

**Town of Waterford  
Planning Board  
65 Broad Street  
Waterford, NY 12188**

**December 8, 2008**

The meeting began at 7:25 with a Notice of Public Hearing being read for a new design and upgrade at the Stewart's Shop on Middletown Road. The two gasoline pump and old tank will be replaced with a three pump island and two new tanks.

Tom Lewis of Stewart's detailed the project and estimated the project to last about three weeks.

Mr. Lewis stated that he had jumped the gun on the meeting date and sent notices out for this month by mistake.

A member of the audience, residing on Fonda Road expressed concern regarding the length of the project and the extra traffic it will generate.

Mr. Lewis stated that there will be trucks there doing the work, not too early.

The Chairman replied that the current gas island will be ripped out and replaced with a three pump island that will be placed on a diagonal.

Mr. Lewis confirmed that the next Planning Board meeting will be on January 12, 2009.

The Chairman replied that the application has to be sent to the County; next month this Board will also need additional data. There is no need for another Public Hearing as this one was already posted. The distance from the existing pump to the building is narrow, the new design will allow for more room to maneuver a car, there will be a little grass and asphalt disturbed, but it will be replaced. This new design will also limit cut through traffic.

The Chairman closed the Public Hearing at 7:30 PM

At 7:31 PM a Notice of Public Hearing was read for a Site Plan Review for three apartment buildings, four units each, to be located at the end of Mercer Street.

Christopher A. Marchand summarized the project stating it will involve three four unit buildings and the project originated about ten months ago. There were concerns of the Planning Board in regards to vegetation, the existing hillside and impact of construction. There will be no excavation of the hillside. There was also a concern that apartment style

housing can bring issues, such as transient tenants. There will be thorough background checks on all tenants. He and his father are members of this community and are hoping this project proves to be an asset. In regards to the rent that will be charged, they will look into the income range that goes along with the neighborhood.

Lisa LaForest-15 Mercer St. - expressed concern regarding the parking on Mercer Street if someone from the apartments has company. It is already very hard to park on Mercer Street. How many parking spaces per unit were allotted?

Christopher A. Marchand replied that the Zoning requirements call for one spot per unit but the Planning Board asked for increased parking; now there are 20 spots with three handicap spots for a total of 23. The way the parking spots were distributed, they feel there will be ample parking. The parking is self contained on the complex property.

Ms. LaForest asked when will the price of rent will be determined, as this is important as to what kind of people this project will attract.

Christopher A. Marchand answered that once construction is started, they will have a better idea; they want a return on their investment. Building materials used will also play a part. The idea is to recoup their money.

Christopher G. Marchand asked what Ms. LaForest's concern is.

Christopher A. Marchand added that they crunched numbers as to what they need to recoup, they will also be taking care of the property themselves.

Ms. LaForest stated that she is not interested in the "project" being in her backyard. What if there is trouble, who gets called? Have they looked into using an entrance through Van Schoonhoven?

Christopher A. Marchand answered that they have looked into getting access through Van Schoonhoven but they are very slow to work with. They are owned by the Federal Government. They are not open to access through their property. We can't force them to give us access. As far as problems, they will try to take care of any issues that may arise.

The Chairman clarified that this access was only to be used as an emergency exit. It is a private road. This was the only thing proposed for this access. Maybe in the future, the Marchands will be able to work with VanSchoonhoven to secure an emergency exit.

Rich D'Arrigo- 8 Hillview Terrace- stated that the Board did not have a clear understanding of what the adjacent property owners wanted on Hillview Terrace. It wasn't to not disturb the vegetation. The steepest part of the hill is not in its original state anymore. Poplar trees are falling over from their weight, the impact of the hill will impact the properties of Hillview Terrace. He has put in a retaining wall on his property many years ago. The idea of housing on a lot that was the site of all kinds of dumping many years ago not affecting the project? This is public record. There was dumping

going on at all hours of the night with the original owners. Is there a net effect of the dumping, whatever it could have been? The drainage water has changed direction, Bechard Lane empties to the bottom of the hill, closer to the base of the hill has now eroded because of this, and the slope is gradually eroding due to the water at the base. Can the Board as an authority, ask the new land owners to take care of this problem? They will have a problem if the rest of the hill slides into the parking lots. No one has attended to this hill in the past 35 years. The trees have become too large; they need to be cut down and something else put in place to help retain the hillside, such as crown vetch vegetation.

