

Meeting Minutes

THE REGULAR MEETING of the PLANNING BOARD of the Town of Cortlandt was conducted at the Town Hall, 1 Heady St., Cortlandt Manor, NY on *Tuesday, February 4th, 2019*. The meeting was called to order, and began with the Pledge of Allegiance.

Loretta Taylor, Chairperson presided and other members of the Board were in attendance as follows:

Thomas A. Bianchi, Board Member
Steven Kessler, Board Member
Robert Foley, Board Member
Jeff Rothfeder, Board Member (absent)
George Kimmerling, Board Member

ALSO PRESENT:

Valerie Myers, alternate member
Michael Cunningham, Assistant Town Attorney

*

*

*

Ms. Loretta Taylor stated before we begin tonight's agenda, I have the sad duty to report the passing of our board member Peter Daly. Peter was a longtime resident of the Town of Cortlandt who was very active and served on a number of committees before he arrived here on the Planning Board. He was a nature lover. He enjoyed camping and hiking. He was a passionate, I would say a passionate advocate for conservation and just enjoyed the outdoors and being a part of the nature scene. At Peter's request we have decided to donate, and did in fact, donate a generous contribution to the Mohonk Preserve in the Shawangunk mountains region of New York State. We on the board will miss Peter. He was very collegial, very knowledgeable about the outdoors and we are sad that he will no longer be here with us on this board and serve the town and the residents in general. With that, I think Bob – you wanted to say a few words.

Mr. Robert Foley stated yes, I just wanted – I knew Peter well and this is my little tribute to Peter Daly. As Loretta has said, he was always very involved and knowledgeable about the whys, wherefores and ways of our environment, and how overdevelopment, or the wrong kind of land use, can have a negative impact on our precious land base, be it wetlands, water courses, woodlands or wildlife and, of course, the vital role and necessary life of trees on this good earth. As a friend, and neighbor, and colleague here on the Planning Board, he sat next to me here for nine years between Tom and I. I will miss our conversations or discussions (sometimes very lengthy) about not just planning issues but also about his focus on his profession of photography, his enthusiasm for outdoor life. As Loretta said, he was quite a hiker and knew many more sections of the Appalachian Trail here in our Hudson Valley hills than I did. And his enjoyment of music and the soothing sound, sometimes rousing, of a gathering of good guitars, as our sons,

years apart in age, shared this talent. I will miss his calm presence here with us and around our town, and yes even his weather-worn hunting and hiking hat that sometimes sat up here amidst our pile of paperwork. We will miss you Peter Daly, fine friend and devoted colleague.

Ms. Loretta Taylor stated thank you Bob.

* * *

CHANGES TO THE AGENDA

Ms. Loretta Taylor stated we will have a few changes tonight. We are going to move **PB 12-94**, remove it in fact, from the agenda. It's the first item on the agenda under correspondence. We will be removing that per the applicant. We will also adjourn **PB 2017-25**. That again is per the applicant. That is the Lu Lu Properties application. And we're going to move **PB 2019-1** to, up in the agenda, under resolution. It will become item B: the application of Gas Land Petroleum. Those are three changes to the agenda. Can I have a motion to accept the changes?

So moved, seconded with all in favor saying "aye".

* * *

ADOPTION OF THE MINUTES OF THE MEETINGS OF JANUARY 7, 2020

Ms. Loretta Taylor stated the minutes apparently are not ready so we will hold them in abeyance and adopt them the next time: the minutes of this meeting we will adopt in the next month.

* * *

Ms. Loretta Taylor stated tonight, Valerie Myers who is the alternate to this board will be sitting in to participate on all of the applications that she feels comfortable with at this point. She's new to the board so she clearly has not had the exposure to all of these applications, but she will be sitting in tonight. And she is, obviously, eligible to vote, qualified to vote on anything that she feels comfortable with.

* * *

CORRESPONDENCE:

PB 12-94 a. Letter dated January 21, 2020 from Thomas Eikhof, on behalf of the Hertz organization, requesting Planning Board approval for the

temporary storage of 100 vehicles behind the Cortlandt Town Center located on Cortlandt Boulevard.

(Removed from the agenda per the applicant)

PB 13-05 b. Letter dated January 22, 2020 from Brad Schwartz requesting the 15th 90-day time extension of Final Plat approval for the Mill Court Crossing Subdivision located at the south end of Mill Court.

Mr. Robert Foley asked make a motion?

Ms. Loretta Taylor stated no, this is a letter...

Mr. Robert Foley asked on Kirquel, make a motion? **Resolution #4-20**. I make a motion that we approve **resolution 4-20**.

Seconded.

Mr. Robert Foley stated on the question, I will be voting no on this.

With all in favor saying "aye". One member opposed.

Mr. Chris Kehoe stated I have to poll the board. Mr. Kimmerling; yes, Mr. Kessler; yes, Ms. Taylor; yes, Mr. Bianchi; yes, Ms. Myers is abstaining, Mr. Foley; no. Motion carries **4 to 1 to 1**.

