

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, April 7th, 2020*. 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
George Kimmerling, Board Member
Valerie Myers, alternate member

ALSO PRESENT:

Michael Preziosi, P.E., Director of Technical Services
Michael Cunningham, Assistant Town Attorney
Chris Kehoe, AICP, Deputy Director, Technical Services

* * *

CHANGES TO THE AGENDA

Ms. Loretta Taylor stated I want to thank everybody for joining us under this unusual but very necessary circumstance. Owing to the Corona Virus pandemic, we will be meeting here through Zoom. The actual agenda tonight is fairly brief. There is a change to the agenda it's the public hearing of **PB 2017-25**. It will be adjourned and can I have a motion please to accept that?

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

* * *

ADOPTION OF THE MINUTES OF THE MEETINGS OF MARCH 3, 2020

Ms. Loretta Taylor asked can I please get another motion to adopt the minutes for March 3rd?

So moved, seconded.

Mr. Robert Foley stated on the question, I spoke to Chris this afternoon. The part about the Mahlab from the last meeting, there's the vote count at the very end when we put the vote on that. Something's wrong with the wording there. Apparently, I end up with a yes and a no as I read the minutes, probably a typo but I just wanted to bring that up.

Mr. Chris Kehoe stated I went back Bob and watched the video. You voted yes so the vote was **5** to **1**. I'll make the correction in the minutes.

Mr. Robert Foley stated there was a no in there. Thank you.

With all in favor saying "aye".

*

*

*

RESOLUTIONS

PB 2020-2 a. 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 adopt **Resolution 11-20** approving the application.

Mr. Robert Foley stated on the question, I asked Chris briefly on the issue, I think it's clear in the Martin Rogers memo and I'm looking at the resolution now, if owner should change hands they have to basically reapply and go through the process. Correct?

Mr. Michael Preziosi stated that is correct. The accessory apartment approval runs with the current owner. When the new owner acquires the property they would have to reapply to the Planning Board.

Mr. Chris Kehoe stated Mike, I just want to confirm that I can see that Joel and his client are attendees. Can they hear us?

Mr. Michael Preziosi responded yes, all attendees are able to hear us. There is a "raise your hand" option on the screen. If Lourdes or Joel would like to state anything, you can click that at any time and I will allow you to speak on this specific application. This is not a public hearing so residents or attendees to the meeting are not able to speak.

Mr. Jeff Rothfeder stated and that rule that it stays with the current owner is the law it's not just in this case. Just to clarify that.

Mr. Michael Cunningham stated right, it applies to all applicants.

Ms. Loretta Taylor asked are we ready for a vote?

Members responded yes.

Mr. Michael Preziosi responded I only have an attendee labeled as Pixel 2 with their hand raised. If they'd like to send a chat message back to let me know who you are and we can make you speak at the appropriate time pertaining to your specific application. This is not a public hearing so it is not open for public comment.

Mr. Chris Kehoe stated and I guess to Mike's point we just don't know who Pixel 2 is.

Mr. Michael Preziosi stated correct. Pixel 2 is Ralph, okay.

Mr. Chris Kehoe stated he's not going to speak on this case.

Mr. Michael Preziosi stated correct.

With all in favor saying "aye".

PB 2020-1 b. Application of Meenan Oil Company, LP for Amended Site Plan approval for a proposed 1,200 sq. ft. electrical shed for property located at 26 Bayview Road. Drawings latest revised March 18, 2020.

Ms. Loretta Taylor stated there's a resolution for that.

Mr. Steven Kessler stated Madame Chair I move that we adopt **Resolution 12-20** approving the application.

Seconded.

Mr. Chris Kehoe stated just on the question, we did share the resolutions – the Morales one we shared with Joel and his client and we did share the Meenan with Ralph. Ralph had one minor question. I'd prefer that if he wants to follow up on that, that he follows up on it himself....

Mr. Michael Preziosi stated Ralph is able to speak and answer a question if he so chooses.

Mr. Ralph Mastromonaco asked can you hear me?

Mr. Chris Kehoe responded yes.

Mr. Ralph Mastromonaco stated I don't think that our application Mike can justify for this. There's no reason in our case to go to the New York State DEC for a SPDES permit. We're less than an acre of disturbance and that particular condition was referring though, was implying that we are going to New York State DEC for something and I don't think we need to do that. As a condition it would be a little confusing.

Mr. Michael Preziosi asked is there a condition pertaining to this?

Mr. Chris Kehoe asked what condition are you referencing Ralph?

Mr. Ralph Mastromonaco responded it would be "I-V".

Mr. Robert Foley asked say it again Ralph.

