that traffic wouldn't be any different than it is now. J. Klafehn asked if he would be eligible to sell marijuana in the future. N. Stumpf answered that he would consider it if it became legal in New York state. J. Klafehn asked about the Dewey Ave. store. N. Stumpf stated that it is his uncle's business. A. Ritchie wanted to make it clear that N. Stumpf is not applying for a marijuana license at this time.

Cindy Underwood, residing on Clarkson Hamlin Town Line Rd., stated that she is a retired certified mental health counselor, a licensed psychiatric rehabilitation practitioner, retired from Park Ridge Mental Health Center at Unity Hospital. She stated that we need to create a healthier environment for Town of Clarkson residents and neighbors in the Town of Hamlin. Supporting a retail tobacco store in our area does the complete opposite. On June 26, 2018 the Clarkson Town Board voted to make the Town of Clarkson a smoke-free town, prohibiting tobacco products on

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all municipal properties. For those who have quit, smoking is an addiction. Tobacco retail stores are being labeled “nuisance properties”. A nuisance property is where unsafe activities can occur. Research has shown that tobacco outlets can promote nuisance activities, meaning it can increase robberies, drug use, and other suburban crimes. From where she lives, she walks her grandchildren to Krony’s for ice cream and sits at the outdoor tables. If the tobacco shop is located there, she will no longer do that. In New York state, health care costs for people smoking is \$8.1 billion/year. Tobacco use costs New York state households an average of \$842 annually. This all starts in a retail tobacco store. We should prevent the use of tobacco to promote a healthier community.

N. Stumpf stated that he is aware that there are anti-smoking opinions. His business often faces pre-judgement. However, since smoking is no longer allowed in public areas, smokers can only smoke in their own personal spaces which would not affect the public. There would be no smoking on the property. He never had a nuisance issue at his Hilton or Greece locations. He does not allow loitering. He feels it is not fair to not allow people to purchase tobacco products because it is a legal business. There is nothing illegal about his business. C. Underwood asked why he left Hilton. N. Stumpf answered because the landlord would not renew his lease. He wanted to bring business to Clarkson. C. Ziarniak asked C. Underwood if she had any other questions regarding the use of the property. C. Underwood reiterated that she does not want this type of business in her town or neighborhood. C. Ziarniak asked if there was anything the Board could ask of the applicant to make it more acceptable to her. C. Underwood stated that she’s concerned that it’s even an issue.

C. Ziarniak asked Courtney Ritchie (who runs the hair salon in the building at 2176 Lake Rd.) if she has any concerns about the tobacco store being located in the same building. She answered that initially she was concerned, but did research and is now very comfortable with N. Stumpf’s business moving into the building. She understands that there are concerns, but it is a legal business. It’s each individual’s choice if they want to go into his store. There is security on the building. J. Jackson stated that it needs to be understood that there is a difference between a tobacco shop and a head shop. Jerry Underwood asked what percentage of the business is vape. N. Stumpf answered 30%. In order to be labeled a tobacco store, over 50% of his products have to be tobacco-related. W. Rowe asked what types of pipes he sells. N. Stumpf answered glass, metal, ceramic, and silicone. He does not sell paraphernalia. He’s been stung many times by County, State, and Federal agencies and has never had a violation for underage selling.

A.Ritchie stated that he is a lifelong resident of the area and that the majority of what N. Stumpf will be selling in his store is not new to Clarkson. These items can be purchased at gas stations/convenience stores. Need to focus on the fact that this is a legal business that N. Stumpf will be operating on his property which he takes very seriously because his wife (C. Ritchie) also runs a business from that location. The location has previously had loitering issues and has worked with the sheriff’s department and now has security cameras installed. There are laws to regulate the business and ensure that N. Stumpf will not be selling to children. If laws are broken, the business would be shut down.

C. Ziarniak brought up the zoning issue.

R. Olson presented the following facts as explanation:

For tax purposes, the Monroe County property tax website shows that the property’s class is 482. The NYS Property Tax Code defines that as follows:

481 - Downtown Row Type (with common wall)

Usually a two or three story older structure with retail sales/services on the first floor and offices and/or apartments on the upper floors; little or no on-site parking.

