

Planning Board Meeting Minutes – June 10 , 2024

A meeting of the Town of Yorktown Planning Board was held on Monday, June 10, 2024, at 7:00 p.m. in the Town Hall Boardroom.

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

Bill Lascala
Bob Phelan
Bob Waterhouse, Alternate

Also present were:

John Tegeder, Director of Planning
Robyn Steinberg, Town Planner
Ian Richey, Assistant Planner
Nancy Calicchia, Secretary
David Chen, Esq.
Councilman Sergio Esposito, Town Board Liaison

Motion to Approve Meeting Minutes of May 20, 2024

Upon a motion by Bill Lascala, and seconded by Bob Phelan, and with all those present voting “aye”, the Board approved the meeting minutes of May 20, 2024.

Motion to open Work Session

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

WORK SESSION

TJ Maxx – Yorktown Green Shopping Center

Discussion: Site Plan
Location: 37.18-2-56; 355 Downing Drive
Contact: Harris Beach PLLC
Description: Seeking site plan approval to construct a new loading dock, trash compactor, and trash enclosures in the rear of the existing building.

Comments:

Darrius Chafizadeh, Esq.; and Jon Kuybida of Jarmel Kizel Architects and Engineers P.C. were present. Mr. Chafizadeh stated that they are here this evening for continued discussion. As requested at the previous meeting, they submitted a landscape and roof plan for review. Mr. Kuybida stated that the landscape plan was revised slightly; the overall concept is the same. They are proposing to in fill plantings that are missing or aren't providing enough screening from the corner of Kear Street along Route 118 as shown on the plan; existing plantings will remain. The gaps will be filled with moffat blue junipers (planted at 5 to 6ft and will mature at 12ft); and baby giant thuja (planted at 8ft and will mature at 15ft). The idea is to make sure that the plantings will not interfere with the power lines. Photos of the existing landscaping and proposed landscaping superimposed to the existing renderings from Kear Street to Route 118 were shown. Mr. Waterhouse asked if the photos were taken at eye level and the response was yes and that they were taken on May 16th. Mr. Tegeder asked if they were replicating what was on the approved site plan in terms of the number of shrubs and locations. Mr. Kuybida responded that they were and that his drawings are per the approved site plan.

Chairman Fon asked about the roof plan. Mr. Kuybida stated that the existing rooftop membrane is to be replaced with white membrane that will be brought up to the back side of the parapet wall for nicer detail. He noted that they entertained the idea of painting them white but was advised that they should not alter the factory painting as it may affect the warranty. Mr. Kuybida showed the existing roof plan with the main building and satellite building to the left. The main building shows a total of 20 rooftop units before modification. The proposed roof plan shows a total of 19 rooftop units that includes TJ Maxx and Five Below but there are also 6 other units depicted that are part of the existing building which will be altered with other tenants. Mr. Phelan asked if the number was expected to rise. Mr. Kuybida responded that as of now they are sized appropriate for the square footage below. Mr. Tegeder asked about the setting

height for the roof units. Mr. Kuybida responded that they are installed on an 18” support structure; the height for each unit is 50” in height which is 4’2” so that would give them an overall height of about 5’8”. Mr. Tegeder asked if it was a manufacture requirement to set them 18” from the roof plain. Mr. Kuybida responded that it was and noted that it was a building code. Mr. Waterhouse asked if the elevation of the units were higher than the parapet wall. Mr. Kuybida responded that they were not. Mr. Phelan asked about the dimensions for the parapet wall. Mr. Chafizadeh informed the Board that the plans were previously submitted with the exterior elevations and have not changed. Mr. Kuybida showed the exterior elevations with the parapet dimensions to the Board; the existing parapet to the new height at the TJ Maxx store is 6’5”. Mr. Tegeder asked what the height was of the shortest parapet and the response was 2’.