The Chairman replied that this issue has been brought up before. The applicant committed to build in a certain spot. If they go and take trees down on the hill, according to DEC regulations, that area now needs to be counted into the whole project.

Mr. D'Arrigo clarified that this will affect the project?

The Chairman answered yes, the Board has a plan of the whole project and it is close to the DEC threshold. We asked him to stake out the area he will be working on with silt fences to mark out one acre. The applicant does have a risk, he can deal with the trees now and the project expands, or he can wait and see. This is a risk he is taken.

Mr. D'Arrigo stated that there is evidence now that the hill is an issue. Only one acre out of five total is affected. Is it only ENCON who can give us a reason to act further.

The Chairman replied possibly.

Mr. D'Arrigo stated that the presence of fill is what has done harm to them now.

Christopher G. Marchand replied that the area is a gravel bank. Over time, it will erode. There is no evidence of erosion at the bottom of the slope where the trees may be bigger.

Mr. D'Arrigo asked if with equipment, can they take down the bigger trees?

Christopher A. Marchand stated that the original concern was because of the hillside, they moved the project to not go near the hillside. Trees are a known stabilizer.

Mr. D'Arrigo replied that it depends on the roots and the weight of the tree. He has two retaining walls in his yard and the land is still eroding.

Christopher G Marchand stated that if the Town wanted him to take down trees as a part of being accommodating, there isn't a problem.

Ms. Lipatas replied that they will not be disturbing the land, it is just maintenance and there is no problem in removing the trees. It will not impact the DEC 1.0 acre requirement.

Mr. D'Arrigo stated that he will add crown vegetation on his own to help stabilize the slope.

The Chairman added that if their willingness to cut down trees does not affect the DEC requirements for working on more than one acre, then the Marchands should go forward and remove the trees.

Christopher A. Marchand replied that he can't say today what trees are to go, he will have to take a look and determine the course of action.

Mr. D'Arrigo stated that there are three trees at a 45 degree angle, they come closer to his property. The shape of the hill varies.

The Chairman replied that after the hearing, the Board will discuss the parameters and angles of the trees that need to be cut down. Trees at 20 degree angles could be stable.

Frank Lewenduski- 6 Hillview Terrace- described what he thought was a gun shot some time back, only to realize that it was a tree cracking and falling. Some trees are so far beyond their growth state. They are too high and when they go down they hit other trees, you don't seem concerned but you should, just get these trees out of there. Good luck with the project because I know you will do a good job.

Christopher A. Marchand replied that he is concerned with the trees.

Mr. D'Arrigo reiterated the history of the gravel pit and dumping and the age of the trees. Some trees are far larger than need to be.

Rob VanBramer- 12 Mercer Street- asked about a rumor he heard that Mercer Street would be widened. Also, will the sewer be directed through Van Schoonhoven or Mercer Street? Residents down Mercer have had problems with sewer backup and adding twelve more units can make a bigger problem.

Christopher G. Marchand replied that they will tie in at Mercer Street; they have an o.k. from the Sewer Department. A lot of line has been replaced. He spoke with Rich Thyrring from the department and the problems these homes experience is not with the sewer main, but with house services. There are homes that still have Orangeburg pipes and these people have house issues.

The Chairman added that the Board only has authority on the Town section of Mercer as far as widening is concerned, but the majority is a village street.

Christopher A. Marchand replied that they are not proposing to widen Mercer Street.

The Chairman added that parking issues are the reason why the Board asked for more parking spaces to be available. The Town Code required twelve parking spots, the applicant came back with a proposal of eighteen spots, and has now planned for twenty

three spots. The applicant also had to be ADA compliant. Parking on Mercer Street will always be a problem.

Nancy Clusert- 1 Mercer Street- asked about the usage, there will be more washers which means more water for the lines. She had to call Roto Rooter about ten years ago.

The Chairman answered that the Sewer Department says there is enough capacity; and the problem may be with the owner's individual lines, not the main line. Some residents may need to look into getting these older lines replaced.

Christopher A. Marchand said his plan is to go away from Mercer and through Van Schoonhoven but he has been waiting for a response.

Christopher G. Marchand added that the advantage of this route is it will all be done by gravity, but they could wait years before they get an approval from HUD.

Ms. Clusert asked if they are going to stop the parking on Mercer Street.

