

WORKSHOP MEETING MINUTES

TOWN OF LLOYD PLANNING BOARD

Thursday, July 20, 2023

CALL TO ORDER TIME: 5:30pm

PLEDGE OF ALLEGIANCE

ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.

OFFICIALLY OPEN THE MEETING

Attendance: Board Members: Scott McCarthy, Charly Long, Franco Zani, Gerry Marion, Bill Meltzer, Lambros Violaris, Carl DiLorenzo, Lenny Auchmoody (Town Board); Board Staff: Dave Barton, Christian Moore, Paul Van Cott (Via Zoom), and Sarah Van Nostrand

Absent: Board Members: Sal Cuciti

Minutes to Approve at July 27, 2023 meeting
June 15, 2023

New Business

Peppino's Food: Lot Line Revision: 304 Station Rd: SBL #86.4-1-22.1 & 86.4-2-35

Applicant is seeking a lot line revision to add 1.59-acre parcel of land to the existing 4.62-acre parcel to reduce the non-conformance of the lot.

Patti (applicant's Agent) said that when they submitted the site plan application, it was discovered that the area was over the density, and they were going to expand it even more by putting the additional parking area in. The Zoning Board and the Planning Board wanted them to do a lot line revision instead. They are adding a 1.59-acre parcel to the existing 4.62-acre, so they will have a total of 6.21-acres for the overall site. The Zoning Board last week determined that they no longer needed to apply to them, so they are withdrawing that application, and this will take care of that non-conformity.

Christian said that they have no comments on the lot line adjustment, it is just a transfer of property between one to another owner.

Paul said that he confirms what Patti said about the ZBA review, basically its not the ZBA, but it would be Anthony and his determination, is that if the Planning Board accepts the lot line

adjustment, increasing the size of the lot, then a variance would no longer be needed from the ZBA.

Scott said the board can go to a public hearing on this.

Paul said that would be his recommendation to schedule a public hearing. It will be a SEQRA Type II action, so no SEQRA review would be required. The board will still need to do the public hearing. This a lot line adjustment the practice has been to only require one public hearing. At the next meeting the board could have the public hearing and approve the lot line adjustment at the same time.

Bill asked what the public hearing for Peppino's is for on the agenda.

Scott said that is for the site plan review.

Patti said the site plan review public hearing will need to remain open, until they have resolved the lot line revision issue. There are a couple of items once they get done with the lot line that she would like to review.

Scott asked for a motion to schedule a public hearing for August 24th.

Motion made by Franco, 2nd by Bill.

All ayes, motion passed to schedule the public hearing.

Surprise Photography: Special Use Permit: 151 Macks Ln: SBL #96.9-1-14

Applicant is seeking a special use permit to run a photography studio out of an accessory building.

Melissa (Applicant) said that she is a photographer and the owner of Surprise Photography, she is a fine art portrait photographer. She has been renting out space across the river for 15 years and during the pandemic she desired to work from home. She bought her second home in Highland back in 2019, she has the property for it.

Christian asked if there was a bathroom in the building.

Melissa said yes there is a bathroom which will have a small claw foot tub that she also uses as a prop.

Christian said his only concern is that they may need to go to the health department to make sure that your septic system is large enough to handle it. You have an individual well, so he is assuming that she has an individual SDS as well. He asked if she happened to know where the sewage disposal system is because that might affect the placement of the building.

Franco asked is the well in the front and the septic in the back.

Joe Gatto (applicant's contractor) said correct.

Franco said hopefully the pool is not over the septic.

Joe said that they exposed the septic and Anthony came out and inspected it, he saw the setback lines, the lines for the building and approved the location.

Franco asked is it a 4 bedroom house.

Melissa said yes.

Franco asked is it a 1,250 gallon tank.

Scott said that it doesn't show on the map, it would be a good thing to show on the map, so the board knows where it is in relation to the building.

Franco asked it is going to be a full bathroom, with a tub, sink and toilet.

Melissa said yes.

Christian asked if their septic was large enough to handle the new bedroom.

Dave said he would have to check.

Melissa said that she is a low traffic high end photographer, she might shoot one or two clients there a week depending on if it is newborn or fine art. When she does seniors and families it is always on location.

Franco said that you have to look at it from the board's perspective that if you ever retire and want to use this as an accessory apartment.

Scott said it could be changed to something else at a later time.

Charly asked if the board had any elevations showing what the structure is going to look like.

Melissa said in the application there are three pages of pictures of the building.

Dave asked if there was going to be any boudoir photography.

