

# Planning Board Meeting Minutes – September 17, 2018

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A meeting of the Planning Board, Town of Yorktown, was held on **Monday, September 17 at 7:00 p.m.** in the Yorktown Town Hall Board Room located at 363 Underhill Avenue, Yorktown Heights, NY 10598.

Chairman Rich Fon called the meeting to order at 7:00 p.m. with the following Board members present:

- John Kincart
- Bill LaScala
- John Savoca
- Rob Garrigan, Alternate

Also present were:

- John Tegeder, Director of Planning
  - Tom D’Agostino, Assistant Planner
  - Nancy Calicchia, Secretary
  - Kristen Wilson, Planning Board Counsel
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## **Correspondence / Liaison Reports:**

- The Board reviewed all correspondence. Chairman Fon asked about the Fieldhome correspondence. John Tegeder replied that a resolution has been prepared for authorization to reflect a lot line adjustment which will be discussed during the regular session.
- There were no liaison reports.

## **Meeting Minutes:**

Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting aye, the Board approved the meeting minutes of August 13, 2018 as amended with a spelling correction.

## **Motion to Open Regular Session:**

Chairman Fon motioned to open the regular session and with all those present voting aye, the Board opened the Regular Session.

**ADA-compliant assistive listening devices were available to the audience.**

## **REGULAR SESSION**

### **Fieldhome, Inc.**

SBL: 35.12-1-2 & 3

Discussion: Lot line adjustment

Comments:

Joseph Riina, P.E. was present. Chairman Fon stated that a resolution is before the Board authorizing the Chairman and Secretary to sign a plat for Fieldhome, Inc. Chairman Fon addressed the public for comments. Susan Seigel, resident inquired as to why this is necessary. Mr. Tegeder responded that the Fieldhome did some lot line adjustments as they re-positioned their business and are selling off a piece of the property. As a result, they need to file a map so that it depicts a clear chain of title.

Mr. Riina confirmed that the lot line change is a result of segregating Holy Comforter from the remainder of the property in order to make a clear chain of title as mentioned by Mr. Tegeder. The group buying the property want it to be filed as a subdivision. All easements will stay in place and a zoning variance has been obtained. Mr. Kincart stated that essentially the plat would be filed as a lot line re-apportionment with all easements in place. There were no other comments.

**Upon a motion by John Kincart and seconded by John Savoca and with all those present voting aye, the Board approved the resolution authorizing the Chairman and Secretary to sign a plat for the Fieldhome, Inc.**

### **Mohegan Audi Addition**

SBL: 15.16-1-44 & 45

Discussion: Decision Statement

Location: 1791 East Main Street

Contact: Site Design Consultants

Description: Proposed 11,000 sf addition to an existing 16,000 sf car dealership.

Comments:

David Steinmetz, Esq and Joseph Riina, P.E were present. Mr. Steinmetz stated that after reviewing the resolution they are requesting a minor change on page 6, condition #18 with the removal of the word “no” which changes the sentence to state “*motor vehicle deliveries are accepted...*” Mr. Steinmetz stated that other than this change, they are fine with the conditions as it memorializes what was discussed with the Board and staff. The Board agreed to the change.

**Upon a motion by Bill LaScala and seconded by John Savoca and with all those present voting aye, the Board adopted the Negative Declaration.**

**Upon a motion by John Savoca and seconded by Rob Garrigan and with all those present voting aye, the Board approved the resolution approving an amended site plan, special use permit, wetland permit, and a stormwater pollution prevention permit for the Mohegan Lake Audi Building Addition FKA Mohegan Lake Motors pursuant to the changes agreed upon.**

### **Prestige Renovations**

SBL: 16.10-4-8

Discussion: Decision Statement

Location: 3511 Buckhorn Street

Contact: Site Design Consultants

Description: Proposed 2-lot subdivision on 0.95 acres in the R1-20 zone.