Mr. David Steinmetz stated thank you.

c. Discussion of the DGEIS/DEIS for the proposed MOD Local Law and for the two development proposals for the proposed Medical Oriented District (MOD) located on Route 202 in the vicinity of the NewYork-Presbyterian/Hudson Valley Hospital Center.

Ms. Loretta Taylor stated we had put together some thoughts on this, as you know, and I don't...

Mr. Chris Kehoe stated I had drafted a memo that will ultimately be going back to the Town Board with roughly maybe **12 to 15** comments, general comments, broad comments, not necessarily extremely specific comments. The board talked about it at the work session then talks a little bit about it at their last public meeting. Member Bianchi submitted some specific comments and Mr. Kimmerling has submitted some more. I believe that we need to further organize the memo back to the Town Board. I guess we're going to discuss it at the next work session. Just for the public to be aware, the Town Board did adjourn their public hearing until their April 14th Town Board meeting. So

there is some time to get the comments back to the Town Board but I would think that we should try to wrap it up by March as the latest so the Town Board can have a month or so before the public hearing.

Ms. Loretta Taylor stated I would like for us, as a board, to talk about these suggestions, the ones that we've already seen and the ones that George made just this week. I think it's important for us, as a board, to probably put together a document that we all feel strongly about. Some of these are going to go by the wayside, others we need to tweak more...

Mr. Chris Kehoe stated but technically, none of them will go by the wayside because as long as they're phrased as a question they have to be answered in the FEIS. So maybe, I think Tom was mentioning, some of them are so similar, maybe some of them can be combined.

Mr. Steven Kessler stated but not all of them are in the form of a question.

Ms. Loretta Taylor stated we can talk about them next time. I think we may have to spend a little bit of time on it. So you might want to extend the work session for another **15** minutes or something like that just to make sure we do this and we're done with it because it's been sort of hanging out there.

Mr. Steven Kessler stated the work session goes on until it ends. It's not before the meeting.

Mr. Chris Kehoe stated the next work session I believe will be the Thursday night so we can go as long as we want at the work session.

Mr. David Steinmetz asked and that's when it will be discussed at the work session, not...

Mr. Steven Kessler responded as well as at the meeting.

Ms. Loretta Taylor asked is there anything we want to put on the table now? Do you have anything...

Mr. Chris Kehoe asked does the applicant have anything to say? Any of the applicants, do you want to say anything? You don't have to.

Mr. David Steinmetz stated we're here, but I will say just so you're all clear, obviously David Steinmetz for V.S. Construction. Mr. Santucci is here. Anup Misra from Trammel Crow, the assisted living provider is here; Glen Ventromile from Hudson Park Group, the residential developer all on the Evergreen side. I don't think there's anybody here from the Gyrodyne team.

Mr. Chris Kehoe stated just for the record, Gyrodyne did reach out. I sent them information about what type of discussion and I guess they decided they did not need to attend.

Mr. David Steinmetz stated that's fine. We're here just because we knew it was on your agenda. Out of respect to the board, we wanted to be here. If you have questions, we're happy to answer, otherwise we will, obviously listen to your comments. I would just echo what Chris said, anything that's raised in the form of a question or an intelligent comment will be responded to in the FEIS as it would be required under SEQRA. Sorry Madame Chair, I just had to take a shot at Mr. Kessler while I had a chance.

Mr. Steven Kessler stated I'll get to return the favor.

Ms. Loretta Taylor stated I guess the board doesn't have anything it wants to put on the table right now.

Mr. Thomas Bianchi stated I think we need more discussions.

Mr. David Steinmetz stated thank you.

d. Receive and file the 2019 Planning Board Annual Report

Ms. Loretta Taylor asked may I have a motion please?

Mr. Thomas Bianchi stated Madame Chair I move that we receive and file the **2019** Planning Board annual report.

Seconded with all in favor saying "aye".

*

*

*

RESOLUTION

PB 2019-21 a. Application of Ronald & Marianne Weinheim and Masao & Eiko Iwahara for a lot line adjustment between two (2) parcels located at 28 Furnace Brook Dr. & 32 Furnace Brook Dr. Drawings latest revised November 20, 2019

Mr. Steven Kessler stated Madame Chair I move that we adopt **resolution 5-20** approving the lot line adjustment.

Seconded.

Mr. Chris Kehoe stated just on the question, we're treating this more or less like a subdivision given the fact that the lot is being eliminated. We're requiring it to be filed in the County Clerk's office in there'll be more or less a plat prepared.

Ms. Loretta Taylor stated the applicant is aware of this.

Mr. Chris Kehoe stated yes, I've been in touch with them.

With all in favor saying "aye".

PB 2019-1 b. Application of Gas Land Petroleum, Inc. for Site Development Plan approval, Tree Removal and Wetland Permits and a Special Permit for a proposed gas station with a canopy and a 2,600 sq. ft. convenience store located on an approximately 1 acre parcel of property at 2051 & 2053 E. Main St. (Cortlandt Boulevard). Drawings latest revised October 8, 2019.

Mr. George Kimmerling stated Madame Chair I move that the board adopt **resolution 6-20** approving the application.

Seconded.