The Chairman replied yes on the Town portion, we have no authority over the village. From Ms. Mullahey's house up there will be no parking, she is on private property. Down from there is fifty feet of public road then the village road starts.

Mr. D'Arrigo asked about the sanitary sewer.

Christopher A. Marchand replied there is a public manhole. You'd have to cross twenty to thirty feet of their property to access their drain at Van Schoonhoven.

Mr. D'Arrigo stated that storm drainage is the issue. Where the water drains at the bottom of the slope, it has to be directed elsewhere. Erosion wouldn't be a problem if this runoff from the hill was emptied somewhere else and allowed to drain.

Ms. Lipatas replied that this is a low lying area and the water infiltrates. He is not touching the drainage.

Christopher A. Marchand confirmed that he is not touching this drainage.

Mr. D'Arrigo questioned the storm drainage of the parking lots.

Christopher G. Marchand replied that it will not alter the drainage, it will stay the same.

Mr. D'Arrigo asked if the site plan shows this.

Ms. Lipatas answered yes, and pointed to the area in question on the plan. The stormwater infiltrates in this area. It has been confirmed with DEC. The applicant needed to identify area of disturbance. There is no SWPPP. No stormwater report needs to be reported.

The Chairman added that the Board had concerns with other areas of stormwater.

Christopher A. Marchand asked Mr. D'Arrigo how come after all these years you never approached the Town to help clear this up? We are not near the toe of the slope.

Mr. D'Arrigo replied, while looking at the site plan that it just came to him as you discussed the grade and drainage of the site. If you are not sending water to the toe of the slope, is there a swale to separate the area? Paving the parking lots won't change this? The parking lot puts the water where?

Mr. Marchand and Ms. Lipatas reviewed the plan with Mr. D'Arrigo.

Mr. D'Arrigo responded that looking at the plan has answered his questions.

Christopher G. Marchand stated that Mr. D'Arrigo's home is at the end of a gravel pit, and there will always be erosion. You should know that.

The Chairman added that it is the nature of the property.

The Chairman closed the Public Hearing at 8:24 PM.

At 8:24 PM the regular meeting began with attendance being taken. Present were members Harriett Fusco, Peter Fletcher, Robert LeFebvre, Alternate member Richard Hurst, and Chairman David Woodin. Also present was Rene Lipatas, CHA Inc., and Raymond Carmel, Building Inspector. Absent was member David Wendth.

The Chairman stated that the Public Hearing turned into a meeting per se, they can move on to the lengthy letter given to the applicant at the last meeting from CHA Inc. with items to be addressed.

Ms. Lipatas addressed the issue of maneuverability. Chief Fairclough looked at the plans, and egress as will, and had no concerns and this issue has now been put to bed. In regards to stormwater, DEC was contacted about the area of disturbance, less than one acre. The Board recommended that a surveyor will stake out the area as to not have to comply with SWPPP. If the applicant goes out of these boundaries then a stop work order will be issued and there will be new requirements from DEC.

Ms. Lipatas asked if the water line will go through Mercer Street or Van Schoonhoven.

Christopher G. Marchand replied that even if Van Schoonhoven gives them the ok, it is still cheaper to go Mercer Street. But the other option is still available. VanSchoonhoven has an illegal water line, there is no easement.

Ms. Lipatas stated that the plans will have to be changed for the sewer lines prior to being stamped.

Christopher A. Marchand replied that VanSchoonhoven does not seem to want to work with them. They can crunch numbers and see what's more viable. Can they let you know ASAP?

Ms. Lipatas replied that all this has to be on the plans. They have a letter provided by the Sewer Department and the Board needs to see the revised plans prior to their ruling.

The Chairman asked if there can be conditional approval upon receipt of information form VanSchoonhoven?

Ms. Lipatas replied that the Board does not want to sign or stamp plans conditionally. The easements for the water have been located, but a map and descriptions prepared and approved by counsel needs to be provided. The issue of handicap access and some building plan inclusions, the layout plan, which is more for the Boards consideration so we know if the buildings are in the correct place, are the only key items outstanding from the first meeting.

Mr. Fletcher addressed the issue of the cutting the trees on the slope. Common sense needs to be used. Do not cut trees that are still viable, you do not want to create more of a problem. We just want you to be careful.

Mr. D'Arrigo reiterated the heights of some of the trees.

The Chairman asked the Board for conditions.