Comments:

Chairman Fon recused himself. Joseph Riina, P.E. was present. Mr. Riina stated that after reviewing the resolution, he has some comments. He is requesting to remove “*and the Westchester County Health Department?*” on page 4, item #1 and removal of the letter of credit paragraphs (*4 in total*) on pages 5 and 6. Mr. Riina explained that since there are no public improvements it does not seem appropriate for these paragraphs to be within the resolution. John Tegeder also suggested that an additional paragraph (*as in the Gallinelli minor subdivision*) should be inserted which restricts site work prior to signed permits and approvals. It replaces the short paragraph related to tree cutting on page 6. Mr. Riina and the Board agreed to the changes.

**Upon a motion by Bill LaScala and seconded by John Savoca and with all those present voting aye, the Board approved the resolution approving subdivision plat titled Prestige Renovations and Remodeling and a Sediment & Erosion Control Plan pursuant to the changes agreed upon.**

**Gallinelli Minor Subdivision**

SBL: 27.13-1-49  
Discussion: Decision Statement  
Location: 2777 Quinlan Street  
Contact: Site Design Consultants  
Description: Proposed 2-lot subdivision on 1.48 acres in the R1-20 zone.

**Comments:**

Joseph Riina, P.E. was present. Mr. Riina stated that after reviewing the resolution, he has some comments. He is requesting to remove “*approval of a stormwater pollution prevention permit from the NYCDEP*” on page 4, item #2 as there is no DEP approval required. On page 5, paragraph 3, he would like to change the sentence as follows “*the applicant shall post 5% of the estimated costs of public improvement....*” Mr. Riina would like to add an additional paragraph stating that the erosion sediment control bond should be tied to the building permit and that it be attached to the issuance of the building permit for each individual lot. This paragraph can be placed after the last “*letter of credit*” paragraph at the top of page 6. Kincart stated that on page 6, the second to last paragraph with respect to tree cutting is to be removed as this is already stated on page 7, paragraph 3 with respect to all work.

Kristen Wilson stated that the site plan notes that there is a 10 ft strip of land that will be quit claimed to the town. An additional paragraph with respect to the 10 foot strip of land to be deeded to the town listing all requirements to be met is to be inserted in the resolution. The Board agreed to the changes.

**Upon a motion by Bill LaScala and seconded by John Savoca and with all those present voting aye, the Board adopted the Negative Declaration.**

**Upon a motion by John Savoca and seconded by Rob Garrigan and with all those present voting aye, the Board approved the resolution approving subdivision plat titled Gallinelli Subdivision and Full Stormwater Pollution Prevention Plan and Tree Permit pursuant to the changes agreed upon.**

**Popeyes (Staples Plaza)**

SBL: 36.06-2-76  
Discussion: Public Hearing  
Location: 3333 Crompond Road  
Contact: JMC Site Development Consultants  
Description: Proposed 2,350 sf restaurant with a drive through at the Staple Plaza in the C-3 zone.

**Comments:**

**Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting aye, the board opened the Public Hearing.** Umberto Baldinucci, P.E. and Rob Aiello, P.E. were present. Mr. Baldinucci gave a presentation on behalf of the owner and applicant to the Board and public to seek an amended site plan approval for the second phase of this project. The site is located along Crompond Road at the intersection of Stony Street. The original approval granted was for a 6 pump gas station for the BJ’s

wholesale club and a 2,500 sf restaurant pad with outdoor seating area and a drive-thru. The applicant is seeking the amendment to propose a 2,313 sf restaurant pad with an updated outdoor seating area and amended drive-thru. He presented a comparison of the original plan to the revised plan for clarity. The building is smaller and narrower in size with less impervious area and more landscaping. Since the last Planning Board meeting they have met with ABACA, the Town Engineer and the Town Planner and have modified the plans to reflect all their comments. Parking was reduced by a total of 5 spaces which will be used to increase the landscaped area. They have coordinated with the owner to propose 8 conservation spaces to further increase the landscape being proposed. In addition, they are also proposing 6 mid-size parking spaces (*9 ft x 16 1/2 ft*) which will allow for the landscaped area in be increased in size by 1 1/2 foot. They have met with the Town Planner and the Town Engineer to discuss the loading requirements as the town requires a loading space. The restaurant will require two deliveries each week which will be performed on off-peak hours. The truck route was shown to the Board. They are proposing a conservation loading space for future use. They are also in current discussions with the DEP for re-approval of the stormwater prevention plan. Mr. Aiello asked the Board if they had any comments.