Mr. David Steinmetz stated point of information before the board votes, my understanding is you only have five members voting and although you have a quorum, you only have five members. Out of a courtesy to the applicant and in light of the nature of this matter that has been presented to your board for over a year with a tremendous amount of empirical data, and we don't have a full board voting, I would ask the board to entertain the courtesy of a straw poll vote if the board would so oblige. There's nothing unlawful or improper and it's routinely done in other communities.

Ms. Loretta Taylor stated I don't know that – we sort of talked about this earlier. I don't know that the board really wants to do a straw vote but I do think that you may be worried unnecessarily.

Mr. David Steinmetz stated okay Madame Chair, maybe that was the bit of the straw. Thank you.

Mr. Thomas Bianchi stated on the question, we received a letter tonight dated February 3rd from Montalbano, Condon & Frank, and I haven't read it yet so I don't know if there's anything in here that needs to be considered as part of the resolution. That's my only concern.

Ms. Loretta Taylor stated you're right. We just got that letter.

Mr. Chris Kehoe stated I would prefer counsel address that.

Mr. Michael Cunningham stated I had a significant back-and-forth today with counsel for the neighbors and he requested that it be provided to the Planning Board tonight. I know it's significantly after the period that we had for public comment, but upon his request it was provided to the board.

Mr. David Steinmetz stated Mr. Cunningham, may you address some of the substance in this letter because I know apparently you have opined on the **24** hour issue.

Mr. Michael Cunningham stated oh the **24** hours; sure I'll talk about...

Mr. David Steinmetz stated in terms of the substance of Mr. Sciaretta's letter, there's not a lot in it.

Mr. Michael Cunningham stated I'll talk about the **24** hours. I don't think this board can regulate this gas station and say that it has to be operating for less than **24** hours given that another gas station on Route 6 advertises itself as **24/7** with a large sign. It's the one right across from the Mobil station on the corner of Locust. That's my position that the board cannot regulate the hours based on that.

Mr. Chris Kehoe stated one other thing, another piece in that memo talks about time limiting. I did look through the code. Junkyards, bed-and-breakfast, private nature preserves open to the public, nursery and daycare centers, contractor's yards and specialty contractor's yards have specific language in the special permits that requires the Planning Board to time limit those special permits. I don't believe that the Planning Board has ever time limited the gas station special permit.

Mr. Michael Cunningham stated also, the same thing with **24** hour sort of question we have to treat similarly situated applicants the same. So it would be a new precedent if they were required to come back.

Mr. David Steinmetz stated Mr. Bianchi I just received the letter when I walked in this evening so I know you just got it. I'm happy to respond.

Mr. Thomas Bianchi stated I'm reading it as we speak.

Mr. David Steinmetz stated the most important issue Mr. Cunningham, in my opinion, Mr. Cunningham has just addressed. The hours of delivery, I think, we've previously address with staff and I think staff and your consultant have addressed that. I assume, although I don't see it in the letter, I assume you all know that since our last meeting your staff conferred with your outside consultant on that sixth pump aisle and that was resolved so I think that there's nothing further to address there. It appears that my client and I have been – they have taken a shot at us for objecting to the fact that they're asking for things from us in good faith like additional screening, and height on the fence, and they're not happy that we've said we don't like neighbors asking for things and then in the next breath threatening to sue us and apparently positioning themselves to do so.

Having said that, my client stands by the fact that he's prepared to put up a fence, and screening, and be a perfectly wonderful commercial neighbor. And it is what it is. This particular group has been threatening to sue your board. My understanding from staff is that several other counsel have been at Town Hall in the ensuing, in the last **30** days. There may well be litigation. I simply want to know that your board's record is safe, intact, and thorough. That's it.

Mr. Steven Kessler asked David, the fence is on the plan?

Unknown speaker responded yes. We agreed to it.

Mr. Steven Kessler stated so therefore it's a moot issue. If we do approve this, you have to comply with the plan and the plan dictates you install a fence on top of berm.

Mr. David Steinmetz stated we are well aware of it. I just wanted the board to understand why...

Mr. Steven Kessler stated I just wanted to state that for the record.

Mr. David Steinmetz stated of course. We offered it.

Mr. Thomas Bianchi asked is the fence included in the conditions of the resolution or on the plat?

Mr. David Steinmetz responded it's in the plan as a requirement of the resolution. I just wanted to address why it's in this letter.

Mr. Chris Kehoe stated it's also condition **#20**.

Mr. Michael Cunningham stated we're on the question.

Mr. Robert Foley asked let me ask what's been brought up about the berm and the fence and the neighbor, and I know it's somewhat addressed in condition **20** and there would be decibel level tests done if there's noise complaints, but I'm not too sure what the berm and any arborvitae or a fence would do to mitigate, fully mitigate any noise problems.

Mr. Chris Kehoe stated I think that's partly visual. It's not necessarily for the noise. We've talked about this but these sites, all sites must comply with the town's noise ordinance.

Mr. David Steinmetz stated without question.

Mr. Robert Foley asked if the noise decibel levels are more than they should be; what do you do?

Mr. Michael Cunningham responded they'll be violated. Code Enforcement will go out there, they'll do a reading and if the reading is higher than what is permitted by code, they'll be violated and we'll see them in court.

