

APPROVED:
MOTION BY:
AYES: NAYS: ABSTENTIONS: ABSENT:
DISTRIBUTION: OFFICIAL MINUTES BOOK – TOWN CLERK – BLDG DEPT.

Certification of Receipt
By: _____ Rosaria Peplow, Town Clerk
Date: _____

WORKSHOP MINUTES
TOWN OF LLOYD PLANNING BOARD

Thursday, August 20, 2015

CALL TO ORDER TIME: 5:33pm

PLEDGE OF ALLEGIANCE

ATTENDANCE **Present:** Co-Chairman; Brad Scott, Lawrence Hammond, Fred Pizzuto, Carl DiLorenzo, Fred Riley, William Odgen, DavePlavchak, Peter Brooks, David Barton; Building Department Director, Michael Horodyski, Town Board Liaison, Terresa Bakner, Planning Board Attorney.
Absent: Scott Saso

ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.

Brad Scott was the acting Chair in Scott Saso’s absence.

Old Business

Shamrock Liquors (Khodiyar LLC), 3559 Route 9W, Siteplan; SBL#88.17-9-25.100, in GB zone.
The applicant would like site plan approval for an addition of 7,520 sq. ft. to an existing 4,270 sq. ft. commercial building for use as a mixed commercial space building of retail business, service business, restaurant, office and medical uses.

Patti Brooks with Brooks & Brooks Land Surveyors, the applicant’s representative, was present for the meeting.

Nadine Carney with Peak Engineering was also present for the meeting, representing the applicant. Patti had come to a previous Planning Board Meeting for a pre submission discussion.

The Board looked over site plans that have been submitted.

Patti: We are trying to take the existing building and incorporate all of the wants and desires of the Walkway zone into an existing site without rendering the existing business inoperable during construction. The site currently has an existing 4,270 s.f. retail business and the applicant proposes to expand the building with an additional 7,500 s.f. of mixed uses, potential retail, and service business/office or restaurant space. The parking will remain in the same location but will be landscaped to minimize and soften the view from 9W. A stone patio with architectural columns is proposed to create the impression of a building as called for in the new code. Additionally, the existing front building is structurally unable to accommodate a second story the elements have been added to the façade to create the illusion of a second story. The addition will be constructed so that it can potentially have a second story, but the building that is there now cannot support a second story. If the Board accepts what is submitted the architect will come back with more detailed renderings.

Patti B. also submitted a color rendering of example tree/shrub plantings.

Patti: The existing sidewalk access from 9W will be extended into the site. They have also kept the separate walkway path to the diner because they have a lot of customers who come in from after the diner.

Nadine: We do still need to discuss with the applicants some options for the retaining wall. We still need to decide whether there is going to be a parapet extended on top for the parking or a guardrail to buffer the edge. I will submit those options.

Mr. Patel joined the meeting.

Brad: This is conceptually attractive.

Peter: Is there any angle in which this would look like a Hollywood set?

Patti: I cannot answer that I will check.

Peter: At the pre-submission discussion was that the Gateway-Walkway calls for it to be parallel to the road and not going back but we thought that this would be okay.

Dave P: We talked last time about a few things that would most likely be okay. We should probably note that somewhere that we said these things would be okay so that we do not forget about it, because it was existing construction.

Bill: In the Gateway zone we are after higher retail density and this doesn't (muffled).

Dave P: All of the uses are allowed.

Patti: I left it pretty general with the uses because we don't know what tenants we will get in there. We did try to address being more parallel with the street by putting in the patio area and putting up the columns and the buffering that we talked about.

Carl: The rest of the Gateway there will that be three stories?

Peter: Two stories up front but on a slope of land like this there could be three stories in the back.

Patti: We have an email from David Corrigan of the DOT (Department of Transportation) saying the revised plans are acceptable and hereby approved for use. Please have the contractors that perform the work submit for a highway work permit and a fee of \$200.00 when ready. (email on file)

What is shown on the plan (pg. 2. revised 8/5/15) is what they have approved to date.

Brad canvassed the Board. The Board liked the plan and expressed that this is what the zone calls for. This application will be sent to the county.

Patti requested referral to Morris Associates.