Mr. Chris Kehoe responded "I-V" says: "Prior to the issuance of a CO the designer of record shall provide a signed and sealed letter stating that there's no adverse impact to adjacent or adjoining neighbors..."

Mr. Ralph Mastromonaco stated I'm sorry, it was the one with the notice of termination. Hold on a second. I'm sorry I don't have it in front of me. It's the notice of termination.

Mr. Robert Foley stated it's under number four. It's "**4-I-V**".

Mr. Ralph Mastromonaco stated **4-I-V**, yes.

Mr. Thomas Bianchi stated there's no **4-I-V**. There's a **5-I** through **V**.

Mr. Robert Foley stated no, there's **4** prior to the issuance of a building permit and then a), b), c), d). I'm sorry **5**, you're right.

Mr. Steven Kessler stated "notice of termination shall be filed with NYS DEC prior to the issuance of a certificate of compliance." Is that the one Ralph?

Mr. Ralph Mastromonaco responded you were going...

Mr. Michael Preziosi stated that's a standard note Ralph that in the event that a storm water prevention plan is required for a site-specific application that prior to the issuance of any certificate of compliance or occupancy, that coverage under the SPDES permit has to be terminated. It's a catch-all note. It's not specific to this application. What we had asked for I believe from the mechanic shop from a few years back was just verification that the shop has coverage under the SPDES industrial permit for that specific industrial

activity and that's what we're looking for, just a copy of the permit which should have been applied back in **2010** for the site plan, or **2012**.

Mr. Ralph Mastromonaco stated we sent that material in the original application. It's under a particular SPDES permit.

Mr. Michael Preziosi stated you have your coverage and the note you're referencing is a catch-all note that we put in most of our applications and resolutions.

Mr. Ralph Mastromonaco responded it was a technical point. I don't want to get hung up later when somebody's looking for a notice of termination. It's just a technical point but other than that, I have no problems with the resolution. It's a great way to do a meeting.

Mr. Michael Preziosi stated okay Ralph I'm going to mute you and put you back as an attendee.

Mr. Ralph Mastromonaco stated okay, thank you.

Mr. Michael Preziosi stated you're welcome. Have a good night.

Mr. Chris Kehoe stated I think you're on the question.

With all in favor saying "aye".

*

*

*

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).

(Meeting adjourned)

Mr. Steven Kessler stated point of information, was that adjourned per the applicant or per us?

Mr. Chris Kehoe responded actually both ways. The Town Board has passed, I don't know, Michael Cunningham, if it was a law or a rule but there will be no public hearings in the month of April, but then in addition, literally five minutes ago, John Lentini did send me the email that I request to adjourn the meeting, so it's both.

Mr. Michael Preziosi stated Michael C. you may want to chime in but I believe we're going to adjourn that public hearing to at least June.

Mr. Michael Cunningham responded yes, we're going to adjourn it to June.

Mr. Thomas Bianchi asked let me ask, is there any activity on that in terms of the town looking at alternatives at this point or is that [inaudible]?

Mr. Michael Preziosi responded the applicant has been evaluating a few alternative sites. We are waiting to see if they want to pursue this application or withdraw it to focus on the alternative sites.

Ms. Loretta Taylor stated we clearly now can then motion to adjourn to June at this point. We'll go back and just put that in the record, right?

Members responded yes.

Mr. Robert Foley stated I make a motion that we adjourn LuLu Properties for our June meeting.

Seconded with all in favor saying "aye".

*

*

*

NEW BUSINESS

PB 2020-4 a. Application of Mines Press Inc. for Amended Site Plan approval for the installation of a rooftop solar array, a battery energy storage system, transformers, associated equipment and a dumpster enclosure located at 231 Croton Avenue. Drawings latest revised March 25, 2020.

Ms. Loretta Taylor asked do we have someone here from Mines Press?

Mr. Michael Preziosi responded I have Colleen and a George Ford. I will allow for both of them to speak.

Ms. Loretta Taylor asked did they hear us just introduce?

Mr. Chris Kehoe responded yes.

Mr. Michael Preziosi stated so Colleen and George are on in regards to this specific application.

Mr. George Ford stated good evening. This is George Ford from Centrica Business Solutions and I wanted to start by thanking everybody. It's very nice to be at your homes basically today. Everybody seems comfortable at home during this meeting. I'll also just say that we are very thankful for you still having this meeting, obviously with this very unique situation that we find ourselves in. I think your staff and the professional staff there has done an amazing job to keep the projects moving forward and the town moving forward as well so kudos to them and again to the commission as well for inviting us on today. If you recall at the last meeting we spoke briefly about this project. Mines Press is going to be installing a rooftop solar array and a single battery storage unit container which is basically – if you, I know we had included some pictures of what a battery storage unit looks like. It's basically a storage container. We provided all the necessary drawings. I know there were some questions at the last meeting in reference to the dumpsters that are on the location that needed to be enclosed. I know that Bill Morrison from Mines Press, their facilities manager has filed a permit for those enclosures and that is being taken care of as we speak. We're here tonight because of the actual storage unit.

