

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
JULY 26TH, 2018**

The regular monthly meeting was held at the Zoning Board of Appeals, Town of Yorktown, at the Yorktown Town Hall, 363 Underhill Avenue, Yorktown Heights, New York on Thursday, July 26th, 2018. The meeting began at 6:30 p.m.

The following members of the board were present:

Gregg Bucci
Robert Fahey
Gordon Fine
John Meisterich
William Gregory
Alternate: Howard Orneck

Also present is Special Counsel, Mark Blanchard and Building Inspector John Landi. The meeting was aired on Channel 20 Cablevision and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held September 20th, 2018, site visits are scheduled for September 15th, 2018. Mailings are to be sent from September 3rd to September 11th, 2018.

NEW BUSINESS

BRI-ANT #41/18
Property Address: 1169 East Main St/
Section 16.10, Block 1, Lot 37

This is an application to allow a garage with a side yard setback of .83' where either 0' or 10' is required, a rear yard setback of .83' where a minimum of 30' is required and a side yard setback (abutting a residential district) of .83' where a minimum of 50' is required as per appendix B and the Town Zoning Code. This property is located in a C-2 zone.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on July 21st, 2018, a Public Hearing on July 26th, 2018, and referred to the Building Inspector.

CONTINUED PUBLIC HEARINGS

CELESTRIAL HOLDINGS #8/17

Property Address:
822-824 Pines Bridge Rd.
Section 70.17, Block 1, Lot 5

This is an application for a special use permit for the keeping of fowl as per 300-81.3 of the Town Zoning Code. This property is located in a R1-80 zone.

Steve Saba, property owner appeared before the Board.

Chairman Fine asked where on the property is he planning on putting the chicken coop.

Mr. Saba said when you drive in, there is a raised area on the right, it's higher than the rest of the property and it's a good place to put fencing around, it's 35Wx75D. There's at least 150ft. behind it to the next neighbor and probably 500ft. to the neighbor to the left.

Mr. Bucci asked if the area around the coop is wooded.

Mr. Saba said it's very wooded, can't see a thing.

Chairman Fine asked what his plans are regarding waste storage and removal. Mr. Saba said right

now he did not know that he had to explain that and did not read up on it yet, but planning on doing what is required according to both the Town code and farming protocol.

Chairman Fine asked how many chickens he's planning on having.

Mr. Saba said between 30-50, no rosters.

Chairman Fine asked how many acres he has.

Mr. Saba said 11 acres.

Mr. Meisterich asked if they'll all be kept in the coop in a fenced area.

Mr. Saba said yes, it's going to have a 6ft. fence around it. Dug 4 inches into the ground, there are trees around the area so they can pitch a big sheet metal mesh tent to keep the hawks out.

Mr. Meisterich asked if he submitted any plans.

Mr. Saba said someone came out to the property and he showed them what he was planning on doing. The plans are in the file and were reviewed by the Board.

Mr. Saba stated that he wants to sell the eggs to a bakery.

Chairman Fine told Mr. Saba that one concern is the number of chickens he's planning on starting with.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a special use permit was granted for a period of one (1) for the keeping of fowl as per 300-81.3 of the Town Zoning Code, with the following conditions:

1. That the the chicken coop be built in substantial conformity to the plans submitted.
2. For the first year, the total number of chickens on the property be limited to 20 with no roseters.

DINEEN, KATHLEEN #48/16 This is an application to modify an existing special use permit for a day care facility per 300-53 of the Tow of Yorktown Zoning Code. This property is located in an R1-10 zoning district.
Property Address:
2090 Crompond Rd.
Section 37.14, Block 2, Lot 8

Applicant before the Planning Board.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item is adjourned.

