

TOWN OF ERWIN PLANNING BOARD MEETING

MONDAY, APRIL 3, 2017

7 P.M. ERWIN TOWN HALL

310 TOWN CENTER ROAD

Present: John Gargano, James McCarthy, Wayne Kennedy, Patricia Thiel, Ted Metarko, Brian Harpster, Matt Maslyn

Absent: Joseph Reilly, Doug Porter

Guests: Ron Stiles, Rick Ryall, Kathy Ryall, Bill Beardsley, Tim LeBarron, Frank Curreri, Jody Allen, Prashant Patel, Manish Patel, Tarak Patel, Krunal Patel, Ravi Patel, Parth Patel, Robert Drew, Rita McCarthy, Barb Lucas

**CHAIRMAN JOHN GARGANO OPENS THE MEETING AT 7 PM.**

In accordance with the Planning Board's established procedure, the Board will hear all matters up until 9 PM. Any matters not completed by that time will be held over to the next regular meeting. As is the usual practice, the Board's consultants have met with the applicants prior to this meeting and have gone over the applications to ensure that they are as complete as possible and to point out any errors or omissions that can delay approval.

**MOTION TO APPROVE THE MINUTES OF THE MARCH 6, 2017 MEETING.**

**MOTION BY: JAMES McCARTHY**

**SECONDED BY: WAYNE KENNEDY**

**DISPOSITION: 7-0**

<b>1. CONCEPT PLAN FROM TIM LE BARRON FOR MULTI-FAMILY DWELLINGS AT 24 RACE ST</b>
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**POINTS TO CONSIDER:**

The project is located in an R-12.5 Residential District.

The lot is an existing, non-conforming lot. The applicant proposes to convert approximately half the lot to a conforming use. The applicant is allowed to continue to use the entire lot for a non-conforming use. This proposal will significantly improve conformance with the Zoning Law.

This development would be pursuant to Article VI Residential Cluster Development. The Planning Board can vary the Density Control Bulk Schedule based on set conditions and the merits of the specific proposal. Although the Cluster Development applies to a parcel of a minimum of 10 acres, the Planning Board can consider lesser acreage where the applicant can demonstrate that the characteristics of his holdings meet the objectives of this Article. Those objectives include the most appropriate use of the land, e.g. cluster versus single lots, and facilitating adequate and economical provision of services.

Townhouse and multi-unit developments are allowed in compliance with §130-68:

No building closer than 50' to the road line

No building nearer than 30' to interior road line

Max building height 35'

Max lot coverage 30%

No building shall contain more than 12 units

Minimum unit size of apartments:

Efficiency	550 sq. ft.
1 bedroom	700 sq. ft.
2 bedroom	850 sq. ft.
3 bedroom	1,000 sq. ft.

The application was presented by the applicant, Tim LeBarron. He noted that he would like to convert approximately half of his property, the portion currently housing a lumberyard, to residential use. The proposed residential area layout includes four buildings, each housing multiple units, arranged in a group with a circular driveway and parking surrounding the entire cluster. The existing buildings would be completely removed in the area to be used for housing. The exact number and size of the units is still in the planning stages. The remaining portion of the property would be used for equipment storage and concrete bin storage.

Mr. LeBarron said the units will be designated as 55-and-older housing. The designation is related to the funding source and not any form of discrimination.

The Board highlighted the fact that the development must adhere to zoning density regulations as defined in Article 6 regarding residential Cluster Developments.

<b>2. CONCEPT PLAN FROM TIM LE BARRON FOR A SITE PLAN AMENDMENT TO ADD BULK STORAGE AND CONCRETE BINS AT THE LUMBER YARD AT 24 RACE ST.</b>
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This is a pre-existing, non-conforming lot. The proposed Site Plan Amendment is not a change in use. A non-conforming building or use may be expanded once provided such expansion does not exceed 25% of the current non-conforming use or non-conforming building. The proposed amendment complies with these criteria.

The application was presented by Tim LeBarron, the applicant. He noted that the concrete bins would be non-permanent structures used for storing mulch and/or other materials in the portion of the property not being converted to residential use.

<b>3. SITE PLAN AMENDMENT APPLICATION FROM FAITH BAPTIST CHURCH TO ADD PARKING AT 141 BEARTOWN ROAD. WITH PUBLIC HEARING</b>
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**POINTS TO CONSIDER:**

The property is located in an R-7.2 Residential District.