Mr. Michael Preziosi stated displayed on everyone's screen is the aerial. I can switch to the site plan as well if you'd like.

Mr. Thomas Bianchi asked so it's only one building it looks like is being used for a solar array, is that correct?

Mr. George Ford responded that's correct. That roof there that you see is where the solar array would be installed. Correct. The other building behind it is a different company.

Mr. Thomas Bianchi stated okay.

Mr. Robert Foley asked and on the left corner of the picture, that's Furnace Dock Road?

Mr. George Ford responded I'm sorry, I couldn't hear the question.

Mr. Robert Foley asked up to the left corner of the site, the road up toward that, would be what, easterly?

Mr. Chris Kehoe asked Bob, the site plan's up now.

Mr. Robert Foley stated no it's a different picture. The picture you put up first. This is the overall site.

Mr. Michael Preziosi stated this is Furnace Dock Road, where I just circled in blue and where I'm circling now is Croton Avenue.

Mr. Robert Foley stated okay, I can't see it. There's a different picture up. It doesn't matter. I assume that's it. Even if [inaudible] that site in the winter, what did you see in the [inaudible]. I'm familiar with the area so I think that was the road I could see through the trees.

Mr. Chris Kehoe stated I just want to confirm that all the board members got the email of the background information for this case because some of the attachments did show an example of a rooftop solar what it would look like.

Members responded yes we got it.

Mr. Steven Kessler stated just to be clear, there are no trees that are going to be cleared or chopped off because of this application, correct?

Mr. George Ford responded that's correct. We will not be touching any trees whatsoever.

Mr. Steven Kessler stated okay. Thank you.

Mr. Thomas Bianchi stated I think this was one of the cases where we were going to do a site visit.

Ms. Loretta Taylor responded yes.

Mr. Thomas Bianchi stated and I was looking – I know we can't do it but I was looking forward to doing that before we considered any resolutions because I had some specific concerns that I think I voiced at the last meeting concerning views from the road and what this would look like from the neighboring properties.

Mr. Robert Foley stated that's why I brought the issue of the picture and that road.

Mr. George Kimmerling asked is it possible in these circumstances to allow us to visit individually rather than as a group? I don't know what the property owner would think about that, or what the applicant would think about that but...

Ms. Loretta Taylor stated we all tend to arrive separately anyway. Perhaps if we did do the group thing, we could stand six or seven feet apart, listen to whatever somebody was saying. I don't know that that would be a real big problem. I don't know.

Mr. Robert Foley stated I think it's still all right if you keep the required distance.

Mr. Thomas Bianchi stated it's always beneficial to be there with the applicant to answer questions on the spot and other board members too, to answer questions. If we can maintain social distance maybe that's doable.

Mr. George Ford stated this is George again; I'm happy to attend and meet you on site and certainly follow the rules of social distancing and show you where the actual storage container will be placed. And I know Mr. Mines, Steven Mines would not have a problem with that either. Whatever the board's wishes are, the commission's wishes, we're happy to do that. I will say that, and I don't know for context of this actual approval, Michael maybe you or Chris could help us out here; is the roof, actually the solar array on the roof part of the approval process for the application or is it just in fact the storage unit?

Mr. Michael Preziosi responded no, it's the entire process. This is, I believe, a community solar project. You're going to be back feeding the grid?

Mr. George Ford responded correct.

Mr. Michael Preziosi stated this approval is approving both the ground-mounted battery storage and also the roof-mounted array.

Mr. George Ford responded okay. And the reason I ask, only because it was my understanding if, and again I've done many solar projects throughout Westchester, if this was a community solar project and it was on a roof, it would not need to go in front of a Planning Review Board, or a Zoning Board, it would – the only reason why we were here today, for this application, is because of the C-container, the storage unit is actually on the ground and that's the part that requires an approval in order for us to apply to NYSERDA and get the funding for the project. With that said, again, happy to meet on site. I was looking forward to actually meeting there and unfortunately with the circumstances it did have to be canceled. Our concern for Mines Press and the Mines family is the incentive window has opened for NYSERDA. It opened on April 1st for the storage component and if we – the further we delay an approval, the further the chances are that we miss that funding because it is a first-come first serve basis. One of the requirements in order to file for NYSERDA is that you have a planning approval for the storage unit.