Chairman Fon asked if the roof work has started. Mr. Kuybida responded that it was over 90% complete. Mr. Phelan asked why there was work going on prior to their approvals. Mr. Chafizadeh responded that the building permit was issued for work inside and the roof itself. The units have not been installed and is part of the site plan review which includes the loading dock addition, units and façade. He noted that they they met with the ABACA for the façade and received their approval.

Chairman Fon asked about the DOT with respect to the plantings. Mr. Kuybida responded that they made a submission to the DOT and are waiting for a response. Mr. Phelan stated that he was confused as there was an existing approval to allow plantings in the DOT ROW and was not sure if they have to ask permission to do this additional work or if it is considered to be part of the approval from years back. Mr. Chafizadeh responded that there was an approval by the Planning Board dating back to the 1990s for the landscape plan that was also subject to DOT approval for the landscaping within the DOT ROW; they will find out when they receive the DOT response. He added that they are prepared to install the trees to screen the roof and beautify the site. Mr. Phelan questioned if the older approval remains active from a legal standpoint and noted that their collective position should be that there was an original approval and this proposal is to further the maintenance and update the plan. Mr. Chafizadeh responded that they are prepared to do this. Chairman Fon stated that the DOT will require a work permit and insurance and added that they are a year behind. Mr. Phelan stated that he read through the original approval and noted that there was language with respect to an annual review that should continue. Mr. Chafizadeh responded that this is standard and that they are ok with this language.

Mr. Tegeder noted that the landscaping plan shows trees in front of the main building but the wings don’t show any landscaping. His recommendation would be to continue the landscaping across the entire building to reflect the original approval or with the new raised planters. Mr. Chafizadeh responded that they had no issue with this. Mr. Tegeder continued with respect to the rear that a condition be made that the plantings be subject to a field review to ensure that there are a proper amount of plantings. Mr. Chafizadeh agreed.

Upon a motion by Bill Lascala, and seconded by Bob Waterhouse, and with all those present voting “aye”, the Board opened a Special Session.

Upon a motion by Bill Lascala, and seconded by Bob Phelan, and with all those present voting “aye”, the Board approved the resolution approving an amended site plan for the Yorktown Green Shopping Center with amendments as discussed.

Upon a motion by Bill Lascala, and seconded by Bob Phelan, and with all those present voting “aye”, the Board closed the Special Session.

Nantucket Sound Sons LLC

Discussion: Field Changes

Location: 37.18-2-86; 385 Kear Street

Contact: Joseph Thompson Architect

Description: Proposed changes to previously approved site plan by Res #21-14, dated August 9, 2021

Comments:

Joe Thompson, Architect; and Marsel Praela, property owner; were present. Mr. Thompson stated that he is representing the applicant with respect to the requested site plan amendments. They are here this evening for continued discussion following their site visit with the Board. They provided a submission on June 6, 2024 that included a revised site plan. The primary concern is that the HVAC units are now located on the ground in front of the building as opposed to the rooftop as originally approved. The units are proposed to be screened with a 6’ high decorative iron fence with privacy screening. They are proposing the same screening material for the dumpster enclosure as opposed to the concrete

enclosure to soften the look. They reviewed the sound data for the units; the units are rated to operate as low as 49 dB per the manufacturer's specifications which is a very low noise level. They feel that the screening will refract the sound and help further mitigate it. They are also proposing to screen the area and the perimeter of the property with a number of evergreen trees that will also help to soften the appearance of the units. If the Board agrees, they could schedule a site visit to hear the units and assess the site.

Mr. Thompson stated that the reason for the change was the functional concern with placing the units on the roof and noted that while they can be installed up there it would require a crane to do so. There is currently a 3x3 access hatch which allows for maintenance access but if the units were to fail they would have to crane them off the roof. It would also potentially deter regular maintenance including snow events. They are requesting relief on this decision and noted that they are screening it to the best of their ability.