DINEEN, KATHLEEN #49/16 This is an application for a variance to allow an addition to a daycare facility to have a building coverage of 10057.5 sq. ft. where 7404 sq. ft. is the maximum allowed per 300-21 and Appendix A of the Town of Yorktown Zoning Code. This property is located in an R1-10 zoning district.
Property Address:
2090 Crompond Rd.
Section 37.14, Block 2, Lot 8

Applicant before the Planning Board.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item is adjourned.

NEW PUBLIC HEARING

BOGA #34/18 This is an application for the renewal of an accessory apartment.
Property Address:
3767 Briar Hill St.
Section 15.08, Block 2, Lot 3

Mailings and sign certification in order.

Chairman Fine said there was letter submitted to the file with objections. He asked if there was anyone in the audience who wrote any of the letters and that to speak at the meeting.

Chris Ortega, neighbor, said he pays a great deal of money in taxes not to live next to a used car lot. Every night there are 10 cars parked in front of their house. You look at their house and all you see is cars. One of the biggest problems is during the day when they can park on the street they line up on the side of the street and it's a hazard. They also have these huge street lights in front of their house that's on constantly and there's a tremendous amount of noise of engines running. This is supposed to be a quiet neighborhood. There should not be 10 cars at the house.

Mr. Bucci asked if he knew if the cars belong to the owner of the house or the tenants.

Mr. Ortega said some are the owners, some are the tenants and there's 1 car that's not registered. In the winter time it's particularly bad because when they pull their cars out of the driveway and parked them on the road, they're further out into the street because of the pile of snow that's up on the side of the road. If someone parks on the other side you couldn't get an emergency vehicle through there. That has happened several times.

Mr. Gregory asked if the number of cars has increased over time.

Mr. Ortega said it has increased. When they first put in the apartment there were 2 cars for the people that live in the house and 1 car for the tenant and now what's happening is their entire front lawn has become a parking lot.

Mr. Gregory asked if he thinks the cars are owned by the people living in the building.

Mr. Ortega said he believe so. Believe there are more than 2 families as it is, don't know for a fact so can't say that.

Theodore Foster lives across the street. He said he's been living there for 34 years now and has noticed this last year it's been particularly very crowded at night. It's really annoying. He has no idea how many people reside there. Today amazingly not one car in the driveway.

Chairman Fine said there was something in one of the letters about garbage on the property.

Mr. Foster said they should have proper garbage bins.

Maureen Foster said when they first moved there the house was truly an in-law accessory apartment, then when the Boga's move in they have had a few other issues with them in the past, they've gone and personally speak with them and told them their concerns, but this concern is of the traffic and noise volume. It's not fair to the neighbors.

Mr. Ortega submitted some photos of the cars parked in the driveway.

Chairman Fine said since the Applicant is not present, will ask Counsel to notify them to be at the September meeting and the Board will make a site visit to look at it.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was adjourned.

SIORSIS #35/18 This is an application for the renewal of an accessory apartment.

Property Address:

3191 Poplar St.

Section 17.8, Block 3, Lot 32

Mailings and sign certification.

There was no memo in the file, per the Building Inspector, Mr. Landi there was no objection.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for renewal of a special use permit for an accessory apartment was granted for a period of three (3) years.

CONN #36/18 This is an application for a special use permit as per 300-81.3 for the keeping of fowl.

Property Address:

541 Croton Heights Rd.

Section 48.19, Block 1, Lot 7

Mailings and sign certification in order.

Applicant Mark Conn appeared before the Board.

Chairman Fine asked if they're existing coops.

Mr. Conn said yes, the prior owner had them for 8 years, they did not have a permit. Want to make them legal. There are 7 chickens.

Chairman Fine asked what is the method for disposal of waste.

Mr. Conn said composting for flower bed. The feed will be in metal garbage cans.

Chairman Fine asked about screening from the neighbors,

Mr. Conn said there's lots of foliage, going to put wisteria on the far banks to the one neighbor that's close to them

Memo from the Assistant Building Inspector dated, July 23, 2018 cited no objections.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a special user permit was granted for a period of one (1) for the keeping of fowl as per Section 300-81 of the Town code.