Mr. Savoca asked to show the actual rendering of the building to all. Mr. Aiello presented a photograph of a typical Popeyes restaurant and reviewed the design and architecture of the building to all. The plan shown reflected the drive-thru in a reverse position, however, it will still be the same. He confirmed that ABACA has given their full approval with respect to the elevation, screening of mechanical equipment, lighting plan, outdoor seating and signage. It was noted that the signage was approved but also in conformance with the approved master sign plan as part of the original application.

Chairman Fon asked the public for comments. Public comments as follows:

- Gerry Schwalb, resident stated that she looked at the site plan on line and her concern was the drive-thru lane and exiting out of the restaurant and onto the public road. She stated that you have to cross two lanes of traffic and feels this is a dangerous situation.
- Ann Kutter, resident of Old Crompond Road, the north section across the street from this application. Her intersection comes out at the light going into the Staples plaza. She is speaking on behalf of herself and her neighbors. Some of her neighbors have written letters. They have significant traffic concerns regarding this intersection. It used to be a quiet intersection. There were improvements made at the time of the original gas station improvements to BJ's that helped for a while but the intersection is just not functioning properly anymore. She has a photo of traffic at 11:00 on Friday (*not a holiday*) which shows the traffic actually blocks the intersection (*picture was distributed to Board*). This is a frequent occurrence, you can't make a left turn, you can go straight ahead, but you can't get out into the intersection going south (*two lanes*). The north bound lane does not have a stop sign and no one knows whether they are supposed to stop or not so there is frequent hesitation and confusion. At the time of the site plan review for the BJ's gas station and restaurant addition there were two other applications before the Board, CVS (*across the street*) and Crompond Terraces (*Old Crompond Road*). At that time, a suggestion was made by the Planning Board that the applicants all work together jointly to figure out a plan to address the improvements to the traffic situation. Unfortunately these two projects are no longer happening and there is no interest at these locations currently. The traffic will be increased as a result of the restaurant which is a good thing as they want the restaurant to succeed. However, the traffic still needs to be addressed. One proposal in that joint plan was that instead of 3 lanes on the north side of 202, there would be 4 lanes of which 3 lanes are going south (*right turn lane, left turn and straight across*) and 1 lane coming north. CVS was going to give up property to create the 4<sup>th</sup> lane. They would like the Board to consider looking at a plan like this and look at the traffic situation carefully. She asked John Tegeder if there is enough room in the town right-of-way on both sides of Stony Street where it comes out to 202 to take 4 feet from each side to create the 4<sup>th</sup> lane. You need 12 feet for the lane, there is 4 feet right

now that is in the middle of the road dedicated to striping, if that striping was reduced to a normal two double yellow line then you can take that 4 feet and additional 4 feet from both sides of Stony street and make the 4<sup>th</sup> lane. Ann and her neighbors would like the Board to look at this carefully and consider what the traffic impacts are as the intersection doesn't function properly and they feel this will make it worse.

Mr. Kincart stated that he recalls a title issue at that intersection and the right-of-way not being clear. Mr. Tegeder stated that he did not have a chance to check into the BJ's original plan when a traffic improvement plan was submitted. His recollection was that there would be a necessary taking from the CVS site. He will look into it.

Chairman Fon addressed the audience for more comments of which there were none. He asked Mr. Tegeder and Kristen Wilson, Esq. for comments of which there were none.