Mr. Thompson continued that they also feel that the proposed relocation of the dumpster from the front of the site as originally approved to the rear helps with the aesthetic of the property. The original reasoning for this was for the convenience of the commercial tenants. The tenants interested in the property have no issue with the new dumpster location. They also reviewed the location with the carting company that plans to service the site and they believe it will be more easily serviced. As mentioned previously, the dumpster enclosures are proposed to be screened with a 6' high decorative iron fence with privacy screening.

Chairman Fon asked about the proposed propane tank at the site. Mr. Thompson responded that there is a food service tenant that is interested in the property and are proposing a 125 gallon tank (30 inches in diameter, 4 ½ feet in height) that can be installed horizontally and would be used for their kitchen equipment. The tank would also be screened by evergreen trees. Mr. Phelan asked if natural gas was available. Mr. Thompson responded that it was but noted that the original application for the site was for electric. The tenant has approached Con Edison but there is a back log of 6 to 9 months and added that they are not fully informed on the cost. The tenant may not be able to incur this initially so they would like to start with the natural gas tank.

Mr. Phelan stated that he doesn't have an issue with the dumpster change as it would help the lower part of the site. He added that he would agree to the propane tank installation as long as it was temporary and that they pursue the natural gas connection. Mr. Thompson responded that they could not commit to this because they are not fully aware of the cost. Mr. Phelan noted that he is concerned that the parking lot above lends to the possibility of a vehicle hitting the proposed tank. Mr. Thompson responded that the tank is at a lower elevation about 4 or 5 ft so the vehicle would have to fall off. Mr. Phelan stated that this was his concern. Mr. Thompson stated that they could explore installing bollards as a safety measure. Mr. Phelan stated that this would be a requirement.

Mr. Phelan stated that with respect to the condensor units, he read the specifications and believes that the units are designed specifically for the ease of location and it is his belief that they could be moved to the roof. Mr. Thompson responded that the largest dimension is the height at 52" and 41" in width. They are narrow units (13" wide) but the hatch is 3x3 so they would have to be craned to the roof. Mr. Phelan asked about the false windows and the gable end for access. Mr. Thompson responded that the units would not fit as the windows are 30x30 and they would have to cut through the back of the parapet, the same would apply to the gable; the crane would then be a better option. Mr. Tegeder noted that the weight is 278lbs. Mr. Lascala asked Mr. Thompson if he designed the chase for the mechanicals. Mr. Thompson responded that he did and that there are two chases and that they are empty. Mr. Phelan stated that in his opinion this is a self-induced hardship; the rooftop units were part of the approving resolution and to have them mounted on the ground prior to asking for approval is offensive to him. He also feels that part of the units are outside of the setback line. He is not in favor of granting relief for the units to remain where they are. He added that the applicant knew enough to come back to the Board for the siding change which was done in an appropriate manner and granted. These units were decided to be put on the ground about 9 months ago and noted that the roof was designed specifically to hide the units.

Mr. Thompson stated that the applicant consulted with the Board on the siding and curb cut change but not on the condensor location and thought that there was probably some loss of knowledge when the property transferred. They are trying to offer the best approach. Mr. Lascala asked Mr. Tegeder for his opinion. Mr. Tegeder stated that there are times when mechanical equipment is placed on the ground and screened which is not unusual. The effort by the Board has always been to screen the units to the greatest extent possible especially when they are on the roof, which is their

typical location, with the height of the parapets. He noted that this was discussed during the review of this project. Chairman Fon asked Mr. Thompson if he was the original architect and the response was yes.

Mr. Waterhouse stated that he is concerned with the noise from the units and their proximity to the patios. Mr. Thompson stated that if the Board agrees, they would like to schedule a site visit to assess the noise from the units. During the most recent site visit the building was not energized and it is now energized. They are requesting permission to hook up the units as they are currently under a stop work order for the Board's evaluation before a decision is made.

Mr. Thompson showed photos of the site to the Board. A video of the existing roof was also shared with the Board that showed the access hatch and a number of exhaust penetrations on the roof. He noted that while there is available space currently, a future restaurant tenant would require a hood with make-up air. They don't believe they could accommodate all of this on the roof and noted that this would create difficulty with leasing.