The applicant seeks to construct a 60' X 90' gravel parking area behind the church. The parking lot will be accessed by the existing driveway. The area of the parking lot is de minimis. Less than 1 acre is disturbed. No DEC nor any other agency permits are required.

The application was presented by Richard Ryall, the applicant, and Ron Stiles. He noted that the church would like to add a parking lot behind the church and discourage large trucks and other vehicles from using the property in the front. Non-permanent markers have been placed to define the area. An area in front of the church is used for handicap parking. The area behind the church is currently covered with grass and is used for overflow parking. The parking area would be gravel.

Board member Matt Maslyn noted that he opposes the site plan. He thinks access to the parking lot should be from Chapel Drive rather than Beartown Rd.

**THE PLANNING BOARD DECLARES THE APPLICATION TO BE COMPLETE.**

**THE PLANNING BOARD REVIEWS THE EAF:**

**ENVIRONMENTAL ASSESSMENT FORM (EAF) – Part 2 – Impact Assessment**

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	NO
2. Will the proposed action result in a change in use or intensity of use of land?	NO
3. Will the proposed action impair the character or quality of the existing community?	NO
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	NO
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	NO
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	NO
7. Will the proposed action impact existing:	
a. public / private water supplies?	NO
b. public / private wastewater treatment utilities?	NO
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	NO
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	NO
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	NO
11. Will the proposed action create a hazard to environmental resources or human health?	NO

**THE PLANNING BOARD CLASSIFIES THIS AS AN UNLISTED ACTION SINCE IT INVOLVES A NON-RESIDENTIAL DEVELOPMENT OF LESS THAN 10 ACRES, AND MAKES A NEGATIVE DECLARATION OF ENVIRONMENTAL SIGNIFICANCE.**

**MOTION BY: BRIAN HARPSTER**

**SECONDED BY: PATRICIA THIEL**

**DISPOSITION: 7-0**

**CHAIRMAN GARGANO OPENS THE PUBLIC HEARING AT 7:17 PM.**

**CHAIRMAN GARGANO CLOSES THE PUBLIC HEARING AT 7:18 PM.**

**UPON HEARING NO APPLICABLE ADVERSE COMMENT FROM THE PUBLIC, THE PLANNING BOARD APPROVES THE SITE PLAN AMENDMENT.**

**MOTION BY: WAYNE KENNEDY**

**SECONDED BY: TED METARKO**

**DISPOSITION: 6-1**

#### 4. RESUBDIVISION APPLICATION FROM CORNING PROPERTY MANAGEMENT CORPORATION TO COMBINE LOTS 64 & 65 ON DEER CREST DR. WITH PUBLIC HEARING

**Matt Maslyn recused himself for the application.**

#### **POINTS TO CONSIDER:**

The property is located in an R-12.5 Residential District.

The applicant seeks to combine two lots into a single lot.

Since each lot met all requirements individually, the combined lot meets all criteria.

Revised map provided at Planning Board meeting showing the lot line to be eliminated, tax map parcel nos. and the total area of the combined lot.

The application was presented by William Beardsley of Weiler Associates, acting on behalf of Corning Property Management Corporation (CPMCo), the owner of lots 64 and 65. It was noted that a letter of agency is on file authorizing Mr. Beardsley.

Mr. Beardsley stated that CPMCo has a potential buyer contingent on being able to combine the lots into a single parcel. He noted that the map provided has been revised at the request of the Preplanning committee to include the Tax map parcel numbers and a notation regarding the total area of the combined parcel.

It is also noted for that it is not the responsibility of the Town to enforce the private deed restrictions that exist in the Aurene Subdivision. The Town can approve the subdivision without consent from the committee governing the deed restrictions however, the applicant proceeds at his own risk with the subdivision. The committee and any other parties with authority granted by the deed restrictions can pursue legal action.