Mr. Chris Kehoe stated or in response to that, site plan changes would have to be made or something might have to change in order to ensure that it stays in compliance.

Mr. David Steinmetz stated we have to comply with law like every other resident of the town. You have a town noise ordinance. We have to comply like everyone else. We know it.

Mr. Robert Foley stated you could face a potential shutdown or what? I don't know, until you mitigate it?

Mr. David Steinmetz responded Bob, you know this, so if you're asking a rhetorical or serious question, you've been doing this long enough. If there's a noise violation in your town, as your counsel has indicated, it would be the subject of an enforcement action.

Mr. Robert Foley stated a little different though from every other resident. In other words, if there are noise complaints out of a home owner or a smaller establishment, it's a little easier to mitigate. Okay, let's end that.

Mr. Sciaretta (from the audience) asked can I have a word?

Mr. Michael Cunningham responded no.

Mr. Sciaretta stated it's a point of word about the vote. The Chairwoman commented that there was no straw poll taken yet she said not to worry. So there was discussion about this vote beforehand about how you were going to vote this evening. I heard Madame Chair just say that you don't need to be worried to the applicant because we think you have your vote. Was there a discussion this evening about this vote before tonight?

Mr. Michael Cunningham stated a discussion at the work session too and you didn't attend the work session.

Mr. Sciaretta stated I know what happened at the work session. Was there a discussion about how you all were going to vote?

Mr. David Steinmetz stated I hope there was thought too. I hope there was thought and discussion. This is a ridiculous objection coming from the floor.

Mr. Sciaretta stated it's a point of order because I heard a comment made that...

Mr. Michael Cunningham stated it's not a public hearing anymore. Also, today with all this back and forth – and I will say, I offered to do a call with counsel who stood up today

and he said, there was nothing to talk about in the call and then he sent me six emails afterwards.

Mr. Sciaretta [indiscernible]

Mr. Michael Cunningham stated and you submitted one the day before this meeting. So you submitted one well after him.

Mr. Sciaretta stated exactly. You accepted the applicant's letter not the resident's.

Mr. Michael Cunningham stated if you care that much, why did you submit it yesterday?

Mr. Steven Kessler stated we just discussed your letter.

Mr. Sciaretta stated understood but I'm not just sitting here being accused of ...

Ms. Loretta Taylor stated we're in the process of taking a vote.

Mr. Michael Cunningham stated the letter is here right now. It's going to be in the record.

Mr. Sciaretta stated thank you.

Mr. Steven Kessler stated and we discussed it.

With all in favor saying "aye". One member opposed.

Mr. Chris Kehoe stated Mr. Kimmerling; yes, Mr. Kessler; yes, Ms. Taylor; yes, Mr. Bianchi; yes, Ms. Myers; abstain, Mr. Foley; no. Motion carries **4-1** with an abstention.

Mr. David Steinmetz stated thank you all for your patience and persistence throughout this application and the thorough review the board conducted.

Ms. Loretta Taylor stated thank you.

*

*

*

PUBLIC HEARING (ADJOURNED FROM LAST MEETING)

PB 2017-25 a. Public Hearing: Application of Lu Lu Properties, NY for Site Development Plan approval for an office and parking lot for a livery cab service on an approximately 41,376 sq. ft. parcel of property located on the north side of Travis Avenue, west of Albany Post Road (Route 9A).

(Removed from the agenda per the applicant)

*

*

*

OLD BUSINESS

PB 2019-7 a. Application of Nabil Khoury for Amended Site Development Plan approval and Wetland and Tree Removal Permits for a proposed 2,200 sq. ft. 4 bay garage, a 465 sq. ft. building addition and for additional parking and landscaping for property located at 2311 Crompond Road. Drawings latest revised December 18, 2019.

Mr. Joel Greenberg stated good evening Madame Chairman and members of the board. A lot has happened since we met last time. I think Chris will put up the drawings. It was my understanding that there was some concern about the four-bay garage projecting into the wetland buffer so we've completed changed the plan and I'll just read what I wrote here just to make sure I cover everything. We redesigned the location of the garage so it is now located on the existing impervious.

Mr. Thomas Bianchi asked do we have the right case?

Mr. Chris Kehoe stated hang on Joel. I believe that you made a motion to adjourn the Lu Lu public hearing so you don't need to readdress that again.

Ms. Loretta Taylor stated we're done.

Mr. Chris Kehoe stated they asked for an adjournment.

Mr. Joel Greenberg stated we redesigned the location of the garage so it is now located completely on the existing impervious surfaces of the property. Based on this plan, no new impervious areas are to be added. In other words, the wetlands and the wetland buffer will remain exactly as it is as we speak tonight. In fact, we've actually, around the garage, we've added some more landscaping. In effect, instead of having an increase in the impervious surfaces, of I think it was **10%** we now reduced the impervious surfaces by **5.3%**. So just to repeat, no impervious areas are proposed thereby leaving the existing buffer area completely intact. Plus, the fact we've also submitted a revised landscape plan which...

Mr. Steven Kessler asked simple question; the landscape plan, except for the addition or the landscape plan from the previous plan remains exactly the same?