Melissa said it could be.

Dave asked on site or it is also an on location thing.

Melissa said that would be done privately in the studio. She does not often shoot boudoir, but a lot of her maternity is a lot of skin.

Dave said he is always thinking about possible future complaints and that is one of the things that have been floating around.

Melissa said she is not a film photographer, so she doesn't use chemicals, she is all digital, her footprint is very low. The tub might be used a small handful of times a year, she had the tub in her old studio which she took with her as she bought and invested in it. She is not moving her in-laws in, she has heard that rumor.

Franco said there will be no outside photography, it will all be contained inside the studio.

Melissa said not necessarily, she has a lean to that she would like to use if she is doing a head shot.

Charly asked is that the shed.

Melissa said no, the shed they actually moved to the back of the property.

Dave said when you are doing a head shot, how many people on set.

Melissa said herself and the client.

Dave said one of the reasons photography lends itself so easily to home occupation especially a type II, the only reason it is a type II is because of the size of the building, not because she has extra employees.

Bill asked if she was currently using the main house as her studio.

Melissa said no she sublets.

Bill said you are not using this location.

Melissa said no.

Bill said there are no complaints from any neighbors.

Melissa said no.

Bill asked if there any signage they were going to put up.

Melissa said she doesn't plan on it at the moment, she is a destination photographer and people seek her out and that would be done by just giving them her address. Just like when she was in Poughkeepsie the location of the building was not on the public street, it was in the back of a building because her clients were coming to her by appointment. She doesn't rely on street traffic or foot traffic for her business.

Charly asked if it is a home occupation are they allowed to have signage.

Dave said that they are, it's not a big sign, but he will confirm.

Franco said that you mentioned that you moved the shed, so the survey is incorrect then.

Melissa said the shed did get moved.

Franco asked is that current location on the survey.

Melissa said that was the existing condition when they bought the house.

Franco said can you get the board an updated map to show where everything is going to go and put the septic on there.

Dave said for a home occupation II, one non-illuminated sign with an area not more than 4 square feet per face, so a 2 X 2.

Scott asked for a motion to set a public hearing for next month.

Motion made by Gerry, 2nd by Bill.

All ayes, motion passed to set the public hearing for next month.

Bill asked if she had heard from any neighbors.

Melissa said yes.

Sabuda, Robert: Special Use Permit: 67 Black Creek Rd: SBL #79.2-1-24.2

Applicant is seeking a special use permit to legalize two accessory apartments that were converted from art studios.

Robert (applicant) said that he is seeking a special use permit to legalize two accessory apartments that were converted from art studios.

Scott asked how long has it been an illegal space.

Robert said that they converted during COVID.

Scott said so for a couple of years.

Robert said yes when the pandemic started.

Franco asked if he had a design on the septic system.

Robert said he submitted the size for it, 1,250.

Scott asked if the plans that were shown are stamped by an architect or an engineer. If not the board is going to need something of that nature as well.

Dave said that the second-floor plan is confusing as he cannot tell what is where on the plan. He can apply for a short-term rental, but the issue is that he has to apply for a 2-family because they are 2 independent apartments. When the CO was originally issued, they were art studios, both upstairs and downstairs. He doesn't understand in the new set is what room a, b, c, d, e, and f are. He assumes that D and C are bedrooms as are A and F and that room B have kitchens in them.

Robert said yes, the building inspector has been there.

Dave said the application would have to be amended, he has to apply for a 2-family which is an allowed use, and it would have to be under new construction as if he hadn't already done this piece because it cannot be done via conversion from a single to a 2-family, that's what is considered conversion. The 2-family has to get done first then they would have to figure out how the short-term rental works because he can have one short-term rental, but the Zoning Board decided that there was only one possible per parcel. He can rent both units, but it can only be to one party, he couldn't have two independent ones, he would have to have a full time rental and a short-term rental.

Franco asked if he was currently renting it out as an Airbnb.

Robert said yes and sometimes they have visiting artists there as well.

Dave said the board has to find that it is sufficient for a 2-family. It is a beautiful building from the outside. These units are relatively smallish all though perfectly sufficient for what the use could be. The other end of this is that the downstairs would continue to be an art studio. He has plenty of parking.

Scott said they have plenty of septic for this.

Dave said it was oversized; he thinks originally for what the use was going to be.

Scott suggested that it be shown on a map and maybe some more clarity on what they looking at, so the board knows what the rooms are for.

Franco said they will be looking for a septic inspection, the square footage of each apartment.