Bill: There will not be water running over the retaining wall will there be?

Nadine: No. It is going to be **sept** and all the drainage will be on the applicant's side of the retaining wall. There will be no water from this site leaving this site. The calculations say it will be better.

The Board continued to discussion about the storm water including the fact that this site has more impervious surface now than it will have when this is done.

Sign – Sawyer Savings, 3515 Rt 9W

The ZBA has an application in front of them for an area variance for the height of the sign. They have requested input from the Planning Board. Some members of the ZBA had concerns and wanted it to be higher than the proposed 10 foot height; there is a concern that it would be an obstruction. Patti Brooks showed the Board some photos of the proposed sign and the corner in question.

Brad: Patti Brooks has been to the ZBA, she has been given guidance by the Planning Board and come back with the actual rendering.

A vote was taken and all Board members voted in favor of the sign height change.

Extended Public Hearings

Wang, James, 14 Roy Ln, Special Use Permit; SBL# 95.12-3-72, in R1/2 zone.

The applicant would like a special use permit to legalize an accessory apartment in his home. The apartment will be approximately 600sf.

Mr. Wang was present for the meeting.

Darcy Smith, interpreter, was present for the meeting.

Terresa Bakner, Planning Board Attorney was present for the meeting.

Brad Scott introduced Terresa Bakner.

Notice has gone out to the public that this is an extended public hearing and that it will continue next week August 27, 2015 at 7:00pm.

Terresa: Terresa Bakner, Whiteman, Osterman and Hanna and I work for the Planning Board as the Planning Board counsel. I was not at the public hearing but I was updated with draft minutes and the recording of the meeting. In the Town code 100-40 Special Use Permit for an Accessory Apt. there are a couple of findings that the Planning Board has to make when they decide whether or not to approve an accessory apartment. One of the issues is the nature and intensity of the operations involved in the thing that is being applied for. The other is the prevailing character of the neighborhood, what is the neighborhood like. And the other is public health, safety and welfare, which is always one of those catch phrases the Planning Board has, in terms of the requirements. When you looked at this last, there was a substantial report in the file from the Police Department regarding problems at the existing residence. There was also a town proceeding in connection with the use of the existing residence, specifically that there were too many boarders already in the house. Dave Barton really has the experience on that issue before the Town Justice Court. The basic problem here is that the idea of the accessory apartment is that you will have an accessory apartment to an owner occupied facility. The idea is that you will have a family, couple or two people living in the house and they want to have, for whatever reason (additional income or a place for their parents or older kids) somewhere else in the house. The problem with this application as I see it, but I do not make the decisions, you the Board make the decisions, is it falls outside of that anticipated type of usage into what is less an owner occupied structure and more of a structure that is occupied by people paying rent. Because there was a proceeding in Court and a number of police reports it is very clear that there are a substantial number of unrelated individuals living in the house. For workshop purposes and your review a question for you, the Board, is under the circumstances you know to exist here is it in the public health, safety and welfare to further have a situation where you have even more unrelated people living in a house. Particularly where there is not a good track record in terms of how they interact with the community, whether it is the police or neighbors. Generally speaking neighbors' complaining about a use is a thing to take into account but it is not determinative. In this case it is a little different because you have the police reports and because of this history with the use. Those are just my thoughts on this on what we have so far. In terms of your discretion or your ability to make a decision you are entitled as the Planning Board to look at all of the facts related to an application. Just because generally accessory apartments are approved in the Town, because generally these types of circumstances do not exist, that does not require you to approve it in this case. Nor does it require you to disapprove it. One very legitimate question to ask would be is this problem with the house still continuing or has that come to a halt?

Peter: You (to Terresa) sort of suggested numbers of people and I don't think we'd know the answer of how many people have been living there or how many people would live there if we made the accessory apartment. In some ways I think you might characterize this as somebody trying to regularize and legalize what has already been going on. I am not sure if we approved it that it would be any different than before in terms of number of people or type of people.

Terresa: Just to be clear you can have unrelated people living together, and no one is saying that you cannot do that. All we are saying is it is a situation where people were paying rent and renting bedrooms. The accessory apartment will have a bedroom and cooking facilities so it is more of a contained unit with separate entrance.