FISHER #37/18 This is an application to legalize a rear addition with a rear yard setback of 13'11" where a minimum of 30' is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-10 zone.

Property Address:
3791 Wood St.
Section 5.20, Block 1, Lot 34

Mailings and sign certification in order.

Joseph Riina, Project Engineer appeared before the Board with Mr. Fisher.

Mr. Riina said the property is almost an acre, 39,000sf. in an R1-10 zone. The Applicant purchased the home in 2001. During the sale process it was discovered the previous owner had put on an addition on the house that had no permits, no Certificate of Occupancy. The approximate area of that addition is 650sf., the original based on the Town records was 520sf. and a detached garage. In preparation of the building plans to legalize the addition it was also discovered that there was a rear yard variance required. The variance that's required is 13.7ft., need a 17ft. variance to round it up.

Mr. Riina showed the Board a photo of the layout of the property.

Chairman Fine said when they were at the property for the site visit, a truck was parked on the property that looks like it's from a construction company, is that permanently there.

Mr. Fisher said there's a tenant that's presently there that runs a landscaping company.

Chairman Fine said it was a commercial truck that would need a permit.

Mr. Fisher said he'll let the tenant know.

Memo from the Assistant Building Inspector dated, July 23, 2018 cited no objections.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a variance granted to legalize a rear addition with a rear yard setback of 13'11" where a minimum of 30' is required as per section 300-21 and Appendix A of the Town Zoning Code, with the stipulation it pertains only to the requested variance and not the remainder of the property line.

ANDERSON #38/18 This is an application for a proposed single-family dwelling with a rear yard setback of 54' where a minimum of 75' is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-80 zone.

Property Address:
1695 Croton Lake Rd.
Section 58.09, Block 1, Lot 20

Mailings and sign certification in order.

Dan Ciarcia, Engineer, appeared before the Board with the Applicants, Greg & Elizabeth Anderson owners of the property who currently resides in the main house.

Mr. Ciarcia said the application is all about down-sizing. The owners want to stay in Yorktown. They want to stay in the neighborhood which essentially, they're doing by remaining on the property they currently resides on. Proposing to spin off part of the property which is about 5 acres of this parcel

which is about 15.7 acres all total. Currently have an application pending before the Planning Board and the discussion they had with them and the reason they're here it's sort of an unusual situation as the uniqueness of the property, has it advantages and disadvantages.

Memo from the Planning Board dated, July 23, 2018 states:

This project is a minor subdivision which consists of the creation of 1 new building lot from a 15.7 acre lot with one existing dwelling structure. The property is situated on NY State Route 129 and abuts the New Croton reservoir.

The property is constrained by wetlands and setback requirements from the reservoir. After review of potential siting configuration, the Planning Board finds that the layout last revised on June 20, 2018 presents the optimal conditions and exhibits the least impacts. The layout will however require a zoning variance to allow for a 54-foot rear yard setback where 75 feet is the minimum requirement in the R1-80 zone by Town Code Section 300 Appendix A.

Mr. Ciarcia showed the Board the layout of the property.

There's a vernal pool that crosses to the north side of 129 and comes back and flows back to the reservoir. The DEP definition of a reservoir stem is taking the stream or drainage path coming up 500ft. then imposing the 300ft. setback. There's also a 500ft. setback from the reservoir shore. What ends up happening is they're in the R1-80 zone, they have a 75ft. rear yard setback and the building envelope is primarily govern by the DEP restrictions, and the reason they're before the Board. They feel that and the Planning Board concur, there's really no impact to any adjacent property owner because there really isn't any adjacent property other than the reservoir encroaching into that rear yard setback. It just affords them some more opportunities to better site the house on the lot and that's the purpose of them being here.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a variance was granted for a proposed single family dwelling with a rear yard setback of 54' where a minimum of 75' is required as per section 300-21 and Appendix A of the Town Zoning Code, with the stipulation it pertains only to the requested variance and not the remainder of the property line, and it has to comply with the Planning Board memo of July 23, 2018.