Dave said that they will have to go through a building permit to convert them to apartments because there will be different standards for what was there before to what is there now. The department will do that once or if the board say good to go on the 2-family, then they can continue with the short-term rental piece.

Charly said when he originally started doing this making it from a horse barn to this, there were inspections.

Dave said yes there were many inspections for the artist studios. They need to go through the steps that will satisfy the conversion piece which happened during COIVD. Now they need to make sure it is safe, legal, and then the board can do the short-term rental piece.

Scott said the downstairs was applied for as an art studio.

Dave said that the downstairs was applied for as an art studio, the upstairs was unfinished, they had a separate permit to convert the upstairs to artist studios as well. They had a duty sink on both sides, with wet wall in the middle. A certificate was issued for that.

Franco said that it was spilt up so people could rent the space that they needed.

Scott asked was the upstairs ever an artist studio.

Dave said yes they had a permit to convert the unfinished space to finished studio space and then without a permit it was converted into living space. There was always the possibility in Sabuda's mind and in the building department's understanding that people might stay there over time, so they made sure that there were smoke detectors, there's emergency escape and rescue and open egress routes. Now it is more of a solidified thing, that there are now two units on the second floor.

Scott said the board will need the plans showing where everything is, the design of the upstairs floor layout, more identified rooms, anything else.

Franco said stamped, signed and sealed engineered plans.

Public Hearings

The Villages PRRD: Site Plan: SBL #95.2-2-3.211 & 95.2-2-9.100

Applicant is proposing 197 independent living cottages and club house and an ALF.

Review Status: Public hearing set for July 27, 2023

Applicant shared a presentation.

Britany (a part of the applicant's team) said that they are here before the board tonight to discuss the phasing. The ALF will be in a separate phase as they are still working though the permit phasing and could take until 2025 before they get the license. The phases were explained. With the phases they are not going to have more than 5-acres of disturbance, it will be seeded and grassed as they go along.

Scott asked when is the ALF going in.

Britany said as soon as they get all the permitting, which will hopefully be 2024 or 2025.

Scott said he thought they were doing that along with phase A originally.

Dave said that they had a conversation with the applicant last week. All the grading for phase A will continue over into phase B and so forth. Paul and him discussed with the applicant that phase A, B, and C get them to the club house. He is going to advise the board that if they are starting to create communities up here getting to the clubhouse is important because it will be a central place for people to be. Phase A will include some recreational items, but phase C is the clubhouse. If they get to A, B, and C and then have a full stop until the ALF is underway before they can move on. It will help them in terms of number of units and that they will sell fast enough that by the time they get to C, that the ALF will be ready, permitted, and ready to be under construction. They did discuss doing only one small phase and their argument was finically that's not going to serve, as he needs some better returns due to the money put into the site, and he will still be holding for the ALF. It will give him some more units, so he won't have to hold for so long and will get them to the ALF quicker. Part B they will advise the board since all they will be doing at first will be the infrastructure pieces, the light will have to be part of that.

Scott that they originally spoke about this the ALF was part of what the board wanted it a part of A. It was conveyed to the board that they felt like that was a good idea because they would show good faith, with at least that starting, not getting 50% of the cottages built and then starting the ALF which is not where they want to be.

Gerry agrees.

Bill said he doesn't know where they got 2025 for the starting point for the ALF.

Kelly (a part of the applicant's team) said about 6 months ago they wanted to design the ALF, so that the upper portion of the ALF didn't require Department of Health approval, which was something that the board really didn't want to see. They wanted to have the ALF in its entirety provide the services that were mandated Department of Health approval. They reverted back to having that entire building to be covered by the Department of Health, they would love to build the building tomorrow, but they cannot, they are encumbered by the Department of Health approval process. To keep the project moving forward, the cottages are just as important to the community to provide housing as the ALF is.

Scott said that the owner mentioned that this project would take 3 and if you are not starting the ALF until 2025.

Kelly said when she had shown 2025 on the chart that she had prepared, she doesn't know how long it will take. She just thought as far a perspective to place 2025 on there. She can tell them the infrastructure is there, the grading is done, they would not have spent millions of dollars preparing that location to have it sit. They want to build the ALF first, but to cause the whole project to be delayed because this building requires Department of Health approval, she thinks is a disservice to the project and community.

Scott asked what has the Department of Health told you so far.

Kelly said that they are not providing any information on how long that process will take.

Gerry asked is there anyone from the Health Department who can put that in writing.

Dave said he has a good relationship with the acting director from the Department of Health, she finds it impossible to speak to a length of time without knowing the completeness of the application. It won't be less than a year.

