

Town of Byron Planning Board Minutes

Wednesday, March 3, 2026, 2026, at 7:00 PM

Byron Town Hall, 7028 Byron Holley Road, Byron, NY 14422

Those Present: Planning Board Members: Planning Board Chairman Christopher Hilbert, Bill Stevens, Laura Bestehorn, Jen Tuerk, Town Councilmen Steve Hahn, Town Attorney John Sansone, Interim Town CEO/ZEO Gerry Wood, Deputy Town Clerk, Debra Buck-Leaton, MRB Group, Sherman Gittens. Members of the Public: Rob, Yvonne Lowke

Call the meeting to order at 7:00 PM

MOTION: Motion to open the meeting made by B. Stevens. Second by L. Bestehorn. All in favor. None opposed.

MOTION PASSED

Note from Chairman Hilbert:

Please note that from this date forward all planning board meetings will be conducted as a business meeting. There will be an allotted time for public comments. At the next meeting and going forward you will need not only sign in but sign that you are requesting to speak. Each speaker is given 3 minutes.

Public comments will be on agenda items only. Agenda items will be accepted 10 days prior to each meeting and will be posted on the town website. Beyond that, it will be at the discretion of the Planning Board to add to the agenda.

Review & Approval of previous meeting minutes

MOTION: Motion to open the meeting minutes made by B. Stevens. Second by L. Bestehorn. All in favor. None opposed.

MOTION PASSED

Chris Hilbert: Laura brought up comment – add Chris Hilbert to CEO/ZEO to meet with Gerry under Joel Woodward (Playmates) section.

MOTION: Motion to approve prior meeting minutes made by B. Stevens. Second by L. Bestehorn. Second by All in favor. None opposed.

MOTION PASSED

MOTION: Motion to close prior meeting minutes portion made by L. Bestehorn. Second by B. Stevens. All in favor. None opposed.

MOTION PASSED

Novak Land Sep

MOTION: Motion to open the Novak Land Separation made by L. Bestehorn. Second by B. Stevens. All in favor. None opposed.

MOTION PASSED

No comments/questions/concerns by G. Wood or any board members.

VOTE: Vote to approve Chris Hilbert (chairman) to sign the Land Separation made by L. Bestehorn. Second by B. Stevens. All in favor. None opposed.

MOTION PASSED

No mylars yet – when they are dropped off, Kristy can let Chris know they are here, he'll come down and sign off on that.

MOTION: Motion to close the Novak Land Separation made by L. Bestehorn. Second by B. Stevens. All in favor. None opposed.

MOTION PASSED

Playmates Joel Woodward – Laura 1st Bill 2nd

MOTION: Motion to open the Joel Woodward (Playmates) section made by L. Bestehorn. Second by B. Stevens. All in favor. None opposed.

MOTION PASSED

Chris: Gerry (Wood), John (Sansone) and I met, were discussing the application.

John Sansone: To confirm, you bought the property, but did you buy the business name?

Joel Woodward: No, I bought the property only, not the business, but it was a nightclub, zoned nightclub.

John Sansone: Okay, so Gerry and I agree that because you bought the property, but not the name, this should be treated as a new application.

Joel: No, the property was zoned as a nightclub and there was another person that ran the nightclub. The lady that owned the building was leasing it to the lady that was running the nightclub so that's why it came with it.

John Sansone: The permit from the state didn't have to do with the previous applicant.

Joel Woodward: It's had multiple applicants, and multiple owners. The application was based on the building.

John Sansone: But it was based upon the building not having public water at the time.

Joel Woodward: Yeah, and I'm adding a sprinkler system. That's something I'm discussing with the fireman or the fire safety company. So, if that's the issue, it'll be gone.

John Sansone: So, I guess the issue that we must work out is... Defer to Gerry to discuss why he would think it should be treated as a new application.

Gerry Wood: The building was not rezoned, it still falls under the residential zone area, and it was a special use permit.

Joel Woodward: It was zoned nightclub, when I purchased it, that's what it was zoned as.

Gerry Wood: But the building didn't get rezoned, to get it rezoned, you'd have to change the whole town law and you didn't change it, they didn't change it.

Joel Woodward: Yeah, it's been this way for over 40 years.

Gerry Wood: What you bought was a building.

Joel Woodward: What I bought was a building, zoned nightclub.

Gerry: Yes, it was a nightclub, under a special use permit.

Joel: Yes, and that permit comes in the state of NY with the building

Gerry: No, it comes with the business.

Joel: No, it comes as an extension of the building, not the business. It came with all the special uses and the nonconformities that it had and that's why it's protected by the State of New York.

Gerry: I do not believe so, no.