**WASHINGTON PRIME
GROUP**

#39/18

Property Address:

650 Lee Blvd.

Section 16.12, Block 1, Lot 24

This is an application to allow an existing lot of 38.76 acres to be subdivided into 2 lots, 30.05 acres and 8.42 acres with .29 acres within a town ROW, where a minimum lot size is 35 acres. They also seek a variance to permit a main building with a setback of 5' from a street where a minimum of 50' is required. Variances required are per sections 300-88(A) and 300-87 of the Town Zoning Code. This property is located in a CRC zone.

Mailings and sign certification in order.

Kristen Motel, Attorney at Cuddy & Feder representing the Applicant along with Ralph Peragine of Provident Design Engineering.

Ms. Motel said the Applicant is seeking 2 variances associated with the redevelopment of the Jefferson Valley Mall. It's been done in accordance with approved site plan which includes expansion of the retail and restaurant uses for the mall and some modifications to existing parking area. As this Board is aware, this application is undergoing extensive review by numerous town boards, state agencies like the DEC and DOT. Site plan was approved November 21, 2017 and subsequently May 1st they reviewed an extension to fulfill conditions of the approval from the Town Board. Did get a break in access approval from the DOT to connect to Route 6 and as part of that needed to get subdivision approval from the Planning Board. Part of the break in access approval from DOT requires de-privatization of the ring road. Dedication of the ring road, which is the access road around the mall, to make that a public road so they can connect that and drop it down and

connect to Route 6.

Mr. Bucci asked if it is the whole ring road or just the piece of the ring.

Mr. Peragine said just part of it. He showed the Board on the site plan the part that would connect.

Mr. Bucci asked if the Town agreed to accept the dedication.

Ms. Motel said yes. They negotiated and exercised offers of dedication that are being held in escrow until such time as the break in access is constructed and then they can file that with the county. The Highway Superintendant has also issued an order laying out the road so the Town is in agreement with this.

Mr. Bucci asked if it's going to be improved as it currently exists.

Ms. Motel said it's going to be improved pursuant to the agreement with the Town.

Mr. Bucci asked if the Town is going to maintain that.

Ms. Motel said there's a maintenance agreement where the property owners are going to maintain the roads. As you can see, the part of the road that is becoming public is the part of the road that is relevant to this application. Part of the reason for the subdivision is once we were required to dedicate the street, it bifurcates one of the lots, so needed to get subdivision approval from the Planning Board which they obtained in June.

Chairman Fine said pursuant to their memo of July 17, 2018 they have no objections.

Ms. Meisterich said the 2 variances they are requesting is 1 for the lot area, the insufficient lot area for the 2 lots they're creating. The other is a setback of a main building from the road. There's a setback requirement of 50ft., they're proposing 5ft. at one corner of the proposed out building. The site plan was considered in this configuration.

Mr. Bucci asked if it's from the town road.

Ms. Motel said it from the ring road not Route 6. The Town Board considered the layout and they found that this was the best configuration for the out-parcel building being proposed. The applicant believes that once you take into consideration the 5 factors for the variance, the benefit to the Town and the community really outweighs any detriment here. The parcel for the mall, it comprised of several parcels but it's 50 acres with dense vegetation and landscaping. As you can see the out-parcel building is really interior to the lot, not proposing to move the ring roads, nothing is really changing.

Mr. Bucci asked if the traffic is going to be too close to the building.

Ms. Motel said the Planning Board and Town Board requested them to place a row of bollards along the front to protect the building. The 5ft. setback isn't spanning the entire length of one side of the building, it's just a corner. It's really an access road don't anticipate any through traffic the ring road at all. The out-parcel building location was also predetermine by the location of the state and town wetlands as well as the FEMA flood zone and existing parking. They over comply with parking but the client is very concern about being able to accommodate customers during the holiday seasons, it's an internal policy they require more parking than what the town requires.