Mr. Jeff Rothfeder asked and Mike are you saying that because of it being a community solar project that we're reviewing the whole project as opposed to just the storage unit?

Mr. Michael Preziosi responded it's two-fold: it's the solar array on top or the roof structure and also the corresponding storage unit with the battery backup. George, the one concern that I saw in reviewing this plan is that you're not showing the submitted site plans how you're going to interconnect to the existing infrastructure and that was a comment that Tom brought up earlier in his discussion with tree removal. Are you proposing to keep the utilities in the existing driveway back to Croton Avenue or will you be connecting through the tree line?

Mr. George Ford responded so the connection from the solar array will happen where the existing transformer is. If you're on your screen, you have the site plan and you'll see a

square black box that's drawn in front of the building there in that little grassy area, the existing Con Edison transformer is located there and that's where we would be tying in the solar cable into that transformer and the battery storage unit would be located right there on that grassy area as well. We're not having to go up – connect anywhere except right there.

Mr. Michael Preziosi stated that was my concern or comment that would lead me to make a recommendation to not provide a resolution tonight but you've addressed my comment question with your response so in reality the site plan would be fairly complete at this point, just some odds and ends that need to be buttoned up and nothing major.

Mr. Robert Foley asked can I ask you a question on the proposed resolution, which I know we're not approving tonight, the last page, nine, and again it may be [inaudible] but the revised decommissioning plan to the satisfaction of Mike basically is that, legal, decommissioning meaning what? The solar panels, the whole...

Mr. Michael Preziosi responded similar to Hanover Estates, when you have a tier three system or a system that services a community solar not tier 3 but a community solar project, part of the requirements would be a decommissioning plan and that's something that would have to be put up by the applicant. Same as Hanover, you received that after the approval was granted and it was reviewed by legal and DOTS staff.

Mr. Robert Foley asked you would be the power to be so-to-speak to revise it if need be?

Mr. Michael Preziosi responded its essentially the mechanism to remove antiquated panels from the site and not leave them on site for storage or decommissioning. Pull them off site and properly dispose of them in a lawful manner.

Mr. Robert Foley stated okay, thank you.

Mr. Michael Preziosi stated those were my two concerns. I think George has addressed them.

Mr. Chris Kehoe asked Mike Cunningham, is there any problem with town rules or regulations during this time of having an organized site inspection?

Mr. Michael Cunningham responded I don't think so if you maintain social distancing but I do think given the circumstances it may be prudent to approve it, because I know otherwise a site visit would have occurred but just given what's going on and we don't know exactly when this is going to end. It may be prudent to approve it tonight.

Mr. Steven Kessler stated I have no problem with that.

Mr. Robert Foley asked what are you saying Mike? That we wouldn't be able to have enough distance at a site visit?

Mr. Michael Cunningham responded it's possible.

Mr. Chris Kehoe stated Town Hall is closed. We're not having in-person Planning Board meetings so a site visit is a type of Planning Board meeting and I understand that you're talking about social distancing and things but my understanding is the town is just not holding meetings in the traditional sense at this time.

Mr. Steven Kessler stated this seems very simple to me to put up a solar array. I have no problem with approving this quite honestly.

Mr. Jeff Rothfeder stated I don't either.

Mr. Thomas Bianchi stated given the circumstances I'd prefer to have a site visit but knowing that this window of opportunity is opened up and probably will close before we ever get to have a site visit, I don't have a problem going forward.

Mr. Robert Foley stated I also don't have a problem given what – the window of opportunity and the fact that Mines Press has been a good neighbor through the years.

Ms. Loretta Taylor asked are we ready for a vote?

Mr. Steven Kessler stated Madame Chair...

Mr. George Kimmerling asked sorry I just had one question. I'm sorry Loretta. If we approve it and there are problems with glare or other things that we might have seen on site visit, is there a process for remediating those problems after the fact or how does that work?

Mr. Chris Kehoe responded I think, and Mike Preziosi would correct me, but a lot of different sized solar projects are approved administratively and it would be run by the building department. There would be the possibility of administrative corrections and modifications. I don't know if we'd have to go back to the Planning Board.

Mr. Michael Preziosi stated correct. It would be code compliance...

Mr. George Kimmerling stated which is fine.

Mr. Michael Preziosi stated it would be code compliance. We really haven't had many issues with solar installations to date on roof-mounted systems, just a few groundmounted that are right on the property line so-to-speak, but if anything were to come up it would be handled administratively through the code department.