**Upon a motion by John Kincart and seconded by Rob Garrigan and with all those present voting aye, the Board closed the Public Hearing.**

Mr. Aiello addressed the Board in response to the traffic concerns stating that he did recall conversations with respect to the prior applications. Chairman Fon stated that Mr. Aiello should look at the past minutes, reports and maps from the prior applicants to get a better understanding of what was being proposed at that time and what was agreed upon. Mr. Kincart stated that the public hearing should be re-opened to include Mr. Aiello's comments.

**Upon a motion by John Kincart and seconded by John Savoca, and with all those present voting aye, the Board re-opened the Public Hearing.**

Mr. Aiello stated that from his recollection when this approval was initially granted, they looked at SEQR and traffic for the BJ's gas station and restaurant pad site (*which is slightly smaller now*) and at that time there was a CVS application proposed opposite the street. They looked at their impact and determined in their study that adding the traffic signal heads as part of the BJ's gas station and modifying the timing to provide a split phase for both Stony Street and the driveway when you leave would mitigate impacts associated with this. It also looked at no build scenarios which included those other projects in those items and it was determined that items proposed and constructed as part of the BJ's gas station, before the certificate of occupancy, they made those modifications to the signal to modify the increases in traffic for this parcel. He does recall the CVS application as part of that application (*CVS and pad site*) in which they were going to do a widening and grant land to create some additional lanes as discussed but that land was under the control of that property. While that would have helped the development of that site, and the other proposed development on Stony street, the items that were already done mitigated the impacts from their site development project and was included in their study and SEQR findings as part of their overall application.

Chairman Fon stated that the increased traffic could be due to all the projects going on in that area currently (*Shrub Oak International School, Loves, pipeline, ballfield*) and expects that it would be less when complete. Once all the work is complete, there should be a tremendous improvement. He stated that the traffic study will be looked at during the work session.

In response to the first public comment, Mr. Aiello stated that one change made to the application was to modify where the drive-thru traffic would be exiting the immediate area of the pad site and how it would

interface with the intersection of the site driveway and the middle intersection. The plans were shown to all. The drive-thru exits were changed to provide for additional space between the exit of the drive-thru and the intersection which would be easier for people to process without interference as well as additional queuing space which is an enhancement to what was previously suggested. Chairman Fon stated that this was previously approved. Kincart stated that this was an improvement over the original plan and was discussed.

Ms. Kutter stated that she agrees that the current projects are potentially impacting the traffic. She asked Mr. Aiello when construction would begin of which he replied it would be a spring start. Ms. Kutter asked the Board if in between Thanksgiving and early spring, would there be time to look at the traffic to check for improvement after 202 and Lowes work is complete. Chairman Fon stated that this project was previously approved and was only opened to public hearing as a result of the building size and parking change. Chairman Fon stated that there are always opportunities to look at traffic. Kincart discussed there may be other opportunities to look at traffic such as up at the top of the hill and any intersections there. Ms. Kutter stated that she does not know what other mechanism there is to get the town to look at the traffic situation other than asking at the Town Board meetings and Dave Paganelli who agrees there is a problem. There is a lot of state right-of-way which limits the town involvement. She agrees that all the construction going on is exacerbating the problem, however, she feels it was bad before construction as well.

Mr. Aiello stated that he did participate in a meeting with Phil Grealy, John Collins and Maser Consulting in which they looked at a collaborative approach and the items that were installed (additional traffic signal heads) before the gas station opened was a building block that could be used going forward if an additional right-of-way became available. It was a coordinated review and they modified their improvements at the time. Kincart stated that the timing of the lights could possibly be looked at. Chairman Fon stated that work has not started yet, but once complete the state will look at this.

**Upon a motion by Chairman Fon and seconded by Bill LaScala, and with all those present voting aye, the Board closed the Public Hearing.**

Mr. Aiello inquired as to the next steps and when the resolution would be ready. Mr. Tegeder responded that the Planning Board just received the modifications with respect to the conservation spaces and new landscaping area which will need to be reviewed along with the resolution language. Chairman Fon requested that this application be placed on the next work agenda.

