

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

January 12, 2009

At 7:30 PM, the meeting began with attendance being taken. Present were members Peter Fletcher, David Wendth, Harriett Fusco, Robert Lefebvre, and Chairman David Woodin. Also present was Rene Lipatas, CHA; Ray Carmel, Building Inspector; Craig Crist, Town Attorney.

The Chairman stated that he would like to defer the reading of December's and Novembers minutes to the end of the meeting.

The Chairman addressed the Board regarding the Site Plan Review of 104 Hudson River Road. At last month's meeting the applicant, Jody Westervelt, asked that her application be pulled due to the unanticipated expenses and work involved in obtaining a building permit. The applicant was hoping to open a nail salon. The owner of the property, Kim Fan, had received a variance from the ZBA for change of use.

The Chairman asked the Board to reconsider their request for a Site Plan Review and approve the applicants plan with conditions.

The Chairman added that he has toured the property and in regards to lighting there are three existing lights above the door that do not shine on other properties. Mr. Pakatar is on one side and a car port is on the other. Neither was impacted by these lights. Four parking spots are recommended for this lot. There is about fifty two feet to the front door from the road; the spots would take up a 10x20 foot space, not to be on the road.

The Chairman added that the current landscaping is OK as is the existing 4 x 10' sign.

Mr. Carmel stated that the code limit is much larger, they are fine.

The Chairman replied that they can waive the requirement of formal professionally drawn plans, but the Board should receive a clean copy of the sketch plan, drawn to scale showing the site with the buildings and parking layout. The parking spots should be striped in white and the spots should remain on the Fan property and not extend all the way to the road. There should be a gap of about six feet from the first parking spot to the door to allow for maneuvering. The plan will need to be reviewed by DOT also since they are on a state highway.

Mr. Carmel added that DOT is aware of the location and he has a copy of the application DOT requires from the applicant. DOT will extend Ms. Westervelt extra time to complete the application due to the winter months.

The Chairman added that typically DOT will apply access control standards which may require the applicant to shrink down the entrance from the highway with something such as landscaping or a large planter. This will delineate the entrance and exit using a standard, minor commercial driveway width. The Chairman asked the Board if there were any other concerns or additions.

Mr. Lefebvre made a motion to approve the site plan with conditional approval relating to the items discussed, seconded by Mr. Fletcher. The motion passed 3-0, 2 abstain.

Fusco	yes
Fletcher	yes
Lefebvre	yes
Wendth	abstain
Chairman Woodin	abstain

Craig Crist informed the Board that Randy Hajeck sent a proposal to the Chairman regarding his plans for Carriage Way. The Chairman is reviewing this proposal.

Mr. Crist asked the Board to request that Mr. Hajeck be present at the next Planning Board meeting on February 9, 2009.

The Chairman made a motion to request the presence of Mr. Hajeck at the next Planning Board meeting on February 9, 2009, seconded by Lefebvre. The motion passed 5-0.

Fusco	yes
Fletcher	yes
Wendth	yes
Lefebvre	yes
Chairman Woodin	yes

Mr. Crist informed the Board that there is a new proposal for a home on Lot 50 in Riverbend. They are waiting for the ACOE to give them information on the wetlands. After reviewing notes from Copeland and Associates, they stated that any infringement on the wetlands in the subdivision may result in the permit being evoked. There will be no further building permits issued for this lot until the Town hears from the ACOE.

Tom Lewis of Stewarts came before the Planning Board to continue his site plan review for expansion of the Stewarts at 280 Middletown Road. The existing two gasoline pump island and old tank will be replaced with a three pump island and two new tanks. He was unable to locate any old references to the height of the canopy at the site. When Stewarts purchased the property, the gas facilities were already built. They had assumed that it was built to code and they have never experienced problems with canopy heights before.

The Chairman added that there may have been a variance for the height of the canopy at this site when it was Citgo. Stewarts bought it as Citgo and basically just cleaned up the aesthetics of the property.

Mr. Lewis replied yes.

Mr. Crist stated that there is a fifteen foot maximum height requirement for accessory structures under Town Code. This is universally enforced. He does not remember the ZBA granting a variance for this canopy.

Mr. Lewis replied that they are not altering the current canopy. They are looking to keep what was approved.

Mr. Crist answered that the Town needs to protect itself. We need to make sure things are followed according to code. Just because someone says this is how it's always been done, does not mean it is "ok", or meets town code.

Mr. Lewis asked if he can get approval contingent on providing research that shows the canopy was built legally.