Mr. Bucci asked if the building is in a flood zone.

Mr. Peragine said from an elevation prospective it is not, the mapping of the line is into an area that doesn't actually get wet.

Ms. Motel said the entire out parcel building is not in the wetlands itself. It's been sited to be within the 100ft. buffer area. The building is on the most even elevation of the area of the property to minimize impacts to the wetlands from drainage and stormwater.

Mr. Peragine said the way they sited this is they wanted to maintain the minimum 50ft. from Route 6 so that they can comply with that and wanted the front of the building facing Route 6 for exposure. The other thing they did was to provide as much parking in the front of the building as possible. That way the tenants can leave the front for their customers.

He showed on the map where the buffer area for the wetlands are to be.

He said that portion of the buffer they're in is currently paved and improved. So they're not encroaching any further into the buffer than it currently exist.

Mr. Fahey asked if there's going to be restaurants, etc. in there.

Mr. Peragine said they're planning potentially for a drive through restaurant.

Mr. Fahey asked where the dumpsters for that would be.

Mr. Peragine showed on the map where the dumpsters will be located in an enclosure facing Route 6. He said there's a berm to screen the dumpster from Route 6.

Chairman Fine said that Mr. Bucci just informed him that he may have a potential conflict on this application, so he's going to recue himself from further proceedings and remove himself from the vote.

Gregg Bucci recused.

Mr. Meisterich asked if the road that's becoming town road, is that gong to be improved or is it going to be kept as is.

Mr. Peragine said he believe that, after all the construction to the ring road

Mr. Meisterich asked if anyone talked about instead of having that section be the town road, go the other way towards Lee Boulevard, only because it would avoid the need for this variance. We have to ask if there's another way to obtain the variance.

Mr. Peragine told him he's not sure which direction he's referring to. Mr. Meisterich showed him on the first plan what he was referring to.

Chairman Fine said he wanted to add one thing to Mr. Bucci's recusal, because a lot of people didn't understand what the potential conflict is. It's not really a potential conflict of interest, it's to avoid any appearance of impropriety,

Mr. Meisterich asked Mr. Peragine are you saying that proposal is going the other direction is impossible.

Mr. Peragine said it would result in a much longer access road, much longer to get back to Lee Boulevard and it would be a less direct route. That's why it was drafted this way.

For parking, they do meet the overall. Between the mall parking lot and the additional building, they exceed the minimum required parking allotted as per the site plan that was granted.

Ms. Motel said they're over, the redevelopment requires 2477 parking spaces, they're proposing 2517 and that's in the site plan approval.

Mr. Gregory asked if when they were before the Planning Board did they do a parking analysis.

Mr. Peragine said they went through the whole thing with the Town Board and Planning Board.

Mr. Landi asked if the Town Board reduced the requirement for parking there.

Mr. Peragine said the reduced of the overall was part of the process, the ratio for overall parking.

Ms. Motel said when weighing the factors of the variances, they don't believe there's any detriment to the surrounding areas, they really studied the alternatives along with the Planning Board, the DEC is looking at this and the Town Board. The applicant does not believe there are any other alternatives to meet the requirement for the DOT to have a break in access to a public road and believe the benefits of this redevelopment and the proposal of the mall, the improvement of the traffic patterns is going to really outweigh any other impacts to the community.

Chairman Fine asked if there was anyone in the audience who have any comments.

James Tripolli, works at Club Fit, said when hearing that they don't expect through traffic, thinks it's a joke. We all know that the ring road would become a very fully accessible and used pass through for traffic, especially since it connects to Strang direct. People would bypass the 2 lights and go straight off to Route 6. Delivery trucks and snow plows getting close to that building, only 5ft. when the variance is supposed to be 50ft., think it's very substantial. Think there needs to be a feasible alternative considered, think that whole pad can be in a lower section where they currently hold carnivals all the time. Think that would be a better spot and won't require a variance and it would be closer to the mall. Keep hearing at all their presentations that this project is to bring viability to the mall, putting pads off in the distance that someone have to get out of their car, park, do business, get back in the car, repark to go to the mall. That's not bringing business to the mall, that's just adding a couple more tenants externally.