Mr. George Kimmerling stated it's just that this building I think is renewed last time is set down below the road in some ways rather than a typical residential structure.

Mr. Steven Kessler stated Madame Chair I move that we adopt **Resolution 13-20** approving the solar array.

Seconded.

Mr. Chris Kehoe stated just on the question, given that there was some possibility that the board was not going to approve this resolution, George Ford I don't believe I sent you a draft copy of it.

Mr. George Ford responded no, I did not see one.

Mr. Chris Kehoe stated you'll have to take it on faith. An approval is better than a not an approval but it's a standard resolution. There would be some conditions in it. None of them are onerous or something that are really out of line. I'll get you that draft resolution as soon as possible.

Mr. George Ford stated totally understood and thank you so much.

Mr. Michael Preziosi stated George, Colleen, I just want to let you know you are okay to make an application to the building department. You can email me directly for application information and you can start that process which will require all the technical components: electrical permits, etcetera. You can file that any time.

Mr. George Ford stated very good. Thank you.

Mr. Michael Preziosi stated you're welcome.

Mr. Chris Kehoe stated you're on the question.

With all in favor saying "aye".

Ms. Loretta Taylor stated you have your approval then, Mr. Ford.

Mr. George Ford stated thank you very much and I wish everybody and their families to be well and safe during this time and we look forward to seeing you in the future.

Ms. Loretta Taylor stated you too. Have a good evening.

PB 2020-5 b. Application of Charles Machado for renewal of a previously approved Special Permit for an accessory apartment within an existing single-family residence located at 18 Harper Avenue.

Mr. Steven Kessler stated Madame Chair I move that we set a public hearing for our May meeting, however that occurs.

Mr. Chris Kehoe stated that's something that we should probably discuss. It's my understanding that we cannot hold that public hearing in May. Is that correct?

Mr. Steven Kessler asked why is that?

Mr. Michael Cunningham responded I think we should schedule it for May and then we can decide if we need to adjourn another month and then we'll adjourn it.

Mr. Chris Kehoe stated Steve, the Town Board is still coming up with a policy about whether they're going to permit public hearings because, don't forget I have to notify say **10** or **12** residents, invite each of them to the Zoom meeting. It's not something that we can't handle, we're just coming to grips with it.

Mr. Steven Kessler stated but Chris you had a public hearing on tonight. What's the difference?

Mr. Chris Kehoe responded it was adjourned.

Mr. Steven Kessler stated it wasn't adjourned when we started the meeting. Did people know that before we started the meeting?

Mr. Chris Kehoe responded it was put on the agenda; it's adjourned to a future meeting. We didn't go around and notify all of the adjacent property owners but you know that's a unique one in the sense that it's an adjourned public hearing and they knew that it wasn't going to be heard it was just the idea of scheduling a new public hearing for the month of May. As long as Mike Cunningham tells me it's fine, it's fine.

Mr. Michael Cunningham stated I believe it's fine and if we need to adjourn it again we'll be prudent and we'll adjourn.

Mr. Chris Kehoe stated now Mr. Machado is here. Do you have any comments?

Mr. Machado responded no. How are you doing? Good afternoon everybody. The house was previously owned by my mother for **15** years and she had an approval on the apartment. I just recently purchased the house and I know that I have to apply again for the permit as well so I'm just trying to reapply and get the process done.

Mr. Chris Kehoe stated the Planning Board members received your application packet Mr. Machado. They're familiar with these renewals. We'll do a review of it and hopefully we'll have the public hearing in May.

Mr. Machado responded okay no problem.

Mr. Chris Kehoe stated I'll be in touch.

Mr. Machado stated okay, thank you.

Mr. Robert Foley asked so from the pictures, the entrance would be off the driveway, that doorway?

Mr. Machado responded yes, correct, it's on the right-hand side of the house and it has – it's two driveways on the house on the property.

Mr. Robert Foley stated okay.

Mr. Machado stated one being for the accessory.

Ms. Loretta Taylor asked any other questions? Can we get a motion please?

Seconded, with all in favor saying "aye".

Mr. Robert Foley asked so that would be May 5th right Chris?

Mr. Steven Kessler responded right.

Mr. Chris Kehoe responded yes.

*

*

*

ADJOURNMENT

Mr. George Kimmerling stated Madame Chair it's **7:33** we stand adjourned.

Members stated thank you.

Ms. Loretta Taylor stated thank you very much everyone. Be safe.

Mr. Chris Kehoe stated Mike Preziosi ran a good meeting. Thanks for all your work.

Mr. Robert Foley stated Happy Passover and Easter everyone.

*

*

*

Next Meeting: TUESDAY, MAY 5, 2020