Dave P: Right now it is a non-approved accessory apartment and he was renting it out as an apartment.

Peter: Does the building department know if this is already an existing apartment becoming legalized?

Dave B: It would be if it was separated from the main house. There is no separation between the stairs and the first floor of the house. He has a permit to put the cooking facility in and there is a room that could be the bedroom. I cannot permit him for the apartment; he needs the special use permit. It is the use that drives this application.

Peter: So it is not set up as an apartment.

Dave: It absolutely can be, it just cannot be permitted without the special use permit.

Bill: Is there a limit on the amount of boarders permitted in the house?

Terresa: Two.

Bill: So this would double because there could be two more in the accessory apartment.

Dave B: That's right.

Peter: To follow up on what Terresa was saying one aspect of the accessory apartment is the homeowner needs to live in the main house.

Mr. Wang: I do visit my family in China but I always come back.

Brad: How often is it that he visits and leaves the people living in the house without his presence?

Mr. Wang: It depends on my father; I am caring for him he is in a nursing home now so it varies depending on his health.

Larry: How long have you been gone this time?

Mr. Wang: Three months.

Brad: Is this a consideration? This special use permit calls for the residence to be owner occupied, now there are boarders yet there is a certain frequency of the owner not being there for as long as three months at a time.

Terresa: It is certainly something that you can take into consideration because obviously there have been problems before with boarders and it is hard to address problems if you are not in the house. I think that is why the owner occupied is one of the issues.

Brad: And to that point we had asked if he did background checks and he did not because he could not afford to do that. So now it could be a period of up to three months that Mr. Wang is not there and you have boarders who have not had background checks

Terresa: There is no requirement in the zoning ordinance that if you are going to rent to somebody that you have to have a background check. I would say that it is common practice to do a background check if you are going to rent to people. I would urge the Board, before the next meeting, to reach out to see if the Police problems have persisted at the location.

Mr. Wang: There have not been any recent incidents. I have been stricter. I ask them to show me proof that they have jobs. I am only taking in tenants that are either college students or they have jobs.

Peter: One thought that has been floating around would be to have a waiting period in saying we would like to defer approval until we seen a demonstrated period of time without incident. Does this sound like a sensible thing to do?

Terresa: That is a very sensible thing to do. The first step is to find out if there is any evidence that the problem has occurred over the past six months. That would certainly be a reasonable request for the Board to make, that the application be tabled and the application be further considered later after the problems have been addressed.

Mr. Wang: I do have an attorney for any issues that come up with the tenants. There have not been any problems with tenants in the past six months.

Larry: If he has an accessory apartment, how many people can live in the accessory apartment and will he have boarders as well as live there himself?

Brad: As it applies to an accessory apartment I don't know if there is a limit to the number of people who can occupy in the accessory apartment.

Dave: There is a square footage requirement in the building code. I think it is 75sf. per person.

Carl: When talking about boarders, is this under the NYS Municipal Code that allows someone to boarder people within their house for rental purposes?

Terresa: You cannot prevent unrelated people from living together. You cannot say, for instance, that your son and his three friends cannot split expenses and live in the same house. The law in the Town says you can have only two boarders as a way to address that concern. If Mr. Wang and his family lived there and they had two boarders that would be legal.

Carl: The Town had a Boarding House code in the Town and when the code was updated back in the day it was supposed to be replaced with accessory apartment.

Terresa: I am not sure what the intent was more than increasing density within the Hamlet and giving people options. If you think about what was going on in 2007, it was a recession and people had children moving back home with their families. Whatever your concerns are about the law and how permissive it is you still have the basic ability to decide whether or not it is going to be a public health, safety and welfare issue. You have to look at is there enough water, sewer, is there enough space and what kind of impact will it have on the neighborhood.

Terresa to Mr. Wang: Have you worked with the neighbors; are they of different opinion with respect to this application?

Mr. Wang: I spoke with my next door neighbor and told him if he has any concerns to feel free to let me know immediately and then I will respond.

Peter: If we wanted to could we change the law so that if you have an accessory apartment you are not allowed to have boarders in the rest of the house.

Terresa: Yes. The Town Board would have to do that.

Brad: Over that last several months what is the maximum number of people he has had in the house beside himself?