Bill Beck, owner of 2 properties across the street, Club Fit and ToyRUs, said he think it's worth pausing on the fact that counsel for the development has really said publicly that the road isn't being

built for through traffic. Seems like a ball being dropped by the town, will stick to the building at hand, see it as a liability issue. It sounds like we're going to ownership of that road and you have the potential of coupling that with changing the variance down to 5ft. at the corner of the building, believe right where the corner is tight is proposed seating, he remembers that from town meetings. You literally have outdoor seating at 5 feet from the road. There's no reason to think that building won't get hit at 5ft.

To illustrate a little bit, his site across the street just had parking removed on the street. Dave Paganelli came and asked to remove some parking on the street because they're worried about people getting hit when the snow plows are out. We're 200ft. from the road nowhere near. This is absurd to even consider. Asking the Board to that into consideration.

Mr. Meisterich asked Mr. Peragine and Ms. Motel to respond to the concerns brought up, go into more detail about the barrier between the road and the building.

Mr. Peragine said yes, they do have traffic flow in that direction, and does agree that traffic flowing in the northerly direction, but traffic from the west there's a stop sign being proposed. That traffic flow will be slowed by the stop sign. Off Route 6 there's no stop sign but due to the curvature of that existing ramp. The exit ramp is going to be posted and hasn't been designed yet or approved by the DOT, it will be posted somewhere around 25 miles. That's the ramp itself, but to make that turn they're going to have to slow down to 10-15 miles, not going to be able to make that turn.

Mr. Meisterich asked if they'll be able to go straight in.

Mr. Peragine said no, they intentionally placed landscaped bollards so they could not shoot right across the ring road.

Mr. Meisterich asked who would be against the stop sign coming off Route 6? The DOT or the Applicant, or both.

Mr. Peragine said it's something they have to consider with the DOT, it's their jurisdiction. They want it to be free flowing so it does not cause back up on Route 6.

Chairman Fine asked if they discussed the possibility with the Planning Board about possible putting in speed bumps on that section of the road to slow people down.

Mr. Peragine said they did not, that is something that, it's going to become a town road and anything like that will have to go to Paganelli.

Mr. Gregory asked if there's any reason why they would want to have outdoor seating that close. Understand that it's proposed, is the viability of this project depend on having outside seating.

Mr. Peragine said it's a desire, right now there's no tenants assigned to any of these spaces.

He showed the Board where the proposed outdoor seating would be.

Mr. Gregory said can understand that there may be concern for the outdoor seating in that specific location.

Mr. Peragine said there's bollards and landscaping. The bollards are at 6ft spacing.

Chairman Fine asked is there a problem with why the building, know it's a symmetry situation at this point, can't the configuration of that building at the corner change so it's a wall or setback more.

Ms. Motel said this is something the Town Board looked at, they studied all the impacts including the impacts to the pedestrian and traffic, and this configuration was the least impactful to the community, the environment and also it works the best for traffic. The Town Highway Superintendent study the road and we've come to an agreement with dedicating the street.

Mr. Fahey said it felt like there was no safety concern.

Ms. Motel said they had them put in the bollards.

Mr. Meisterich asked if the bollards are concrete bollards.

Mr. Peragine said they're decorative bollards of some kind that's design for traffic.

Mr. Orneck asked if they can take the building and move it back a little bit.

Ms. Motel said they've studied the alternatives of reconfiguring the building and if you move it back a little bit you're going to lose more parking and also the grade is off, so you'll have more impact with the fill.