**Motion to Close Regular Session:**

Upon a motion by John Savoca and seconded by Bill LaScala, and with all those present voting aye, the Board closed the Regular Session.

**Motion to Close Public Session:**

Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting aye, the Board closed the Public Session.

**Motion to go into Executive Session for Advice of Counsel:**

Upon a motion by John Kincart and seconded by Rob Garrigan, and with all those present voting aye, the Board went into an Executive Session. Chairman Fon requested the public to exit the boardroom for a short period of time.

### **Motion to Open Work Session:**

Upon a motion by Chairman Fon, with all those present voting aye, the Board opened the Work Session.

### **WORK SESSION**

#### **Biffer Enterprises**

SBL: 16.08-1-1

Discussion: Certificate of Occupancy

Location: 3642 Hill Boulevard

Contact: Helen Biffer

Description: Approved Diner seeking a certificate of occupancy and satisfaction of the lot easements in the Biffer Enterprises complex by Planning Board Resolution #18-03 on May 7, 2018.

#### **Comments:**

Helen Biffer, Lydia Biffer and a representative from Frankie & Augie's Restaurant were present. Helen Biffer stated that this whole issue started some time ago with the diner application of which all were in favor. As a result of a site visit, it was discovered that there were multiple sheds on the site. Mr. Tegeder stated that there were a total of 7 sheds on the site. Sheds are as follows:

- Sheds A & E are the former refuse enclosures.
- Sheds B & C are enclosures for mechanical equipment.
- Sheds F & G are located to the north end.
- Shed D is now located near Shed G. It was formerly located on the south side near Shed A.

Ms. Biffer stated that Sheds B & C had been permitted by the Building Department about a month and a half ago. Mr. Tegeder stated that these sheds should not have been permitted as they are not on the approved site plan. Chairman Fon stated that these were issued in error and that none of the structures are legal.

The Board stated that they were informed that some of the sheds are being used for food storage by the restaurant with no Health Department approval. They also questioned if there was an electrical permit. Representative for Frankie & Augie's restaurant stated that it is used to store salad dressings, and frozen foods (*i.e.-chicken wings*) and that no pasta or sauce is stored there. He stated that he was given permission by the owner to do so and no permits were ever obtained as he was under the impression by the owner it was ok to do so. His restaurant has been there for 10 years and without this extra storage they will not be able to stay there. Ms. Biffer stated that she did not know it was not allowed and is trying to make it legal as the restaurant desperately needs storage as they do not have it within their restaurant. She stated that she was trying to help them out.

Mr. Tegeder stated that during a site visit in July with Helen Biffer, shed D was in a different location. It was re-located near the restaurant in the loading area. He asked what was in Shed D of which Ms. Biffer replied that it was bought for the dry cleaners but since it was not needed, she had given it to the restaurant. Mr. Tegeder replied that he indicated to Biffer at that time that shed D was in a very undesirable location (*loading area*) and is the least likely to gain favorable consideration by the Planning Board. Biffer replied at that time she would remove it.

The Board stated that Shed D is to be removed as it is located in the loading and service area. This area has been approved on the site plan to accommodate loading. In addition, this shed is not on the site plan. Sheds A & E are constructed from former refuse enclosures.

Discussion regarding the incoming diner was brought up in connection with the shed locations. Chairman Fon stated that it is clear the building needs expansion. If more space was needed, sheds should **not** have been added instead the building should have been expanded. All the sheds are illegal and all over the rear area of the property. A suggestion was made to remove the sheds and create one big shed or single frame structure for the restaurant's storage in the back of the restaurant near shed E.

Chairman Fon suggested a site visit for **Saturday, September 22<sup>nd</sup> at 10:00 a.m.** and requested that the Planning Department send out an email reminder to the Board.