Mr. Crist replied that we need to see if the fifteen foot maximum height restriction was not enforced in 1995. If there was an error in not requiring a variance for the height of the canopy, it does not mean we will allow you to go forward.

Mr. Lewis added that Stewart's bought the property in 2005 with work done in 2006.

Mr. Crist stated that it is incumbent on the applicant to show the height of the canopy was grandfathered at the higher height of 17' 1".

The Chairman added that he can look through previous Board minutes to see what information he can locate relating to Stewart's.

Mr. Crist replied that it is the applicant's responsibility to locate the history on this matter. The ZBA deals with accessory structures and it will need to be shown that they consider a gas canopy an accessory structure.

Mr. Lewis stated that he has never had any other issues with gas canopies.

Mr. Crist replied that there is not a specific regulation that deals with gas canopies.

The Chairman added that thirteen feet six inches is the legal clearance of vehicles. The canopy will most likely be over fifteen feet. Mr. Lewis was told to try and locate the information regarding the height of the canopy when it was purchased. The ZBA meets in two weeks and you may want to attend that meeting to schedule a public hearing to obtain a variance for the canopy height in case you cannot locate any information.

Ms. Lipatas referred the Board to her review of the project. Mr. Lewis has gone over the list of changes and will incorporate these into the next plan.

Mr. Lewis stated that wants to maintain a good relationship with the Board.

The Chairman stated that in 1996 Stewart's showed 41% greenspace on the property. As it stands now, you show 34% greenspace. It seems you have added more blacktop. There is a letter from Saratoga County which stated no significant impact for this project. There was public hearing last month; the only comments related to the length of the project and concerns for additional traffic. The items that need to be addressed are the minor things that Clough Harbour asked to be included in the plan such as verifying that the canopy was approved for greater than 15 feet and finding another 1% of greenspace.

Ms. Lipatas added that the requirement for the Town is 35% greenspace. This seemed to be impacted by the required parking.

Ms. Lipatas referred to section 161.20 in the Town Code relating to maximum building height and stated that she views the canopy as an accessory structure. The main shop is the main building or the principle use on the lot.

Mr. Lewis asked where he can find the definition of an accessory building.

Ms. Lipatas replied section 161.06.1 or 161.3, word definitions.

The Chairman referred to section 161.3, definition of a filling station.

The Chairman asked if they need a Negative Declaration for the project.

Ms. Lipatas referred to SEQR. There is a letter from the County stating no significant impact. She recommends the Board defers their decision until the additional information is prepared by the applicant.

The Chairman asked if they can do a conditional approval based on the submittal.

Ms. Lipatas asked if there was any harm in waiting.

Mr. Lewis replied that this is a Type II action, look it up.

Ms. Lipatas answered that this is an unlisted action; and she reviewed it with the planners at her firm.

Mr. Lewis replied that he will just come back next month.

Ms. Lipatas added that she prefers to wait till next, and recommends not passing SEQR until you see all the information that you requested. Mr. Lewis should check the parking requirements for this site.

The Chairman informed Mr. Lewis that he will be first on the February 9th agenda.

Mr. Lewis stated that the canopy height has stayed the same for the seventeen years that he has been with the company. He has never seen one smaller.

The Chairman made a motion to waive the reading of the November 2008 minutes and accept as is, seconded by Wendth. The motion passed 5-0.

Fusco	yes
Wendth	yes
Fletcher	yes
Lefebvre	yes
Chairman Woodin	yes

The Chairman made a motion to waive the reading of the December 2008 minutes and accept with recommended change from Ms. Lipatas, seconded by Fletcher. The motion passed 4-0 with one abstain.

Fusco	yes
Fletcher	yes
Wendth	abstain
Lefebvre	yes
Chairman Woodin	yes

The Chairman spoke about a request from the Town Board to review information to amend the Town Code and enact a Waterfront Overlay District. This is required as part of the Towns LWRP.

The Chairman made a motion that the Planning Board has read, understands, and agrees with the proposed local law and recommends to amend the Town Code to enact a Waterfront Overlay District, this was seconded by Lefebvre. The motion passed 5-0.

Fusco	yes
Fletcher	yes
Wendth	yes
Lefebvre	yes
Chairman Woodin	yes

The Chairman spoke to the Board about next month's meeting and the progress of the Hajeck site plan. As far as the Board is concerned, Mr. Hajeck is not in compliance with of the past agreements.

The Chairman also spoke about the condition of Mallards Landing South, near the park is breaking up badly and needs to be repaired.

Ms. Lipatas also spoke about drainage issues in Riverbend.

The Chairman made a motion to close the meeting at 8:50 pm seconded by Fusco.