Mr. Gregory asked if the Planning Board and Town Board addressed anything about the outdoor

seating.

Ms. Motel said yes, it's in the resolution for the Town Board.

Mr. Gregory said he's concern about this.

The Board member and Applicant representatives discussed the outdoor seating further.

Chairman Fine said he'll like to see some clarification on how the Town Board came to this determination.

Ms. Motel said she can provide the minutes from the Town Board meeting and staff memos.

Mr. Blanchard, Special Counsel, said the Applicant can provide the information and internal memoranda can be sent to town staff and ask for the records on which the approval was granted.

Mr. Gregory said in addition to the hearings, maybe can also again refer the matter out to the Highway Superintendent and Planning staff to address those specific issues.

Mr. Blanchard said the matter should remain on the Zoning Board agenda but the Board is reaching out for not only the memoranda that was submitted to the various Boards but also clarification from the highway department.

Mr. Meisterich said he'll like to see the plans with the bollards and the Highway Superintendent opinions as to whether that provides the safety that we're concern about.

Mr. Fahey said he'll like to see about the 5ft. setback, what was discussed with the design.

Chairman Fine suggested to the representatives that they have the architect available for the next meeting.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Orneck, this item was adjourned.

MOHEGAN LAKE AUDI

#40/18

Property Address:

1791 & 1805 East Main St.

**Section 15.16, Block 1, Lot 44
&45**

This is an application is to obtain variances as part of site plan approval for expansion of the existing facility. Variances required for an additional 22 cars to be stored on the site, and two locations where a 15' landscape buffer cannot be maintained as required per Section 300-71 of the Town Zoning Code. This property is located in a R1-40 zone.

Gordon Fine recused himself on this application. Gregg Bucci chaired the hearing.

Mailings and sign certification in order.

Joseph Riina, Project Engineer appeared before the Board with Jodi Cross, Attorney, and Barry Rost, owner of Mohegan Lake Audi.

Mr. Riina said the property is located at the corner of Lakeland and East Main Street. It consists of 2 parcels, 1 is 3.4 acres and the other is .46 acres.

He showed the Board the layout of the 2 parcels.

Mr. Riina said currently they have an application before the Planning Board for a special use permit under Section 300-71 of the Town code which permits new and or used automobiles sales. The Audi dealership had been in existence here for decades, and previously it was combined Audi and Volkswagen. The Volkswagen dealership has been broken off and reestablished down the road. The application before the Planning Board is to renovate the existing building and put an addition on. The existing building is almost 17,000sf., that's going to be retrofit to mostly a showroom, office and executive use. The new building, the 11,000sf. addition is going to be primarily used as service area. Vice Chairman Bucci asked if the existing building is the existing showroom building.

Mr. Riina showed where the existing showroom is on the plans.

Building Inspector, John Landi said that right now the lot in question is in violation. A violation will be issued. They have cars parked all over that lot and it's in violation of the code. Asked them to remove them, they did not.

Mr. Riina said Mr. Rost is aware of it and he negotiating.

Mr. Landi said he don't know if it can be heard while the violation is on the property.

Vice Chairman Bucci said the whole point of coming before the Board is to resolve the violation.

Mr. Landi said they can't be parked there until they get approval.

Vice Chairman Bucci said anytime you're looking for a variance you could have a violation that the variance is looking to remedy, that's how you correct it. What generally happens is if you have a violation and you file an application for a variance to correct that violation then that stays the violation while you're trying to rectify it.

Mr. Riina said Mr. Rost is not ignoring that.

Mr. Rost said it's not his intention to create difficulties or be in violation. It was his understanding that plated vehicles can be parked there.

Mr. Landi said not on the entire lot.

Mr. Rost said the reason for this project is to eliminate that, with the new facility there'll be no potential for that. How could he resolve it?

Mr. Landi said you are in front of the Zoning Board and as the Vice Chairman said, anytime an application come in it stays all legal action.