482 - Downtown Row Type (detached)

The same type of use as in code 481, above, but this is a separate structure without party walls.

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Clarkson Code § 140-17 Nonconforming uses.

A. It is recognized that there exist certain structures and uses which were lawfully established prior to the passage of this chapter or amendments thereto and which are now made to be in violation of this chapter. It is the intent of this chapter to permit such nonconforming uses to continue until they are removed, but not to encourage their survival. Such structures and uses may be changed only in the direction of reducing their degree of nonconformity to this chapter.

R. Olson spoke with Jim and Pam Nesbitt; the former owners of a card and gift shop at the subject address. They purchased the card shop from Larry Merritt and his wife in or around 1978 and ran it for 31 years. Merritt was probably there for just a year or two.

It was once “South of the Border” a Tavern.

Chad Fabry (Building Inspector/CEO) had told Mr. Stumpf that the use was permitted.

The Clarkson Comprehensive Plan shows as “Hamlet Mixed-Use”.

Hamlet Mixed-Use

The hamlet mixed-use areas are the primary historic and present-day activity centers of the town. The development potential of the designated hamlets varies based on the current availability of public water and sewer infrastructure. These areas are expected to accommodate additional small- and medium-scale commercial development such as restaurants, professional offices, and convenience or specialty retail businesses; community uses such as places of worship, parks, and public buildings; and residential uses in mixed-use buildings, new or existing multi-family structures, and single-family homes. Development in all hamlet areas should include site layout and streetscape features to encourage pedestrian connectivity between hamlet uses and from adjacent neighborhoods.

Hamlin Town Line

The hamlet area along Clarkson-Hamlin Town Line Road recognizes the opportunity for mixed-use pedestrian-scaled development that builds off existing commercial uses across the road in the Town of Hamlin. This hamlet area currently serves residential neighborhoods in Hamlin, and in the future would serve residential neighborhoods north of Lawton Road in the Town of Clarkson.

R. Olson stated that this appears to be a pre-existing, non-conforming use property and can continue to be used as it has been. It also matches the Comprehensive Plan for future use.

A.Ritchie offered to give C. Underwood his phone number so that she can report any issues or undesirable activities to him.

J. Underwood asked that although N. Stumpf is not planning on selling any JUUL products now, what is to prevent that in the future. Will he be allowed to change his products in the future? C. Ziarniak stated that the code doesn't dictate to that level. Anything sold in the future would have to be legal.

Motion by C. Ziarniak
Seconded by D. Virgilio
To close the Public Hearing.
Approved unanimously

C. Ziarniak asked the Board for their comments. W. Rowe asked if there was adequate lighting. N. Stumpf answered yes. J. Jackson asked about the hair salon hours. C. Ritchie answered that they are open until 9 pm.

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Motion by C. Ziarniak

Seconded by L. Zink

To determine this a Type II SEQR Action and declare a Negative Declaration as required by SEQR.

Approved unanimously

C. Ziarniak asked N. Stumpf to state the official hours of operation. N. Stumpf answered Monday-Saturday 10 am-9 pm and Sunday 12 pm-6 pm.

Building owner to enforce the above conditions.

C. Ziarniak noted that A. Ritchie offered to speak with any residents who have concerns.

Motion by J. Jackson

Seconded by L. Zink

To approve the application for Kojak's Novelty & Tobacco, Inc. to be located at 2176 Lake Road as a pre-existing, non-conforming use with the following conditions:

- no smoking in the building
- no loitering
- not to be used as a tobacco lounge
- Hours of Operation: Mon-Sat 10 am-9 pm, Sun 12 pm-6 pm

Approved unanimously

N. Stumpf was informed that signage would need to be approved by the Zoning Board of Appeals.

MINUTES

Motion by J. Jackson

Seconded by W. Rowe

To approve the November 6, 2018 minutes.

Approved unanimously

ADJOURNMENT

Motion by C. Ziarniak

Seconded by L. Zink

To adjourn the meeting at 8:14 pm.

Approved unanimously

NEXT MEETING

The next regularly scheduled meeting of the Planning Board will be Tuesday, December 4, 2018 at 7:00 pm.

Respectfully submitted,

Susan Kelly

Building Department

Approved 12/4/2018