Mr. Joel Greenberg responded no it's actually increased.

Mr. Steven Kessler stated no, what I'm saying is what you were planning to do before stays the same and you're now going to increase the landscaping plan because you're moving the garage more forward.

Mr. Joel Greenberg responded that's correct. So now, basically we've improved, completely improved, obviously, the buffer area. There was no change in the buffer area and in fact the existing impervious surfaces have been reduced by over **5%** because we've added landscaping and taken out some of the impervious surfaces out of there now. It's completely changed. I think most of the concerns that were mentioned by the board now have been addressed. We'd ask for...

Mr. Steven Kessler asked so with this change, you're losing how many parking spaces?

Mr. Joel Greenberg responded well, what happens is we've reduced the size of the garage so we don't lose any spaces. We're now required to have, I believe, we've come down to I think it was originally **10** spaces, now we only need **8** parking spaces for the public.

Mr. Chris Kehoe stated for the public and staff not counting the stored vehicles.

Mr. Steven Kessler stated it's still fewer spaces, it's just the same number that you need for the public and the staff.

Mr. Joel Greenberg responded correct. That has not changed. Yes. That's changed only because we reduced the square footage. It more than meets the code.

Mr. Chris Kehoe stated so I guess the main takeaway is, based on the discussion at the work session, the thought was two bays but I think the main part of the discussion was the two existing bays projected into the wetland buffer. The idea was to remove the bays projecting into the wetland buffer. And in talking with the applicant I said that the Planning Board had thought about two bays and you came back with three bays but three bays parallel to the existing building.

Mr. Joel Greenberg stated what happened, members of the board, is that since we reduced the square footage of our buildings, we reduced the number of parking spaces. So what we did is the one extra parking space that we had on the existing impervious surface is now a third bay. But, again, everything that's being done is on the existing impervious surface. We have not touched the buffer or the wetland and all the mitigation plans that our landscape architect has submitted are still in play. I think we've come a long way since, almost a year ago actually, it was last March I believe. So that, again, you have a completely improved site plan. You are giving an existing, small business a chance to expand his business but we're not touching any buffer area, any existing buffer areas or wetlands. Of course we're still going to give the easement to the East Hudson Authority for that program that they want to do and that is still, obviously, part of our program. So I would ask then, based on that, if you could basically have a resolution of approval for the March meeting. I think we've complied with everything that the board has recommended. Again, maybe just put back, Chris the existing plan from last March and you can just see what a difference a year makes. The light green...

Mr. George Kimmerling asked can I just ask a quick question? The building addition that's indicated, that is where that sort of Quonset hut tent thing is now on the property? That gray – so it just takes that same footprint.

Mr. Joel Greenberg responded no actually that –Chris, point out to the four-bay garage.

Mr. Chris Kehoe stated well I think the question is the existing old gas station and this is the proposed addition.

Mr. George Kimmerling stated and the proposed addition as that where that sort of tented space is...

Mr. Joel Greenberg stated again, that addition to the office area is still on the existing surfaces.

Mr. Steven Kessler asked have you received the new plans Chris?

Mr. Chris Kehoe responded well yes. This is the plan reflecting the three bays with the updated landscaping. And this also was sent to Steve Coleman. He did call me today. He said he hasn't completed his review but he, I think obviously, says it's moving in the right direction and he sees no problems. But he hasn't given us a memo on it yet.

Mr. Steven Kessler asked but you've reviewed it as well?

Mr. Chris Kehoe responded yes.

Mr. Joel Greenberg asked any questions?

Ms. Valerie Myers stated Madame Chair I'd like to make a motion to refer it back to staff to prepare a resolution based on the three bays parallel to Crompond Road.

Mr. Steven Kessler stated seconded.

With all in favor saying "aye".

Mr. Joel Greenberg stated thank you very much. Madame Chairman I also have the last item on the agenda which is just a simple accessory apartment in an existing building if you could just schedule the public hearing for that, I'd appreciate that.

Mr. Steven Kessler stated we will.

Mr. Chris Kehoe stated I think that's what's planned.

Mr. Joel Greenberg asked you don't need me for that right? I can leave? Incidentally I want to tell you that the groundhog did not see his shadow so spring is here. Take care. Thank you so much.

PB 2018-23 b. Application of Mahlab Family Realty, LLC for Preliminary Plat approval and for Wetland, Steep Slope and Tree Removal permits for a proposed 4 lot major subdivision (with one lot being a no-build lot) of an approximately 25 acre parcel of property located on the south side of Teatown Road, approximately 5,000 feet east of Quaker Ridge Road. Drawings latest revised December 16, 2019.

Ms. Loretta Taylor stated good evening Ralph.

Mr. Ralph Mastromonaco stated good evening. When I was last here, we were going to discuss with Mr. Cunningham my proposal to make lot 4 not a buildable lot. He and I had a discussion. He can fill you in.

Mr. Michael Cunningham stated I have no issue with the fourth lot being a no-build lot.

Mr. Ralph Mastromonaco stated okay, that simple.