Chairman Fon asked if the fit-out was done for the proposed restaurant and Mr. Thompson responded that it wasn't and they are in the planning phase. Chairman Fon asked what mechanical equipment would be required for the restaurant. Mr. Thompson stated that generally restaurants require an exhaust for their hoods and make-up air units which is a large unit that can be 8-ft in length and 4-ft in height. He noted that if they are not allowed to keep the HVAC units on the ground then the proposed restaurant tenant may not work for this location. Discussion followed with respect to the attic and gable structures for housing the make-up air units or condensers and Mr. Thompson responded this was not an option as the units are large and need to breathe. The roof layout works if it was one or the other and the decision could limit the tenancy to a retail or office type use.

Chairman Fon stated that the Board works hard on their approvals and understands the potential for field changes, however, his concern is changing things before asking for approval. The proposed restaurant equipment will also need to be considered as it may have more of an impact than the condensers. Chairman Fon noted that he is not in favor of the location of the condensers.

Mr. Thompson asked if the stop work order could be lifted so that the applicant could continue to work on finalizing the construction at the site that is not related to these issues. Chairman Fon stated that the Board agreed that no further work was to be done until a decision was made on the location of the condensers.

The Board agreed to schedule a site visit with the applicant to assess the sound of the condensers and also requested for the applicant to provide more information on the proposed restaurant in terms of the equipment. Mr. Tegeder informed the Board that they would need to grant permission to energize the units for the site visit without lifting the stop work order. The Board agreed to granting permission to energize the units for the site visit.

Guiding Eyes for the Blind – Crompond Road

Discussion: Approved Site Plan

Location: 36.06-2-72; 3241 Crompond Road

Contact: Anthony P. Russo, Environmental Compliance Services Inc.

Description: Proposed changes to mitigation plan.

Comments:

Anthony Russo; and Joseph Riina, P.E. of Site Design Consultants were present. Mr. Russo stated that they are here this evening seeking acceptance of a change to the previously approved wetland mitigation plan for Stream Section 1 restoration area to offset the extent of bank scour and downstream sedimentation. Based on his observation of the stream section over the past three years he has noticed that the stream is mellowing out. The cutting has been done and the sediment has dropped down on the western section close to the proposed culvert. The plans were shown to the Board to review the proposed areas for creation and restoration. A 36" culvert is proposed under the proposed driveway off of Mohansic Avenue, below that to the south is E-3 that is the wetland enhancement creation area, and E-4 is to the right. To the north just before E-5 is the stream section that they are proposing to change. During the review, they talked about boulders, cribbing and filling to reinforce the east bank and placement of several boulders along the west bank. They are proposing to utilize riprap stone along the banks of the stream section as depicted on the revised plan (Revised E5 S1 Mitigation Plan dated 6/7/24) that would extend just before E-5 and nothing on the west side except for plantings that will now be E5-A. They will be adding a few boulders to promote the dropout. Obligate vegetation is beginning to become established. They will continue with their proposal for variant species, shrubs and trees on the banks and also

open up the rock and put in a narrow bridge system with water tolerant shrubs to help root the bank along with stone stabilization.

Mr. Tegeder asked if they were increasing the wetland created area as E5-A is new and not previously proposed. Mr. Russo responded that this was correct. Mr. Tegeder asked if what was proposed previously was just a line of boulders and if this will further enhance the wetland values in this corridor and Mr. Russo responded that this was correct. Mr. Phelan asked the height of the proposed riprap. Mr. Russo showed the highest bank on the plan that will meet soil with plantings on top. Mr. Phelan asked if they were channelizing the stream and the response was yes on a limited basis where it has to be.