### **Lowe's Plaza Off-Site Sewer Extension**

SBL: 26.18-1-17, 18, 19, 26.19-1-1, and a portion of 26.18-1-28

Discussion: Sewer Extension

Location: Old Crompond Road

Description: Request from adjacent residential property owners to discuss the approved sewer extension by Town Board Resolution #121.

### **Comments:**

Bob Rosenberg of Breslin Realty, Nickitas Panayotou, P.E. of PDE Engineering, Michael Grace, Esq. and Ann Kutter, resident were present. As a follow up to the previous meeting of August 13, 2018, all have returned to discuss the ongoing sewer extension. Mr. Grace stated that they are trying to coordinate some solution between the parties involved regarding the sewer hook ups. There is a difference of opinion to what the extent of the obligation is between the site owner and the home owners. He pointed out that the residents were under contract with another developer prior to this, which fell by the wayside. Breslin is willing to extend the sewer beyond the spurs to the homes and pay for the septic abandonment, however, it will need to be clear that this does not become an open checkbook. Driveways will not be paved or repaved; all will be restored in rough grade, no sod, etc. Details will need to be worked out.

Kincart questioned that in lieu of spurs to the property, have credits been offered to the homeowners (*monetary agreement*). Mr. Rosenberg responded that they have offered to pay each homeowner of which they were not interested in. Ms. Kutter stated that they were offered \$10,000. However, she received a contractor quote for the amount of \$20,000 to hook up to her property alone. Another resident's quote was \$50,000. Ms. Kutter stated that each of the properties are unique with separate issues. She stated that Breslin asked the homeowners to support them, which they did and all they asked for in return was the sewer connections as promised.

Mr. Rosenberg stated that Mr. Capellini, Breslin's former attorney, is not here anymore to review the history of this situation as he recently passed away. He stated that Breslin has agreed to work with the property owners, however, he does not want to be wholly responsible for the entire cost. Mr. Rosenberg requested a roster of the residents in order to reach out to each individually. Ann Kutter replied that she will supply the list of names and addresses to him.

Chairman Fon stated that on behalf of the Board, the record is clear and advised that the approval stands. The Planning Board is not going to take any more action on this. The record is lengthy and speaks for itself.

### **Breslin Realty Subdivision**

SBL: 26.18-1-17, 18, 19, 26.19-1-1, and a portion of 26.18-1-28  
Discussion: Subdivision  
Location: 3200 Crompond Road  
Contact: Provident Design Engineering  
Description: Proposed 5-lot subdivision for the Lowe's Home Center Plaza site.

#### **Comments:**

Bob Rosenberg of Breslin Realty, Nickitas Panayotou, P.E. of PDE Engineering, Michael Grace, Esq. were present. Mr. Rosenberg stated that a year and a half ago the project was being tracked for many different reasons. The Board suggested a hold on the subdivision. The plat has been filed and the survey was prepared by a licensed surveyor for the 5 lots. Four lots will have a building and the 5<sup>th</sup> lot will not. All are in accordance with what was discussed. He recently submitted the plans to the Board for final approval. Chairman Fon stated that the Board has decided to table this discussion until all site plan issues have been resolved.

### **2040 Greenwood Street**

SBL: 37.15-1-38  
Discussion: Site Plan  
Location: 2040 Greenwood Street  
Contact: Site Design Consultants  
Description: Proposed 1 ½ story commercial building and associated parking on 5.71 acres in the C-4 and R1-40 zones. Project will require wetland buffer disturbance.

#### **Comments:**

Joseph Riina, P.E. and Brian Cipriani was present. Mr. Riina stated that the building has not changed since their last visit to the Board. The stormwater basin was moved from the original location to the front of the building. Stormwater discussion followed. The driveway will have a half paved and half gravel surface. Discussion regarding the buffer and berm plantings was addressed. Mr. Tegeder questioned the tree removal and how it will be quantified of which Mr. Riina responded that all tree removals will be identified by Steve Marino. Mr. Tegeder requested that some trees be placed on the plan. Mr. Riina stated that a mitigation plan will be in place. Mr. Riina is requesting to move ahead with a public hearing if the Board is in agreement.