Gerry said that the board should have something from them saying what they have and what the holdup is. The board also has nothing from DOT, who are you contacting there and what is the holdup.

Kelly said they are just as frustrated as the board.

Gerry said he would like to have the name of who they are communicating with and what the holdup is.

Kelly said she can only tell the board what DOT tells her, every time she tells the board something it never happens. The last conversation she had with DOT, was that the person reviewing it had just come back from vacation and they gave him everything he needed and confirmed that he had all the information. He said it would at least be 2-3 weeks before he would be ready to issue the permit. They got him updated insurances, made sure the bond was correct, there was another insurance paper they needed.

Gerry said supposed you don't get these permits. Is there access to Apple Lane?

Kelly said that is a water line.

Gerry said suppose you don't get your permits you will be claiming hardship and you are building something that nobody really voted for because the bulk of it you cannot get approvals for.

Kelly said DOT said that they are going to receive their permit in 2-3 weeks, in anticipation to the they said to them to get all their certificates updated, make sure the bond is correct, so when the permit is issued those things are outstanding.

Gerry said that they have been asking for years about the DOT and Health Department approvals and now they are talking about everything that has been shown and there is a problem.

Kelly said these cottages and independent living units are just as important to the community as the ALF is.

Gerry said it was all tied to the ALF for the medical well-being of these people that might not ever happen.

Kelly said and it might.

Gerry said right now it looks like its not.

Kelly said that they have had conversations with the Department of Health and John (Applicant) said that it is a permittable project, its just a matter of making the submission to the Department of Health.

Scott said the light had to be approved, that had to be forwarded to the Department of Health and they are expecting the board to give them approvals in order for them to determine if they can give the project the permit for the Department of Health part. The board's issue is exactly that the board cannot give you a permit as they are not sure that is what they are really going to do.

Kelly said that is why the town has been involved in the calls with those entities to give the board assurances that the permits are coming.

Scott said that this project has changed since the last time because the board asked for the certainty of starting the ALF along with the cottages.

Kelly said that they wanted to start it.

Scott said that they hear their intentions, but part of the board's job is to make sure what they are asking is what they are going to get.

Kelly said their full intention was to get that ALF built and to do that upper portion and there was a lot of discussion amongst the town and the expectations were that the services in that building needed approval from the Department of Health, so they have redesigned the entire project and they have included all of those services, they have provided the board with the footprint and that all of those services are required to be certified and approved by the Department of Health.

Scott said if the board goes with 3 phases constructed and that you are only building based on what you sell. The board is looking for a more creative way to start the project to get so many sold because the only way you can sell them is if you have a project that has been approved. Approving the project and saying yes go ahead with what they are proposing, and you were only able to sell 50%, where does that leave the board.

Kelly said that was the last conversation they had with was come up with some creative way to set milestones and constraints, so that they cannot get a head of themselves, and that the ALF is incorporated into the project, which what brought them to the phasing plan.

Scott said that is why the board wanted the ALF incorporated at the same time, in one of those phases.

Kelly said that she thought at the last meeting that they discussed some way to allow some portion of the cottages to be built knowing that they were in the process of getting the approval from the Department of Health.

Scott said he agrees, he is just stating the board's responsibility to the community. Let's just say for financial reasons you cannot build anymore than 50% that ALF isn't going to happen.

Dave said that the board is looking for a process for a piecemeal approval across the project. For example, if the board feels comfortable with the layout of the site, they will let the applicant do the infrastructure and cottages for A, then they have to come back and then do B.

Scott said that he likes that idea and thinks it works perfectly.

Dave said what that will do is limit them to get through A, with no guarantee that they can do B. He thinks piecemeal is the way to do it. Paul checked and it is a legal way, but it is going to be up to the board does this phasing work in terms of the number of units. One of the reasons the phasing looks the way it does is for civil work, there are certain walls that have to go in before another piece can go in. Phase A is 21 units the impact isn't that onerous to the town, 41 now you are up to 62 and maybe at that point he thinks it is optimistic about the dates that are shown as infrastructure is going to come first. The board needs to get comfortable with the conceptual plan and if they are comfortable with that then get into the phases.

Gerry said he is not comfortable because they keep going around and around and it's the same issue over and over again and they keep building and then they are claiming a hardship because they sank millions of dollars into a wall, get your permits, build what you say you are going to build and be done with it.

Lambros said his concern is that the cottages are being sold with the assumption that there is going to be an ALF within a certain amount of time, but now they are being told that there will be no movement on the Department of Health until the year after next.