Chairman Fon asked if there were any concerns. Mr. Tegeder stated that he had no concern as they are increasing the wetland area which is a positive. Chairman Fon asked about other approvals. Mr. Russo responded that they are preparing an application to obtain a nationwide permit from the US Army Corp to make the necessary change to the previously approved stream section 1 restoration area if the accepted by the Board. He noted that they do plan to update the plan one more time after they finish their field work to back up the creation areas with their data for the creation area. Mr. Tegeder requested for the applicant to submit a copy of what is produced for the Army Corp to the Planning Department. He also noted that it should go to the Conservation Board.

The Board had no issues with the proposed change. Mr. Phelan asked if the Board should make a formal approval for the change. Mr. Tegeder responded that it was a field change and recommended submitting a memo to the file for the record and the Board agreed.

A&S

Discussion: Proposed Outdoor Seating

Location: 8.90-51-2; 3695 Hill Boulevard

Contact: Joel Greenberg, Architectural Visions PLLC

Description: Proposed outdoor seating area serving up to 12 people. Six concrete bollards will be installed between the new seating area and the parking lot.

Comments:

Mario Mancini, property owner; and Nick Palumbo, tenant and owner of Common Grounds Cafe were present. Mr. Mancini stated that he is proposing outdoor seating with six concrete bollards for protection in the front of his store (A&S) as shown on the submitted plans. Mr. Tegeder informed the Board and the applicant that a special permit would be required for approval. Chairman Fon asked if there were any parking issues. Mr. Tegeder responded that there were none and noted that this was more of a retail situation so the sit down is much quicker than a restaurant meal. Mr. Phelan asked if there was table service and Mr. Mancini responded that there was not. Mr. Tegeder requested that the applicant provide more information with the bollard specifications and their locations. He noted that there are two bollards per parking space and thought that they may need to be spread out for better protection. The Board advised the applicant to reach out to the Planning Department with respect to the bollard specifications and permit.

Mr. Mancini continued that with him this evening is Nick Palumbo who is the owner of the Common Grounds Café that is located on his property. He noted that there is an existing outdoor seating area for the café on the site. A building department representative was out at the site and asked if there was a permit and he is trying to figure out what the requirements are for the café. Mr. Palumbo informed the Board that a permit was granted for the seating and submitted a copy to the Board. Mr. Phelan stated that it seems that the permit was granted for outdoor seating for 7 picnic tables on the left side of the café. Councilman Esposito stated that the permit was issued under the extended outdoor dining law passed by the Town Board during Covid that gave temporary discretion of permits to the Building Department; the final extension for this law by the Board was this past December. He thinks the expiration date for this permit is September. Mr. Phelan asked the applicant when the lease started. Mr. Palumbo responded that they opened on March 26, 2023. Mr. Phelan noted that the permit was issued to Hill Blvd LLC and asked Mr. Mancini, property owner, if he applied for the permit. Mr. Mancini responded that he did not and thought that it was probably placed under the site plan for the building. Mr. Phelan stated that that the existing seating is within the right-of-way and noted that there are 42 plus seats which is beyond what is allowed per the code. Mr. Palumbo stated that he understands this and would like to rectify the situation and added that the Building Inspector came to the site and was given the drawings; they were told to install cement planters for safety which they did. He added that they have a tavern license for beer and wine (gross revenue for alcohol is 1%) and that they only serve breakfast, brunch and lunch. He is here this evening to find

out what is needed for the outdoor seating such as a fence or bollards but noted that bollards would be expensive as it is a long easement.

Mr. Phelan stated that a major concern is that the existing seating is within an easement that runs through the property. A plan would need to be submitted with permission from the property owner to amend the site plan that recognizes the easement, any setbacks from the curb, and safety issues. The number of seats proposed would also need to be reviewed based on the extension of the legislation to see if it is still current and noted that the existing permit is set to expire in September. The Board advised Mr. Palumbo to work with the building owner and the Planning Department. The Board requested for the Planning Department to conduct a site visit to review both the A&S outdoor seating proposal and the existing seating at the café for compliance.