Mr. Fletcher responded that you can't quantify the cleanup.

Mr. Hurst replied that the builder should assess the situation.

Christopher G. Marchand replied that they will take care of the trees, they will go look at the hill and see what needs to be done.

Ms. Fusco replied that at this point both Chris and Chris are knowledgeable and know what trees need to come down and which ones don't.

Mr. Lewanduski agreed.

The Chairman asked if the Board is prepared to approve the site plan tonight?

Ms. Lipatas replied that the applicant needs to incorporate sewer lines on the plans plus meet the following: 1) The cut trees need to be addressed, 2) handicap building access issues, 3) map/description of proposed easements on drawing and ingress/egress map description with understanding, prepared by counsel, 4) show where the sewer line goes on the map. There should also be a meets and bounds.

Christopher A. Marchand replied that it is a stand alone document. During construction they won't accept the line.

The Chairman made a motion to approve the site plan for the Mercer Street Apartments with the four conditions outlined by Ms. Lipatas, seconded by Fusco. The motion passed 4-0 with one abstain.

Fletcher	yes
Fusco	yes
Lefebvre	yes
Chairman Woodin	yes
Hurst	abstain

Mr. D'Arrigo thanked the Board for their efforts.

Jody Westervelt and Kim Fan came before the Board to discuss a potential site plan for a nail salon located at 104 Hudson River Road.

The Chairman stated that if people show up with appointments there will not be a lot of traffic.

Ms. Fusco asked if there will be walkins?

Ms. Westervelt replied that she is the only employee, so there will be no walkins.

The Chairman stated that the applicant went to the ZBA first for a variance regarding change of usage; now the salon is a legal usage in that zone. It was an industrial/commercial zone. Tonight is the sketch plan and we will run through the requirements. The big issues are parking, landscaping and lighting since there are homes in the area.

Mr. Fan, the property owner, replied that Mr. Pakatar is on the side by the garage and there is a line of shrubs on his side where the parking garage is.

Mr. Hurst asked if there is work to do on the inside.

Mr. Fan answered that there is some plumbing work and it needs to be trimmed out and painted.

Mr. Hurst confirmed that they are not ready to open yet.

Ms. Westervelt replied that they will do whatever needs to be done to get a Certificate of Occupancy.



The Chairman added that they will need to have a Public Hearing. The only issue at the ZBA was a change of usage from the existing zoning in the neighborhood. The size of the outdoor sign was questioned.

Mr. Fan replied that it is probably a 3x10 sized sign, and it will have lettering. He handed the Board a rough sketch of the site in question.

Mr. Carmel added that it looks more like a 4x10 size.

Mr. Hurst asked about parking.

Ms. Lipatas supplied the provisions for parking. She added that it is one spot for every 100 square feet.

The Chairman stated that this would be three plus parking spots, being ADA compliant is not needed for such a small lot, about 325 square feet.

Ms. Lipatas suggested having four parking spots.

The Chairman replied that there is already pavement there; they just need to delineate where the four spots will be. What type of lighting will be used?

Ms. Lipatas added that it looks like there is already mounted lighting on the building.

Mr. Fan replied that he had it on at night, it shines down on the lot, there was not a problem with it reflecting on to the neighbors.

The Chairman added that the idea is not to reflect into the neighbor's yards. The plan for landscaping was questioned.

Mr. Hurst replied that Ray had looked at the site and you would have to dig up the lot to put down landscaping.

The Chairman added that Mr. Pakatar already has shrubs that line the property so further landscaping is probably unnecessary. We can schedule the Public Hearing for next month.

Ms. Lipatas questioned the fact that they require a Site Plan, stamped and signed drawing, but not quite sure in this case as they are not modifying anything.

The Chairman stated that usually the Board has a plan they look at first and then they make decisions based off that.

Mr. Fan expressed his annoyance and concern with this whole process. Jody's original business closed down in August, they have since been running around to get items

needed by these Boards. Mr. Pakatar has been helpful. We aren't changing the building, he doesn't understand all this.

Ms. Westervelt added that during this idle time her clients have been going elsewhere, it will be harder to get them back. She's losing money.

The Chairman answered that you are changing the usage of the property. When you come for the site plan review, we don't necessarily know the parking, lighting and other issues that are involved in this process for your usage. We first have an informal sketch plan meeting before getting into the details of the plan. You are not being singled out; it just took longer because you had to go before the ZBA to have your usage changed. It did take a little longer than typical.