Mr. Chris Kehoe stated but the no-build lot will be – the rules and regulations of that no-build lot will be governed by a declaration that will be prepared by the legal department and filed.

Mr. Michael Cunningham stated the applicant's attorney will prepared something for my review and the conditions in that will be based on whether the board wants, if the board's okay with passive recreation trails, that's fine, but I think the board would not want some sort of building on that lot.

Mr. Ralph Mastromonaco stated as I wrote to you in an email, the way we envision it is that you can't construct anything that requires a building permit and that was the simplest way to deal with it.

Mr. Michael Cunningham stated I think we've spoken with Code Enforcement a bit. By 'we' I mean internally with staff, not that you were present. I don't think there can be any sort of structure on a property with that one.

Mr. Ralph Mastromonaco stated right, no structure. That's what we're saying, yes.

Mr. Chris Kehoe stated I have a feeling you're not agreeing.

Mr. Michael Cunningham stated there seems to be a little bit of a disconnect.

Mr. George Kimmerling stated we're not saying no building permits, we're saying no building.

Mr. Thomas Bianchi stated nothing.

Ms. Loretta Taylor stated nothing. Zero. Nothing on that lot.

Mr. Michael Cunningham stated I think a fence would be okay.

Mr. Ralph Mastromonaco stated signs, fences, trails but rather than try to guess everything in the world that could be there, I said, well why not just say: you can't have anything on the property that requires a building permit.

Mr. Michael Cunningham stated well we're all saying no structure.

Mr. Steven Kessler asked what can you put on the lot that doesn't require a building permit Ralph?

Mr. Thomas Bianchi at **10' x 10'** shed.

Mr. Ralph Mastromonaco stated a **10' x 10'** shed with no foundation.

Mr. Michael Cunningham stated I don't think Code Enforcement would permit that.

Mr. Ralph Mastromonaco stated we could also say no structure. I think really makes no difference.

Mr. Steven Kessler stated I think that's broader, yes.

Ms. Loretta Taylor stated nothing, zero, nada.

Mr. Ralph Mastromonaco stated it's intended to be a non-buildable parcel and I'm only trying to reduce the amount of time we have to spend outlining everything that can and can't be done there. That's all.

Mr. Michael Cunningham asked how about nothing except for a passive recreation trails and a shed, I'm sorry not a shed, and a fence.

Mr. Ralph Mastromonaco stated signs? There we go.

Mr. Michael Cunningham stated warning signs or no trespassing signs. Things like that. I don't think – it's up to the board. I think that could be a safety issue.

Mr. Ralph Mastromonaco stated the reason I bring this up because there is a certain amount of maintenance that goes on into these parcels and we were complained about because we didn't maintain it and I would say that we should have the right to do something in there to maintain the property.

Mr. Chris Kehoe stated that's another good point. Removing wetland vegetation, cutting trees down that you think might be dead, that's not permitted. That doesn't require a building permit but we wouldn't necessarily want your definition of property

maintenance to somehow differ from our definition of property maintenance. Obviously, if the tree's dead then...

Mr. Ralph Mastromonaco stated I'm back to my original thought. That would require a permit.

Mr. George Kimmerling stated not a building permit.

Mr. Ralph Mastromonaco stated no but a permit though. Let's say that we limit it, the wetland permits, whatever, but there is a small pond over there that does require maintenance so what are we going to do? No one is allowed to go maintain that pond? There's a pipe that might get clogged, an outlet pipe that might get clogged. There are things that have to get done.

Mr. Michael Cunningham stated no I think it can be maintained, it's just the equipment to maintain it won't be on site. So a contractor coming with their own equipment and then maintaining it however necessary.

Mr. Chris Kehoe stated right. Once again, we don't want, in order to maintain the outlet of the pipe that several trees need to be removed to get a backhoe back there to fix the pipe unless you receive a tree removal permit.

Mr. Ralph Mastromonaco stated okay. I agree.

Mr. Chris Kehoe stated that language has to be worked out by our attorney and your attorney.

Mr. Ralph Mastromonaco stated I was just trying to simplify it.

Mr. Chris Kehoe stated it's never simple.

Mr. Michael Cunningham stated and I don't think it's too complicated. There's a little bit of nuance.

Mr. Robert Foley asked can I go back to what was brought up about passive use and someone said trails. Does that get into permitting and/or maintenance also, no?

Mr. Ralph Mastromonaco responded if you require a permit and you have to go to the Building Department or to the Planning Board to build the trail then they would come here for that.

Mr. Chris Kehoe stated but that's what I'm talking about. That language, I don't believe, without any town oversight we would want a private property owner to put trails in. That will somehow have to have some oversight to it.

Mr. George Kimmerling asked are we really talking about, and I'm sorry I don't know the distinction, we're really talking about wanting us to be like a conservation space, or a conserved space versus – I don't know if that's a thing, sorry, versus just a no-build. It seems like the sense of the board is we want it to be left alone rather than we don't want certain things to happen. We don't really want anything to happen.

Mr. Ralph Mastromonaco stated you can't have nothing happen. Something has to happen someday, maybe not five years from now, but sometimes trees fall down from the property onto the road.