Town Board Referral - Homeland Towers

Location: 27.11-1-33; 109 Granite Springs Road

Contact: Snyder & Snyder, LLP

Description: Request from Homeland Towers LLC to lease a portion of Town property for a proposed public utility wireless telecommunication facility. This request requires an alienation of parkland.

Comments:

Item withdrawn at the request of the applicant. Ms. Steinberg stated that the applicant is working on a revised plan. Chairman Fon asked if the location is remaining the same. Mr. Tegeder thought that it was but they may be revising the access. Mr. Phelan asked if the proposal was for a portion of the parkland. Mr. Tegeder responded that it was. Mr. Phelan asked if this is before them because of a federal law that required the town to process this. Councilman Esposito responded that the federal government has a program that identified this area as a spot that has poor cell service and the proposed location seemed to be the best fit. Mr. Phelan stated that if the alienation is granted from the state for this location they would then be left to mitigate the impact to the best of their ability. Councilman Esposito stated that he could not comment on this but noted that it is not coming from the town and that they are trying to figure out the best way to move forward. He thought that the state allowed the land to be alienated. Mr. Tegeder stated it was not for this particular site. Mr. Chen stated that generally when the state legislation takes an alienation request they do so based on a home rule request but this is different because the genesis is the federal government. Mr. Tegeder stated that they are going to make a home rule request for this as well. Councilman Esposito noted that the Board has received quite a bit of correspondence both positive and negative.

Town Board Referral - Lake Osceola Rezone

Location: 6.14-1-2; 3000 Navajo Street

Description: Proposed zoning amendment to the Lake Osceola Planned Design District Overlay zone to add the property located at 3000 Navajo Street.

Comments:

Michael Grace, Esq., was present. Mr. Grace reviewed the background for the proposed property aka Creative Living located behind Navajo Street, Route 6N that is influencing the proposed zoning amendment. He stated that they discussed several approaches with the Town Board for this property in order to allow the project to move forward. The proposal is to expand the Lake Osceola Overlay District to include this property. The incentive of the legislation was to create a basis and attraction to improve the Heights area and Osceola 6N corridor which were areas that seemed to need the most help for future economic viability. The northern area of the town is the 6N corridor that has many environmental issues in terms of lake water quality, sewage effluent into the lake, stormwater issues, and traffic issues. There are also many properties that at one time had commercial viability that no longer have this. He feels that this project has great promise for the town because it is willing to install the infrastructure and the sanitary sewer lines for the 6N corridor. The proposal is for a 240 unit residential development on 50 acres of property set to the rear of the property that preserves almost 50% of the existing property in green space. It also proposes an active recreational component with the sports facility of which they will maintain.

Chairman Fon asked about the DEC regulated areas and if there were any activities taking place contrary to the original site plan. Mr. Grace stated that they were looked at and didn't believe so. He felt that there is much misinformation with respect to this site; he signed the official site plan and it has DEC approval. There is a long history on the property and feels this is irrelevant as those issues have their own process. He noted that it is compliant with all jurisdictional permits.

Mr. Grace continued that this is a corridor with natural resources to enhance such as Lake Osceola and the pond. He noted that years back there was a plan for Lake Osceola that didn't go through because of the infrastructure which could have created a whole different atmosphere for that corridor. Lake Osceola had great vitality decades ago; the biggest issue is that there is no infrastructure to upgrade the community and this project is proposing to do just that. The proposal is not a dense development based upon the acreage and preserves open space with an incentive to revitalize the corridor.

Mr. Grace stated that they are seeking a recommendation from the Planning Board to move forward so that the Town Board could entertain the extension to the Overlay District. Mr. Phelan asked if their response should be aimed specifically at this area on the map or beyond the limits of this. Mr. Tegeder responded that there is an overlay zone around Lake Osceola that doesn't include this property so the green area on the map is what is to be considered. He noted that the referral is for Lead Agency and the documentation that was submitted in support of the project should be reviewed. He informed the Board that they need to recognize that the SEQRA process can't be bifurcated and that they should be clear that if and when it gets to a site planning situation that the Planning Board has the ability to review the plan. Mr. Phelan asked about the Town Board's request for Lead Agency. Mr. Grace stated that it is a multi step process that is built into the law whereby first they would apply to the overlay zone for a determination. Mr. Tegeder stated that they are currently discussing Lead Agency and noted that there will be commentary developed from the Planning Board asking for more information to support the addition of this property into the overlay district.