Item # 8B on the SEQR was corrected to “NO” and Item #8C was corrected to “YES” on the SEQR

#### **THE PLANNING BOARD DECLARES THE APPLICATION TO BE COMPLETE.**

#### **THE PLANNING BOARD REVIEWS THE EAF:**

##### **ENVIRONMENTAL ASSESSMENT FORM (EAF) – Part 2 – Impact Assessment**

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|--|----|
| 1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?  | NO |
| 2. Will the proposed action result in a change in use or intensity of use of land?   | NO |
| 3. Will the proposed action impair the character or quality of the existing community?   | NO |
| 4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?                      | NO |
| 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?            | NO |
| 6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? | NO |
| 7. Will the proposed action impact existing:   |    |
| a. public / private water supplies?  | NO |
| b. public / private wastewater treatment utilities?  | NO |
| 8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?                                   | NO |
| 9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?                     | NO |
| 10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?  | NO |
| 11. Will the proposed action create a hazard to environmental resources or human health?   | NO |

**RESOLUTION TO CLASSIFY THIS AS AN UNLISTED ACTION SINCE IT IS A RESIDENTIAL DEVELOPMENT OF LESS THAN 250 UNITS WITH PUBLIC WATER AND SEWER, DECLARE THE PLANNING BOARD LEAD AGENCY AND MAKE A NEGATIVE DECLARATION OF ENVIRONMENTAL SIGNIFICANCE.**

**MOTION BY: JAMES McCARTHY  
SECONDED BY: PATRICIA THIEL  
DISPOSITION: 6-0-1 (MASLYN recused)**

**CHAIRMAN GARGANO OPENS THE PUBLIC HEARING AT 7:29 PM.**

**CHAIRMAN GARGANO CLOSES THE PUBLIC HEARING AT 7:30 PM.**

**UPON HEARING NO APPLICABLE ADVERSE COMMENT FROM THE PUBLIC, THE PLANNING BOARD APPROVES THE SUBDIVISION.**

**MOTION BY: BRIAN HARPSTER  
SECONDED BY: TED METARKO  
DISPOSITION: 6-0-1 (MASLYN recused)**

The applicant is advised that the approval expires if the plat is not filed with the County Clerk within 62 days of signature.

<p><b>5. SITE PLAN APPLICATION FROM TESLA MOTORS FOR A 10 CAR ELECTRIC CHARGING STATION AT 125 VICTORY HIGHWAY. WITH PUBLIC HEARING</b></p>
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Applicant seeks to establish a Commercial Parking Lot for a 10-car electric car charging station.

**POINTS TO CONSIDER:**

The project is located in a B-3 Neighborhood Services District.

The size is below the criteria that requires landscaping.

The 10 slots span both the existing Dunkin Donuts Lot and proposed new gas station/retail lot.

The 5 lots on the Dunkin parcel will be signed to request voluntary compliance with a 30 minute parking limit for non-Tesla cars. Therefore, the number of parking spaces on the Dunkin lot are unaffected.

Lighting cut sheet was provided showing lights exactly the same as previously approved for Dunkin.

**Elements needed:**

Fire Chief sign off

Plan specifically depicting parking area in relation to existing Dunkin, new development, Victory Hwy

At the February 6, 2017, the Planning Board declared its intent to become Lead Agency. No other agency has objected.

The application was presented by Robert Drew, P.E., of Hunt Engineers, engineer for the applicant, and Manish Patel, owner of the property. Engineer Drew explained that the proposed Tesla parking area has been redesigned since the previous presentation in response to the Town's request that it be located off the Town's sewer easement. The new design removes 5 Tesla parking stations from the south end of the new development site and adds 5 parking stations on the adjoining Dunkin Donuts site. The entire charging station area is now located approximately 40 feet closer to the front of the property and out of the Town's sewer easement. The 5 parking stations on the new development site will be restricted to Tesla automobiles for charging. The 5 parking stations on the Dunkin Donuts site will double as general customer parking with a 30 minute time restriction. The truck delivery area on the Dunkin Donuts site has been shortened 5 feet to accommodate the Tesla stations. The current owner of both the new development site and the Dunkin Donuts site has signed a 5 year leased easement with Tesla for all areas to be used by Tesla.

Board member Matt Maslyn noted concern that the site plan submitted for Tesla should not be a separate action before the Planning Board. In his opinion, the Tesla site plan should be considered as part of either the new development site plan combined with an amendment to the Dunkin Donuts site plan or as amendment to the Dunkin Donuts site plan with a resubdivision adding the Tesla area to the Dunkin Donuts site. He also noted that the drawings submitted did not clearly define the Tesla site plan as a separate action to be considered by the Board because details of the site plans for both the new development site and the Dunkin Donuts site were included.