Mr. Chris Kehoe stated but as an example, with the first phase of the Mill Court subdivision, you approved four lots. We just pulled out the plat. One of the lots there's a big notation on it: no building lot. That one happened to be acquired by the town. There has been no discussion about what can be built, what can't be built. It's a no-build, slash, conservation lot that is just left alone. I believe that's what we want to happen with this lot but Mr. Mastromonaco is bringing up all sorts of things that could conceivably happen which I don't know if it's relevant. It's a no-build lot where nothing's going to happen.

Mr. Ralph Mastromonaco stated no structures, yes.

Ms. Loretta Taylor stated I think we probably should let you go refer this back and you all work it out.

Mr. Michael Cunningham stated I think it has to be done at a staff level.

Ms. Loretta Taylor stated I think we should refer this back.

Mr. Ralph Mastromonaco stated that's fine.

Mr. Steven Kessler stated Madame Chair I move that we have staff prepare a resolution for the next meeting.

Seconded.

Mr. Chris Kehoe stated and on that question, there will be a condition talking about relocating the driveways sufficiently to protect the boulders and rocks. I believe we're going to try to work on some neutrally agreeable language about ensuring fence preservation, stone fence preservation along Teatown Road to the best of your ability. Also keeping in mind that it's on the record that once this is approved it's approved but there was a thought that it may not ever be developed.

Mr. Ralph Mastromonaco stated it's possible, yes.

Mr. George Kimmerling asked are we on the question?

Mr. Robert Foley stated so on the question, we're talking about the three houses as laid out in the latest plan and then the other discussion that followed about this possible fourth. Okay.

Mr. George Kimmerling stated just on the question, I think given the murkiness of what this no-build lot means and what the resolution might or might not say, I personally think it's premature to refer it back for a resolution. I think it should be referred back for discussion but not necessarily for a resolution.

Mr. Chris Kehoe stated what we could do, we could prepare a resolution that would be available for you to review the language at the work session and at the next meeting and if you're not comfortable adopting it you would hold it over to another month.

Mr. Ralph Mastromonaco stated Mr. Kimmerling we're not objecting to the standard conditions that we see in these types of situations. We're just trying to make it simple, that's all.

Mr. George Kimmerling stated no I appreciate that. I think the problem is that this entire project isn't simple and so I just want to make sure that we're giving it due consideration.

Mr. Chris Kehoe stated but if it's simply referred back then we would be back next month and what would you want from us next month?

Mr. George Kimmerling responded well if there would have been discussions between the applicant and staff and attorney...

Mr. Chris Kehoe stated but I still think we'll have that next month.

Mr. George Kimmerling stated okay.

Mr. Steven Kessler stated that's a prerequisite that's going to occur before you draft the resolution.

Mr. Chris Kehoe stated typically we could simply we would have that as a condition in the resolution but we can flush that condition out in much more detail prior to the work session and actually have a draft document.

Ms. Loretta Taylor stated in other words, the wording in the document will allow us to sort of discuss it, look at it and if it's not what we want then we will send them back and we won't approve it at that particular point. Is that okay?

Mr. Robert Foley stated I agree with George's comment but if it can be resolved at the next work session that would be fine.

Mr. George Kimmerling stated sounds like a plan.

Mr. Chris Kehoe stated I'll make sure that resolution is in your packets that's mailed out to you so you have it before the work session.

Mr. Robert Foley stated and then if something further develops at that work session, resolution could be amended.

Mr. Chris Kehoe stated and held over for another month.

Ms. Loretta Taylor asked we were on the question. Is there anybody else who has any comments?

With all in favor saying "aye". One member opposed.

Mr. Chris Kehoe stated Mr. Kimmerling; no, Mr. Kessler; yes, Ms. Taylor; yes, Mr. Bianchi; yes, Ms. Myers; yes, Mr. Foley; yes. Motion carries **5 to 1**.

Ms. Loretta Taylor stated we'll see you next month.

*

*

*

NEW BUSINESS

PB 2020-1 a. Application of Meenan Oil Company, LP for Amended Site Plan approval for a 1,200 sq. ft. electrical shed for property located at 26 Bayview Road. Drawings latest revised January 15, 2020.

Mr. Ralph Mastromonaco stated this was an amended site plan. I don't know how much you've discussed but it's a – they decided they needed a separate building for the electrical equipment. Right now there is a separate building but it's attached. There is a – the wrinkle here is that we would ask is that you prepare a resolution with options. Option one would be: no variance resolution of approval for this amended site plan.

Mr. Chris Kehoe asked which is the darker red?

Mr. Ralph Mastromonaco responded the one to the right, the orange. That's **30** feet from the rear line. That's the zoning requirement. But since the property in the rear is the sort of unused railroad property we just thought it would be – we could go to the Zoning Board possibly for a variance. It would be two feet from the property line. I don't think that we have time to do that but in any case we would like to have that option to go there before the stuff gets built.

Mr. Steven Kessler asked just so I understand, when we went through this last time with your last application on this Ralph. You're saying now two feet from the property line, is that two feet from the fence that is still on the Metro North property?

Mr. Ralph Mastromonaco responded the fence is gone but that's where it was.