Mr. Wang: Two tenants.

Bill: I do not know what conditions we could put on an apartment, would it be okay to condition that there are no more than two tenants in the accessory apartment?

Terresa: I will need to think about that and I will let you know. What is the square footage of this apartment?

Bill: 600sf.

Brad: Are the current tenants living in the space that you are wishing to transition to the accessory apartment?

Mr. Wang: They are boarders now, they are in the main house and I think they would prefer to stay in the main house.

Peter: The thought is that you would have two boarders and people in the accessory apartment.

Bill: Would that be about five cars.

Mr. Wang: One tenant in the basement is what I am looking at and two boarders.

Brad: What is the maximum number of cars do you have something in mind for that?

Mr. Wang: Five. I am not sure. Right now there are three cars.

Brad: It looks like you could only fit four cars.

Mr. Wang: The tenants are usually gone during the day. But I do not think there will be more than four cars, but there is room for five cars.

Brad: There is only room for four cars.

Mr. Wang: Okay that is fine with me we will max out at four cars.

Mr. Wang's extended public hearing will be next week at 7:00pm.

Terresa Bakner left the meeting.

New Business

Selux Corp., 5 Lumen Ln, Siteplan; SBL#88.1-6-6.100, in GB zone.

Selux is planning 2 additions and other future improvements to the building at 5 Lumen Lane.

Selux-South is an 8,800 s.f. light industrial addition with a loading dock that will be used for product assembly and warehouse space, starting construction as soon as possible.

Selux-North is a 5,980 s.f. commercial addition for a showroom and office space, starting construction this fall. The 4,560 s.f. first floor will be completed in phase 1; the 1,420 s.f. second floor will be completed in phase 2.

Dave Todor of Bolder Architecture PLLC, the applicant's representative, was present for the meeting.

The Board reviewed maps, dated Aug. 6, 2015, that show the changes proposed. This consisted of Site Plan – Selux – South, Site Plan – Selux – North, Site Plan – Future, Floor Plans and Elevations.

Mr. Todor informed the Board that as Selux staff grows they will need a larger septic system. For upfront cost reasons they are looking to stage the project a bit and get in. A grant is one of the reasons why there is a bit of a push to get the buildings started. The third site plan shows some of the future improvements.

Dave P: Is this approval for all phases or just the first?

Mr. Todor: We would like to have approval for both but we would like approval fairly quickly for the first portion. That is why there are three different site plans.

Peter: You have calculated the allowable coverage?

Mr. Todor: Calculations are on the map. There will potentially be a circuit fire road. This will not be done yet because it is not needed yet.

All setbacks have been met and this site has municipal water.

Brad: How many more people will this employ?

Mr. Todor: Currently there are 155 employees, not including temps and it is projected to increase to 168 employees.

Brad: Mr. Barton how does this work with the Health Department is that part of our review?

Dave B: No. They have what they need.

The Board anticipates setting the public hearing next week for September.

Apple Greens (Roehrs) South St.; Siteplan, SBL# 87.3-5-15.100, in A zone.

The applicant would like site plan amendment to include a barn wedding venue.

Mr. and Mrs. Roehrs were present for the meeting.

Mr. Roehrs: We have an old barn on the golf course on the East side of South Street and we would like to add two decks 20' x 46' with canvas roofs onto both sides of the barn.

The Board looked at photos of the proposed and a site plan of the property.

Mrs. Roehrs: We would not need parking or septic or water. We just want to renovate it for a party or a wedding venue.

Mr. Roehrs: Whatever functions we have there we would bring in those fancy portable potty trailers that have running water and bathrooms in them, a lot of people use these at weddings, and it would be catered at the restaurant at our golf course or one of those portable kitchens that come in on a truck and feed the guests.

Carl: How old is the barn? Is it in good shape?

Mr. Rohers: It is old and in good shape, as long as the roof is on the barn it is not going anywhere. We will need to redo the flooring.

Dave B: They have a site plan now, this is a site plan amendment and the use is there.

Mr. Rohers: We do a few weddings now at the pavilion and have not had any complaints from any of the neighbors. There would not be two functions going on at the same time only one or the other. The average wedding might be 150-180 people.