#### **THE PLANNING BOARD DECLARES THE APPLICATION TO BE COMPLETE.**

#### **THE PLANNING BOARD REVIEWS THE EAF:**

##### **ENVIRONMENTAL ASSESSMENT FORM (EAF) – Part 2 – Impact Assessment**

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	NO
2. Will the proposed action result in a change in use or intensity of use of land?	NO
3. Will the proposed action impair the character or quality of the existing community?	NO
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	NO
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	NO
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	NO
7. Will the proposed action impact existing: a. public / private water supplies?	NO
b. public / private wastewater treatment utilities?	NO
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	NO
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	NO
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	NO
11. Will the proposed action create a hazard to environmental resources or human health?	NO

#### **THE PLANNING BOARD DECLARES ITSELF TO BE LEAD AGENCY, AND MAKES A NEGATIVE DECLARATION OF ENVIRONMENTAL SIGNIFICANCE.**

**MOTION BY: JAMES McCARTHY**

**SECONDED BY: JOHN GARGANO**

**DISPOSITION: 6-1**

**CHAIRMAN GARGANO OPENS THE PUBLIC HEARING AT 8:12 PM.**

**CHAIRMAN GARGANO CLOSES THE PUBLIC HEARING AT 8:13 PM.**

**UPON HEARING NO APPLICABLE ADVERSE COMMENT FROM THE PUBLIC, THE PLANNING BOARD APPROVES THE SITE PLAN CONTINGENT ON FIRE CHIEF APPROVAL.**

**MOTION BY: JAMES McCARTHY**  
**SECONDED BY: BRIAN HARPSTER**  
**DISPOSITION: 6-1**

**6. RESUBDIVISION APPLICATION FROM MANISH PATEL TO COMBINE LOTS 1 & 2 AT 125 VICTORY HIGHWAY.**

**POINTS TO CONSIDER:**

The project is located in a B-3 Neighborhood Services Zone.

The applicant seeks to combine Lots 1 & 2 of the 4-lot subdivision created March 7, 2016, and to take a portion of Lot 3 and add it to the combined lot.

This action is part of a Special Use Permit and Site Plan to combine the lots, establish a gasoline filling station and construct a commercial building. Therefore, the SEQR review must encompass all three actions. NYSDOT and Steuben County are Interested Agencies, NYSDEC is an Involved Agency.

#2 under SEQR Does not list required Town Floodplain Development Permit

#14 Typical Habitats -need to add Shoreline or wetland to recognize adjacent waterbody and floodplain?

SWPPP from adjacent Dunkin' still open. Must be amended to include this 2 acre disturbance.

<b>Criteria:</b>	<b>Required:</b>	<b>Proposed:</b>
Lot size	10,000 sq. ft.	2.27 acres
Lot width	50'	397.5

**Required elements to be submitted:**

SEQR edits listed above

At the February 6, 2017, the Planning Board declared its intent to become Lead Agency. However, the current plan before the Board is significantly different than the plan sent to the Other Involved Agencies.

**THE PLANNING BOARD DECLARES ITS INTENT TO BECOME LEAD AGENCY.**

**MOTION BY: PATRICIA THIEL**  
**SECONDED BY: MATT MASLYN**  
**DISPOSITION: 7-0**

The application was presented by Robert Drew, P.E., engineer for the applicant. Engineer Drew explained that the design of the proposed new development requires combining lots 1, 2 and a portion of 3 into a single lot.

**THE PLANNING BOARD DECLARES THE APPLICATION TO BE INCOMPLETE.**

## 7. SPECIAL USE PERMIT APPLICATION FROM MANISH PATEL FOR A GAS STATION AT 125 VICTORY HIGHWAY.

### POINTS TO CONSIDER:

The property is located in a B-3 Neighborhood Services District.

The applicant seeks to establish a gas station, which, pursuant to §130-71, requires a Special Use Permit.

#### Required elements to be submitted:

Fire Chief sign off

Lot size shall be at least 15,000 sq. ft.

**Proposed lot size 2.27 acres.**

Lot frontage shall be at least 150 feet.

**Proposed frontage 397.5 ft.**

Fuel pumps and other above ground service devices shall be located at least thirty-five (35) feet from the right-of-way line and fifty (50) feet from any side and rear lot lines.