Mr. Riina said as far as that's concern, they're not seeking a variance for that because it will be part of the site plan approval with the Planning Board.

Mr. Gregory said the actual special use permit really resides with the authority of the Planning Board. This particular application is not a special permit, it's a variance for a particular portion of the special use permit.

Mr. Riina said as part of the application the 2 parcels will be merged together so it will be 1 parcel. As part of the site plan approval, also working with the DOT, closing 2 existing curb cuts that are on Route 6 by the corner. They will be improving traffic flow onto Route 6 making it safer.

Mr. Meisterich asked what's going to be adjacent to Lakeland, vegetation?

Mr. Riina said that whole area will be landscaped. A landscape plan was submitted to the Planning Board and the Planning Department have some ideas of what they would like to do with that corner.

Mr. Riina said speaking to the variances and the conditions for the special use permit. They've satisfied all the conditions except in 3 locations they need variances

He showed the Board where on the plans the buffer variances are needed.

He said the other condition they do not comply with and that's a requirement is of the number of vehicles that can be stored on the site. Think it's 1 vehicle for every 2000sf. of land area, that would put them at 114 and looking for a variance to allow 156 spaces, that's for inventory and display vehicles that does not include employee parking.

Vice Chairman Bucci said he does not see that one the memo, it has 106 vehicles to be parked where 84 currently permitted.

Mr. Riina said correct, he's giving totals. For the purpose of this variance there are 84 spaces, asking for 22 more which is 106. With the care dealership the demand that are put on the franchisee by the franchise and the number of vehicles he needed to have there, those extra 22 cars symbolize a lot of additional storage.

He showed the Board the reconfiguration of the parking area.

Mr. Gregory asked where they are with the Planning Board currently.

Mr. Riina said there's a public hearing scheduled for August 14, if everything goes well hoping to be in a position to discuss a resolution at their first meeting in September if they get no oppositions, this Board approval is critical to that.

Memo from The Planning Board, dated July 18, 2018 states:

The Planning Board, at its meeting on July 16, 2018, discussed the subject referral. The property is under review by the Planning Board for a site plan approval.

1. The Applicant is seeking a variance from Town Code Section 300-71B(16). The Applicant is proposing 106 vehicles to be stored on the property, where 84 vehicles are allowed. The Planning Board has no planning objections to the granting of this variance.
2. The Applicant is seeking a variance from Town Code Section 300-71B(13). The Applicant is

proposing less than the required 15 foot vegetation buffer strip to two locations. The Planning Board has no objections to the granting of this variance.

Mr. Riina said Mr. Rost is under a significant time constraint.

Mr. Fahey asked on the first buffer how close is the nearest house.

Mr. Riina said it's about 30ft. from the property line.

Mr. Rost said 4 years ago Audi came to him and pretty much put the hammer down that they had to remodel. They wanted what is currently now in Hawthorne. It was a death sentence economically, fought them for 4 years, finally came to a resolution and a revise plan that made sense, that look like Yorktown and much more modest and scope that they could possible undertake. Because of what they consider a major concession to redesign to redesign the buildings so it was not egregiously large, they give him a time frame that basically he has 1 year to get approvals and a year to build or basically relinquish the franchise. 122 parking spots is their minimal requirement. This will eliminate and beautify the corner.

Vice Chairman Bucci said he's thinking it's been thought out, it's been through the Planning Board and the Planning Board made recommendations.

The Board discussed the application and applied the statutory factors.

Upon motion by Bucci, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Gregory, Meisterich and Orneck, the application for a variance was granted to permit an additional 22 cars to be stored on the site beyond the 84 that are permitted with a total of 106, and 3 locations where a 15' landscape buffer cannot be maintained as shown on the current site plan Mr. Riina showed tonight, as required per Section 300-71 of the Town Zoning Code

Recording Secretary, Glenda Daly
Meeting adjourned at 8:34pm
Happy Zoning!