Dave B: Once you get past 100 people you will need to sprinkle the space. I saw a photo of the barn, will this be heated and remain open?

Mr. Rohers: It is open all year round without any heat or plumbing. It will have electric for lights, there is not electric now.

Mrs. Roehrs: We will not be year round.

Mr. Roehrs: It will be only about 10 weeks of the year. It is just a shell right now and that is all it is going to be.

Brad: Can this be treated more like a pavilion rather than an enclosed structure so you do not need to sprinkle it?

The Board continued to discuss the plan and event. They discussed noise and parking. The existing parking lot that they have will be used and golf carts will be used to transport passengers to the event site. The applicants were asked to speak with the neighbors to let them know what their intention is. Research will be done on using this as a pavilion vs barn. The Board requested a lighting plan. They also discussed a time limit on the event, possibly ending the event by 9:00pm.

Mr. and Mrs. Roehrs will follow up with a lighting plan and will speak with the neighbors.

Old Business

Ireland, David, 66 Mayer Dr, Special Use Permit; SBL# 95.12-2-13, in R1/2 zone.

The applicant is requesting a special use permit to add a 425sf accessory apartment in his home.

Mr. Ireland was present for the meeting.

The applicant has submitted a survey of his land as requested by the Board. There is no building on any easement or right of way. The Board looked at the floor plan for the 425 s.f accessory apartment. The accessory apartment will be behind the garage leaving the garage useable. The structure already exists; it is now an empty shell. The Board discussed setbacks which are pre-existing and parking. Being as the structure already exists, having the site plan and floor plans are sufficient.

The Board had no additional questions or concerns.

The Board anticipates setting the public hearing next week for September.

Sign Approval

Sign - Rose Hill Manor II, 3548 Route 9W, SBL#88.17-6-7.100, in GB zone.

Mark DeFabio would like to present the Board with information on a sign that he would like to put up at his daycare location. The applicant has a unique property design therefore he would like approval for the height of the sign as well.

Mark DeFabio was present for the meeting. Dave Barton: There is no sign ordinance for the Gateway-Walkway District, so the ZBA has nothing to give a variance for.

Peter B: I was there this afternoon and one of the things that occurred to me was this slope.

Mark: We are going to walk the sign back towards the house so that the first sign is visible above the fence. I do not think it will be 10ft. considering it slopes up. Do I think it is going to be 10' 6" no, I think it is going to be more like 9' 6".

The Board was fine with the design of the sign but is limiting his maximum height to 10ft.

Brad Scott made an informal **Motion** to approve the sign as it has been displayed with a maximum height of 10 ft. and Mark will visit next week and we will have a discussion around what it needs to be such to be functional and appropriate within standards we feel necessary, seconded by Dave Plavchak. All ayes.

The Board will work with Mr. DiFabio and visit his site.

Sign - Active Auto, 3865 Route 9W, SBL#95.4-1-11, in TR1/2 zone.

The applicant would like approval of a 2'x6' sign for his automotive business.

Mr. Nick Monaco, the applicant, was present for the meeting. Mr. Monaco has an allowance of 12 s.f. for his sign. He had a design of the sign in which the sign company forgot to add the Inc. after the name of the business. Mr. Monaco asked the Board if the business is successful could he go for a variance for a bigger sign in the future. He was informed he could always apply for a variance.

A **Motion** to approve the sign design was made by Dave Plavchak, seconded by William Ogden. All ayes.

Old Business

Behnke, David, 244 Pancake Hollow Rd, 2 Lot Subdivision; SBL#87.3-2-21.150, in R1 zone.

The applicant proposes to subdivide their 9.863 parcel of land. The existing house lot would have an area of 1.085 acres, and the vacant lot would have an area of 8.778 acres. The vacant lot is to be conveyed to their son with the expectation of building a 4 bedroom house. The vacant lot would have a new driveway from Pancake Hollow Rd, a drilled well and a subsurface sewage disposal system.

The Board reviewed maps and had discussion on the proposed subdivision into two conforming lots.

The Board anticipates setting the public hearing next week for September.

A **Motion** to adjourn was made by Dave Plavchak, seconded by William Ogden. All ayes. 7:13 PM