**Fuel island is 35.7 ft. from DOT ROW; 56.6 side setback**

Gas pump canopy height, as measured from the lowest finished or natural grade to the lowest point on the canopy fascia, should not exceed 13 feet 9 inches...

**Canopy height to fascia is 13'9", total canopy height is 17'**

Lighting. Exterior lighting proposed for the site shall be planned, erected, and maintained in such a manner that it will not cast direct light or glare upon adjacent properties or upon any public right-of-way. No light source shall be higher than twenty (20) feet.

**Lights are 13'9" high. Cut sheets provided**

<b>Criteria:</b>	<b>Required:</b>	<b>Proposed:</b>
Lot size	15,000 sq. ft.	2.27 acres
Lot width	150 ft.	397.5 ft.

The application was presented by Robert Drew, P.E., engineer for the applicant. Engineer Drew provided information requested by the Board regarding canopy height and lighting.

Upon review by the Board, it was noted that the units of measure did not appear on the photometric plan and the lighting appeared to be inadequate. Engineer Drew noted that the unit of measure is foot-candles. Hunt Engineers will review the plan before final submission.

The Board noted that fire chief sign-off is required.

**THE PLANNING BOARD DECLARES THE APPLICATION TO BE INCOMPLETE.**



## 8. SITE PLAN APPLICATION FROM MANISH PATEL FOR A 12,000 SQ FT GAS STATION, RETAIL, FAST FOOD RESTAURANT AT 125 VICTORY HIGHWAY.

### POINTS TO CONSIDER:

The property is located in a B-3 Neighborhood Services District.

The applicant seeks construct a 12,000 sq. ft. building to include a 3,000 sq. ft. gas station, 6,500 sq. ft. retail space and a 2,500 sq. ft. fast food restaurant.

Criteria:	Required:	Proposed:
Setbacks		
Front	Min 18'	34'
	5' planting strip; 8' sidewalk, 5' building setback	Streetscape requirements met
Side	10'	60'
Rear	10'	100'
Parking	Rear or side; 68 spaces	68
	Interior landscaping 1 tree per 10 spaces	
Lighting	Pedestrian 12' max, Area 18' max or building height	18'
Sidewalk	Concrete or brick pavers 8'	Met with original streetscape
Height	Max 2 stories; 35 ft.	2 story at cupola; <b>height 32'6"</b>
Roof	Pitched or flat	pitched
Fenestration	Ground floor 50% glass	criteria met
Equipment	Roof or Ground screened	<b>Roof, screened</b>
Dumpster	screened	<b>Chain link fence with slats</b>
Lot Coverage	75%	65%
Color	Earth tone	Same as Dunkin
Signage		Compliant monument <b>Menu Board has been rotated 90°</b>

Turning movement shows tractor trailers crossing pedestrian traffic to fast food restaurant, retail business. Truck movement crosses and impedes incoming/outgoing traffic. Are tractor trailers delivery only? When do deliveries occur?

Water line is 6" main and will be no more than 80 feet, therefore will not require a meter pit.

Hours of operation will be 5am – 11 pm.

### Elements needed:

Fire Chief sign off

Photometric plan Outstanding engineering questions

The application was presented by Robert Drew, P.E., engineer for the applicant. Engineer Drew answered several outstanding questions regarding design:

- The proposed menu board was moved to the east side of the building and rotated 90 degrees in order to help prevent stacking of cars in line for the food take-out window with interfering with the parking lot.
- Mechanicals will be on the roof. The roof will be flat however, there will be a pseudo, single-peaked roof with one vertical side, along the length of the building, screening the mechanicals from view and providing the appearance of a two-story structure.
- The dumpster will be located at the southeast corner of the lot, surrounded by a slatted, chain-link fence.
- Backflow preventers will be located inside the building.
- The color scheme will be similar to Dunkin donuts.
- The outflow from the hot spot area has been changed and will not be directed to the storm water system.
- The hours of operation will be from 5 AM until 11 PM.

**THE PLANNING BOARD DECLARES THE APPLICATION TO BE INCOMPLETE.**

**RESOLUTION TO ADJOURN THE MEETING.**

**MOTION BY: BRIAN HARPSTER**

**SECONDED BY: JAMES McCARTHY**

**DISPOSITION: 7-0**