### **Envirogreen Associates**

SBL: 15.16-1-30 & 31  
Discussion: Site Plan  
Location: 1833, 1851, 1867, and 1875 East Main Street  
Contact: Site Design Consultants  
Description: Proposed redevelopment of a portion of the referenced property by removing one of the existing buildings and parking area, and constructing a 16,000 sf retail center with associated parking.

#### **Comments:**

Joseph Riina, P.E. and Brian Cipriani were present. Mr. Riina stated that the DEC did not approve their application (*wetland filing*). He has not received any written communication noting the reasons for the denial.

As a result, the plans will change with the loss of the driveway. They are not sure where to go in order to construct a building with a proper amount of parking. The new plan is not as appealing compared to the original plan. The wetland disturbance was discussed. They are seeking guidance from the Planning Board.

Mr. Tegeder stated that according to SEQR procedures, all involved agencies are required to communicate in order to create an open dialogue with the lead agency. Kristen Wilson, Esq. stated that she will write a letter on behalf of the Planning Board to the DEC requesting clarification of their position. She stated that the comprehensive plan is to be reiterated. The Board asked if they can proceed with the original plan since there is no written response from the DEC. Mr. Riina added that the original plans have been Army Corp. approved. He also stated that this project was initiated in 2014 and at that time it was noted that that this was not a high functioning wetland. Permits have been issued before for other projects in the area. He will review the background history and report back to the Board.

### **Correia Site Plan**

SBL: 6.17-2-65  
Discussion: Preliminary Site Plan  
Location: 250 East Main Street  
Contact: Site Design Consultants  
Description: Proposed Storage Facility on 8.22 acres in the Country Commercial zone consisting of two 1 ½ story buildings with 6,000 sf each.

### **Comments:**

Joseph Riina, P.E. was present. Mr. Riina stated that the site is located at the intersection of 6N and East Main Street. The plans have been revised and recently re-zoned to add two 6,000 sf storage buildings. The project will be done in two phases. Visibility is minimal from the main road. There is no need for a variance as it meets all requirements of the country commercial zone. Each structure will be 1 ½ stories in the style of a Butler building. Retaining wall discussion followed. They are only in the concept phase and have not vetted out all of the details as yet. Mr. Kincart stated that he had no issue with the concept.

### **Town Board Referral – Solar Power Generations and Facilities**

Discussion: Proposed Town legislation to allow the use of harnessing solar power for both residential and commercial properties. It is proposed that projects under this legislation would go through a Special Use Permit and/or the Site Plan application process.

### **Comments:**

The Board discussed the solar law and are in the process of constructing a memo with their comments (*i.e. – locations, zones allowed, size limit, larger buffer, stormwater handling, panel heights, coverage, approving authority, funding if asked, etc.*) to the Town Board. Mr. LaScala expressed an interest in performing a site visit to a solar farm. Tegeder stated that he will send LaScala a list of solar farms.

### **Unicorn Contracting**

SBL: 37.1-2-73, 74, 85 & 86  
Location: 355 Kear Street, 360 Underhill Avenue, 366 Underhill Avenue

### **Comments:**

Mr. Tegeder stated that the plans have changed slightly with respect to the parking and refuse enclosures which are now facing the back of Route 118. They have DEP approval. There will be an amendment reflecting the DEP approval. The applicant will need to return to the Board for review.

**Tree Law**

**Comments:**

The Board agreed to review this law at the next Planning Board meeting on October 1<sup>st</sup>.

**Motion to Close Meeting:**

Upon a motion by Chairman Fon, seconded by Rob Garrigan, and with all those present voting aye, the Board voted to **close the meeting at 10:03 p.m.**