John: Another issue, to have a valid nonconforming use, it has to be valid at the time that it was used in the past. Christopher brought up last time some aspects of it that the board doesn't believe, parking, setbacks, there was a church there at the time. So, you would have to demonstrate that it was valid back then in order for it to be valid now.

Joel: The parking was approved; there was enough parking.

John: Who approved it?

Joel: Melissa said there was enough parking.

Gerry: For me, going into this, I have no site plan or anything from you. So I would need an updated site plan.

Joel: I've already been doing this for over a year, and I was told all I had to do was provide proof. I was told that it's been closed for two years which is false. And now it was just prove that it was open so I can get an inspection.

John: That's not what you were told, it's not black and white like that.

Joel: I couldn't start a special use permit. The property is non-conforming. I can't start a new club there, cause it would not pass zoning. That's what the nonconformance was. That's why I bought the property, the property was coming with that.

John: I think one of the issues is that it has to be valid before for you to use the preexisting nonconforming use now.

Joel: You guys said that. So those zoning laws were stated in a certain month of whatever year and this club has gone all the way to the state to get it's special use permit after they stated that. So it superseded whatever zone you put.

Gerry: The state doesn't issue a special use permit.

Joel: It went to the state, it went to the Supreme Court.

Gerry: All that went to the court is for the sprinkler system, per the documents I have here.

Joel: I would not have bought a property that I could not rezone into another dance club because it would be that. You cannot open, I cannot start a new application because that would just get denied because of the zoning laws. This is why the property a special use permit and was zoned as a nightclub. I spoke to Melissa about this and she said yes it is all this before I purchased it, I spoke with her the day I purchased it and she still never knew about it and there were no issues until I started coming to meetings and trying to get her to email me information. I would not have purchased a property that I had to turn into a nightclub, this was purchased under a nightclub.

Gerry: It was not zoned nightclub.

Joel: In all the paperwork from the state.

Jen: Can I ask what paperwork? You have something that says it's zoned nightclub?

Joel: Yeah when I was purchasing it stated it

Jen: From the state or from the company you purchased it through?

Joel: I asked the zoning person and she stated that's how it was zoned. If you google it, it says it's zoned night club right on there.

Jen: So you bought the building assuming you were going to be able to purchase the business?

Joel: The business came with the building, well it's part of the building. The building has a non-conforming use, the business did not.

Jen: So you made two deals? Because you'd have to buy the business from the person that you just said it was two separate entities. You bought the building.

Joel: No, I'm not running playmates, so I don't need her name.

Jen: So you don't need the special use permit for Playmates, you need a new one for a new company.

Joel: I have my own LLC in the State of New York. It's for entertaining. The building has a non-conforming use and special use permit.

John: Okay, we will have to look into that, whether it runs with the land but you're talking about the decision from 26, November 2022, right? In front of the Dept. of Health, is that what you're talking about for the sprinkler system? Because it only addresses the sprinkler system. It gives you a special use permit for the sprinkler system with specific conditions, nothing else.

Joel: This is a non-issue. The building is set with a non-conforming use and that's what it is. It's not the business, it was the building.

John: The specific document you're talking about is a 4-page document that talks about from the state is a special use permit and it only talks about the sprinklers.

Joel: So it continue to be a business that it is, yes.

Chris: The sprinkler allowed the individual who owned the property to have apartments up above. That's what the sprinkler system was for, when the application came in, was for occupancy on the second floor for rental properties, it had nothing to do with the business.

John: Chris, did you see anything in the clerks office that indicated they gave a special use permit for anything other than a sprinkler system?

Chris: I don't believe so.

Joel: From the foil, there is handwritten notes from the then zoning official about the non-conforming building so they have a year to fit it on the roof part. So it states there that the building came with a non-conforming use.

John: The issue with that, is that whether it was legal.

Chris: To put on record: Article 11, section 1117: a special use permit issued under the provisions of this section shall not be transferable.

Chris: Please note: We found the note, going back to your comment, dated November 5th, 2025. Your question pertaining to being open. Melissa (Ierlan) reported to the Town Board that "I was told 7548 Byron Holley Rd has been sold at auction. As I read the zoning code, it states that special use permits shall expire at the discontinued use for more than six months. I did an inspection on April 17, 2024 and at the time the woman I met with, Angela, who was the manager, said they hadn't been open for several months because the owner got married. The club, as far as I'm concerned, has not been open for over a year, because if she was, she would have called me for a fire inspection by April 17th and never did. I just assumed it was closed. I was told by a neighbor that there were people living upstairs. I

drove by a couple times, and I couldn't tell if they were or were not. Also, in the report to the board, it was referenced to section 11.12, adult uses, which is in our zoning, and it talks about 500 feet from another adult use, a residential, agricultural zoning district. It has to be 2,000 feet from a school, a place of worship, or a playground. No use shall be permitted, operated, conducted, or located in any zoning district other than industrial. Such you shall show that all requirements of local law in 2002, and the event of a conflict with this local law, the provisions of that law shall control. Local law 2002 lays out these same standards."