Mr. Fan asked what they have to do to move forward.

The Chairman informed Ms. Westervelt that she needs to send out a notice for a Public Hearing. Only a few people are in the vicinity as abutters.

Ms. Westervelt asked if it was to the same residents she included in her mailing for the ZBA. It was only four people.

The Chairman asked Ms. Westervelt to bring the green cards to the January 12, 2009 meeting; this will be the Public Hearing. The wording of the mailing was discussed.

Ms. Lipatas went over the site plan review checklist; an engineer would be able to assist you with these items. A site plan will need to be stamped and signed and include the items on the list. A SEQR short form can be faxed over to you.

Mr. Hurst added that he does not feel all this is necessary.

The Chairman replied that this is a zone change, it's now commercial.

Mr. Hurst stated that we can save them the money of engineering fees by not pushing for formal plans. The Chairman responded that there are laws which require professional to prepare plans. The laws provide protection and minimizes liability for both the Town and the applicant.

Ms. Lipatas added that the State DOT and County Planning Board will have to be notified as this is a county road.

Mr. Hurst stated that there is an existing driveway.

The Chairman responded by saying the State DOT has to provide you access to the driveway. This is a minor commercial site; looking at the driveway you can easily control the access to the building. If they hadn't changed the usage they wouldn't have to do this.

Mr. Hurst asked if the applicant needs to contact DOT before the next meeting.

The Chairman replied yes, it is a state highway and we do not control that. Any access changes are up to the DOT.

Ms. Westervelt asked if she needed to hire an engineer, and contact DOT?

Ms. Lipatas responded yes. They will know how to handle all this. She will check the County Code as well and let you know whether Saratoga County has to be notified as well. She will need the all the information by the 5<sup>th</sup> of January to be able to have time to look it over before the actual meeting.

The Chairman added that the Town Board is passing a Memorandum of Understanding which would allow the Planning Board to declare a project of no significant interest to the County.

Mr. Fletcher asked if we can pass something for no impact.

The Chairman responded that there is an impact, DOT needs to be involved.

Ms. Lipatas stated that she believes this has to go to the county for approval.

The Chairman added that he can go to the county and have them look at it within twenty four hours.

Ms. Lipatas said she will call DOT while she waits for the plans to be prepared.

Ms. Westervelt asked how much it is to hire an engineer.

Ms. Lipatas stated the price can vary; it depends on who you get. They are usually all in the same ball park.

Ms. Westervelt asked if she could get an idea of the price, just give her a figure so she knows what to expect.

Ms. Lipatas replied that the estimate could be around \$2-3,000 dollars.

Ms. Westervelt became visibly upset and exclaimed that she does not have that kind of money to do this. Just forget her application, because she does not have the money to do this. She is just trying to open a nail shop that will be one client at a time. She has been out of work for months and now she needs to come up with money she doesn't have to reopen. Her clients will go elsewhere. She's done all we asked, she has gone to the Building Inspector who sent her to the Zoning Board and now she is here, no one told her what to expect. No one told her about an engineer. She is trying to open a legitimate

business. What about all the people in Town who are doing hair out of their homes, why is she being penalized. Just forget her application.

Mr. Fan thanked the Board for nothing as they exited the meeting.

The Chairman addressed the Board and said the applicant is changing the usage of the building; they need to go through the site plan approval process. Mr. Fan's father once had a welding business in this location, but it has been out of business for more than a year so any grandfathering rights that may have existed are null and void.

Mr. Hurst replied that this process should be changed. There is a difference between a lady who wants to do nails and someone who wants to operate a junkyard. He knows what the law says but doing the right thing should also play a part in this process.

The Chairman discussed Mr. Hajeck and the fact that he has retained a new law firm that has been in contact with the Town's attorney about the status.

The Chairman made a motion to call for a Public Hearing on January 12<sup>th</sup> at 7:30 for a proposed nail salon at 104 Hudson River Road. In case the applicant decides to move forward, we will not delay her any further. The motion was seconded by Fletcher and passed 5-0.

Fletcher	yes
Fusco	yes
Lefebvre	yes
Hurst	yes
Chairman Woodin	yes

Ms. Lipatas stated that Scott Lansing called to resume the Site Plan Review of the Despart PUD proposed for Hudson River Road.

The Chairman made a motion to close the meeting at 9:50 PM.