Chairman Fon stated that at this point the Town Board is seeking a recommendation from the Planning Board with respect to the addition to the overlay zone and Lead Agency status and asked if there was a time limit for the response. Mr. Tegeder responded that this was correct and that there was a 30-day limit. The Board requested that the Planning Department prepare a comment memo of what was submitted for their review in order to make a determination within the timeframe. Chairman Fon thought that the Board should perform a site visit and Mr. Tegeder agreed.

Nathan's/Mister Softee

Discussion: Outdoor Seating

Location: 37.14-2-52; 1990 Commerce Street

Contact: Mike O'Neil

Description: Applicant constructed an outdoor seating area without approval.

Comments:

Joseph Riina of Site Design Consultants; Mike O'Neil, business owner, Curtis, and Carlos Pires, were present. Mr. Riina stated that a seating area was constructed in the slope between the building property and town property. The seating area as constructed is an elevated railroad tie structure with a gravel patio and stairs; the overall dimension is roughly 34' x 25'. In addition to the patio, evergreen trees were planted on the south and east side of the patio. There is an existing chain link fence between the two properties and a 15' wide sewer easement in the area of the patio. The owner was not aware of the need for site plan approval so they are here this evening to make it right and work towards an amended site plan for continued use of the outdoor seating.

Chairman Fon asked about the easement and if it was impacted from the construction. Mr. Riina responded that it is a town sewer easement and according to the Town Engineer it is close but has not been impacted but this would need to be verified. Chairman Fon thought that if there was a break in the line, the town would have to remove the patio. Mr. Riina responded that this was correct or the property owner. Chairman Fon asked Mr. Tegeder if the town would be obligated to reinstall the patio should it be removed due to a break and the response was no. Mr. Phelan asked if there was table service and Mr. Riina responded that there wasn't. Mr. Phelan asked about handicapped access. Mr. Riina responded that there was none in this area but there is room in front of the building for a table if there was a need and there is also seating within the store. Chairman Fon asked about the parking. Mr. Tegeder stated that this is a take-out and counter service so they anticipate that once they go through the parking count they would be able to move forward.

Mr. Ciarcia informed the Board that they are going to check the grades to see how much coverage is left on the sewer. He noted that it is a major 14" transite pipe so they want to make sure it is protected and verify that there was no damage. Discussion followed with respect to the durability of the retaining wall. Mr. Ciarcia stated that they will have to apply for a building permit.

Mr. Tegeder stated that a special permit will be required for the outdoor seating along with a plan that will become part of the record. He added that he spoke with the contractor and engineer at the site and thought it would be a good opportunity to make a connection to the community center with a stairwell in this location. He feels that this connection

would make sense to have with all the events that go on in town and at the center. He noted that many people go through that area and the current situation is dangerous so this would help.

Mr. Phelan felt that bollards may be required. Chairman Fon added that a railing will be required per the code. Mr. Tegeder suggested that a painted crosswalk from the facility to the patio along with signs should also be considered. Mr. Waterhouse asked if there was direct lighting for the steps at night. Mr. Tegeder noted that there is general lighting within the parking lot and no new lighting specific to the patio. Mr. Phelan stated that there may be an opportunity for handicapped access to the patio through the front grade.

Chairman Fon asked about the next steps. Mr. Tegeder stated that a special permit application would be required and they would move forward from there. The applicant was advised to work with the Planning Department.

Meeting Closed

Upon a motion by Bill Lascala, and seconded by Bob Waterhouse, and with all those present voting “aye”, the meeting closed at 9:23PM