Mr. Steven Kessler asked the fence is gone?

Mr. Ralph Mastromonaco responded but that's where it was. Two feet from where that fence was. That was the property line. That fence was the property line.

Mr. Steven Kessler stated I thought the fence was on the Metro North property.

Mr. Ralph Mastromonaco stated it's on the border between our property and their property.

Mr. Steven Kessler stated that's not my recollection of our last discussion. The question was, was it on Metro North's property or not?

Mr. Chris Kehoe stated the other issue too is those three trailers that are on the other side of where the fence used to be, that is my recollection of the big discussion is that those trailers are associated with Meenan but they were physically located on land owned by Metro North.

Mr. Ralph Mastromonaco stated and we were required to remove them as part of the resolution.

Mr. Steven Kessler stated I thought it was both the fence and the trailers were on Metro North property.

Mr. Ralph Mastromonaco responded no. The fence is on our property line – the property line; the joint property line.

Mr. George Kimmerling asked but the trailers were removed.

Mr. Ralph Mastromonaco responded yes.

Mr. Chris Kehoe asked but Ralph, then we would like the trailers actually removed from the plan as well.

Mr. Ralph Mastromonaco stated unfortunately it's an amended plan and the only thing we're amending is those two lots.

Mr. Chris Kehoe asked have you met the conditions of the Meenan Oil?

Mr. Ralph Mastromonaco responded we're signed. Yes, we're signed out.

Mr. Chris Kehoe asked and have you got any necessary extension to get a building permit if you need one?

Mr. Ralph Mastromonaco responded I think we have until June.

Mr. Chris Kehoe stated I don't know the answer to the question. It would have to be referred back but it's not typical for the Planning Board to approve alternate A and alternate B.

Mr. Ralph Mastromonaco stated I don't think my client has time to argue this point so if you could just stick to...

Mr. Chris Kehoe stated when you say he doesn't have time, the Planning Board approved the building like **18** months ago and he hasn't done anything.

Mr. Ralph Mastromonaco stated they can't build it until they get this approved. They can't start construction until they get a building permit. They can't get a building permit until that's approved.

Mr. Chris Kehoe stated right, and that's the first time the Planning Board is seeing the request for the relocated electrical shed.

Mr. Ralph Mastromonaco stated it's a small little, basically shed, on the corner of the property.

Mr. Steven Kessler asked what transpired that now you realize you need to have this shed that wasn't part of the first application?

Ms. Loretta Taylor stated that's my question too.

Mr. Ralph Mastromonaco responded it was – after the site plan approval, they go back to their architect and their electrical engineers, and their mechanical engineers and they say: well we don't want to put that structure attached to the building. So they came back to us and said – I guess the electrical services are in this corner of the property. They want to keep them there.

Mr. Steven Kessler asked so you're saying it was on the original plan but it was next to the building?

Mr. Ralph Mastromonaco responded it was internal.

Mr. Steven Kessler stated it was internal.

Mr. Ralph Mastromonaco stated right.

Mr. Chris Kehoe asked so which one do you want?

Mr. Ralph Mastromonaco responded I don't think we're going to go for the variance so if we can get a resolution at the next meeting for this amended site plan, that would be great. No variance involved.

Mr. Chris Kehoe stated I can double check with Mike Preziosi. It's not complicated an application if it's for a small electrical shed that is code-compliant. I believe Mike can come up with a quick technical memorandum if there are any technical comments and then we could have a resolution ready for next meeting, not that it has to be adopted but as long as you're going to be code-compliant, which would be, once again, it is the orange one.

Mr. Ralph Mastromonaco responded **30** feet from the rear line. We're **161** from the side yard but we are **30** feet from the rear yard.

Mr. George Kimmerling asked I'm sorry, just so I'm clear...

Mr. Thomas Bianchi stated the alternate building.

Mr. George Kimmerling asked the resolution would be for the alternate building.

Mr. Chris Kehoe responded alternate building yes.

Mr. George Kimmerling stated thank you.

Mr. Steven Kessler asked as part of this you'll review to make sure that everything was complied with from the original application?

Mr. Chris Kehoe responded I do recall that there was a lot of back-and-forth in order to get Mike Preziosi to sign the site plan a while ago and he ultimately relented, for lack of a better term, and signed the site plan. So Ralph is correct. The site plan has been completely signed but we'll double check some of those things.

Mr. Thomas Bianchi stated Madame Chair I'll move that we direct staff to prepare a resolution for this application based on the electrical shed noted on the plan as alternate building.

Seconded with all in favor saying "aye".

Mr. Ralph Mastromonaco stated thank you very much.

PB 2020-2 b. Application of Lourdes Turner for Planning Board approval of an accessory apartment within an existing single-family residence at 60 Old Oregon Road. Drawings latest revised January 14, 2020.

Mr. Steven Kessler stated Madame Chair I move that we set a public hearing on this application for March the 3rd.

Seconded with all in favor saying "aye".

*

*

*

ADJOURNMENT

Mr. George Kimmerling stated it's **7:52**. We're adjourned.

*

*

*

Next Meeting: TUESDAY, MARCH 3, 2020