Joel: Because the property is a non-conforming use.

Chris: At a meeting between John, Gerry and myself we discussed the property, and the property (including the land building and contents) was purchased at auction. Please note that only the real property was acquired, not the business entity itself. In my opinion, this should be treated as a new application. As such, it will require a short environmental assessment form (SEAF), special use permit and a site plan. The application must comply with all current town of Byron and New York State laws and codes. Please keep in mind the following requirements:

Adult zoning, adult uses must be located in an industrial district, and meet specific setback requirements from the residences, places of worship and schools. Occupancy, the building is currently ready for occupancy of 60 people on the first floor only. Parking, onsite parking is required for approximately 30 to 35 vehicles, almost 40 vehicles maintaining proper setbacks from adjoining properties. The building must be ADA compliant. New York State requires 3 handicapped accessible parking spaces, including one van accessible space. Additionally, the building and bathrooms must also meet New York State accessibility standards for ramps, doorway widths, and bathroom configurations.

John Sansone: To sum it all up, there are four issues we need clarity on:

1. Whether or not the place has been open for a year
2. Whether there was a special use permit given to previous owners that would apply to Mr. Woodward.
3. If there was a preexisting non-conforming use, whether that and a special use permit runs with the land and whether it does in this instance.
4. Whether or not the property was valid, the use was valid back then, that would carry forward in Mr. Woodward's argument that it should be valid now because of the pre-existing non-conforming use.

Gerry: If any one of those four comes back as no, it'd have to be a new application.

MOTION: Motion to close the Novak Land Separation made by L. Bestehorn. Second by B. Stevens.

All in favor. None opposed.

MOTION PASSED

Bergen Swamp LLC review 7:47 pm open

MOTION: Motion to open Bergen Swamp LLC made by L. Bestehorn. Second by B. Stevens. All in favor. None opposed.

MOTION PASSED

Sherman (MRB): We've previously discussed conditions of approval for this project. The concerns previously raised regarding removing properties that were sold from the ag district and converted to residential zoning and not agricultural use. The long and short of it is taking that total away from the larger grand total and at this point, it did not seem to bring this project to that 10%. Developing true metrics for the 10% cap is a moving target. This project will not bring us to that 10% total at this moment, with the information we have now.

Caution the board on implementing strict conditions of improvement. There are limitations surrounding enforcement. Recommends reporting, indicating clear cut identifications on reporting for any special use permits that are beyond what the code identifies and beyond the things that we still need to be finalized.

I would like to see there to be very specific language regarding when you anticipate inspection of the screening, so that a report should be generated and sent to the code enforcement officer to review. And with that, a management plan to manage any dead or dying or sick vegetation. This is in the O&M, but what we've done with other communities is set it up as a condition of approval, that in April, taking your first look at how the plants have done with wintering. This is giving guidance on the expectations that you will go out in April, inspect it and come up with a plan on how you're going to manage it and then come have something planted prior to August. The other parts too, are post-construction maintenance kind of conditions, identifying the expectations of providing as built drawings with the decommissioning plan.

John: My thoughts on how to proceed (to Rob P):

After hours lighting and maintenance – no onsite lighting. Requiring pre-construction meetings will hammer out all the little de

Rob P: No BESS, no horizontal drilling.

Fiona – Work with Joe, set up a meeting for 3/13 at 1 pm

Jen & Bill can be available for the meeting with John, Sherman & Gerry.

Steve Hahn – get a new updated picture from the road. .

Adjourn Bergen Swamp LLC review – Laura 1st Bill 2nd

Zoning and Codes discussion/possible additional meeting –

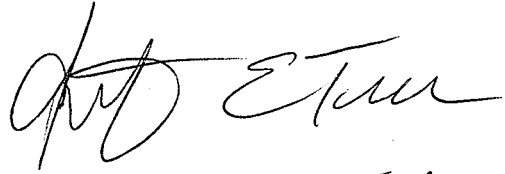
Chris: On hold until Bergen Swamp & Joel Woodward are completed.

Motion – Laura 1st Bill 2nd

Misc. Agenda –

Data centers need to be researched, it's going to be introduced into the town board.

Meeting Adjourned – Laura 1st Bill 2nd 8:33 pm


Jennifer E. Turk