Franco said you need the package 100% for approval or they won't look at it.

Charly said they won't even give you a letter.

Gerry said three years later if you don't have your approval, you probably aren't going to get it.

Franco asked if they could flip that phasing around, can you flip phase C with B because if you build a rec, people will come.

Kelly said they can. She said that the phasing was created because a lot of infrastructure that had to occur, to also ensure that trucks were not driving past resident's houses starting the construction. They will look into it as then the clubhouse will get built first.

Scott said he was going to suggest that. There are 14 cottages in B and 41 in C, he understands that there is a quantity that needs to be met to get financing to keep going. If you swap B with C that might help.

Bill said the last he remembers was that there were discussions about an upper and lower portion of the ALF, where one portion didn't need Department of Health approval and one did. You were going forward with the one that didn't need it and that would be built.

John said what happened was a couple of months ago they were talking about an upper and lower portion of the building, where the upper portion didn't need Department of Health approval, but the lower portion did. They changed that because they had further discussions with the town, the entire building is going to seek Department of Health licensing for an assisted living facility.

Bill said so the entire ALF is being pushed to the end then.

John said that they are not pushing it, it's where the expectation is once the application is filed which will be soon, there are a couple of outstanding items, it's going to take a while. His understanding is that it is not a question of if, it is just a question of when.

Kelly said she would love to be able to give the board the piece of paper, but she cannot.

Scott said that the board needs to know that the community is not going to be burdened with hardship and that later on they come to the board saying that they cannot get the permit and are stuck, but we have all these cottages up there, that's going to be a problem.

Kelly said that means that the entire project would come to a halt and sit there like it currently is for two years.

Paul said that based on prior conversations with the applicant's and the board they reverted back to having the entire assisted living facility needing Department of Health approval and that will help make this consistent with the PRRD code that was approved by the Town Board. The question became how do we allow the applicant to proceed with the existing development because they have a contractor on site who is going to leave and they would like to keep that contractor engaged because the cost of bringing them back is pretty substantial and they have also invested in these retaining walls. The idea that they were looking at and talking with them was that if the Planning Board allowed them to do certain phases of the project and then at some point there was a stop because unless the ALF goes forward you don't have a PRRD that would be a good way for the Planning Board to control the process to make sure that the ALF, but you could also include the condition that at some point in the process the stop light on Mayer Drive has to be approved and potentially even installed before they can do more work. It's taking the concerns that the Planning Board has and trying to balance them against the practical realities that the applicant is facing and come up with a phasing plan that works but doesn't lose control of approval of the details of design by the Planning Board. It seems like that would be the balance that would allow the project to move forward but would ensure that the project is done the way the Planning Board intends.

Gerry asked why the board would get entangled with infrastructure that they before they got their permits. They created their own hardship, why would the board want to get involved in giving them a way out and leave the board vulnerable for something that might never get built.

Paul said that needs to be covered in the approval documents.

Gerry said that everyone keeps mentioning the amount of money they have spent, he feels for them but they are the ones who caused this problem for starting something that they didn't have all their permits for.

Paul said he understands and that is a policy call by the Planning Board. The board has an applicant in front of them saying they cannot do it otherwise or the project may fail. If there are ways that the board can control the project, if you want the project are there ways they can control that though the phasing and through conditions that the project without putting the town at risk then that is another option. It is up to the board, if you want to put this off until every aspect of the project has been approved but let the applicant speak to what the risk of that might be.

Franco asked to start phase A what time frame are you looking at.

Kelly said that they would like to start phase A immediately and its about 2-3 months for them to get that site prepped for infrastructure and road. The goal would be to start setting houses there October or November.

Franco said if you build phase A and then build phase C, then the central area is complete and construction equipment can go around the outside. The way the phases are now, you build phase A and then to get to phase C you have to bring equipment though phase A and tear up all the roads.

Scott said approving that whole lot will get them their ALF Department of Health approval faster. If the board approves it all its yours, the phasing they can control what is going on in each one of those phases and how the board wants it to be and what they are expecting in each one of those phases. Having that done you get to see how long are they talking for each of those phases to be finished, for A, B, and C.

Kelly said spring of 2024.

Scott said lets say the Department of Health, you get your approval if the board decides to give it. Now they are reviewing it and have everything they need. The Department of Health reviews it and they say the ALF can be started, now the board is not looking at 2025, will they start the ALF.

Kelly replied absolutely.

Scott said that will make some of the board feel better knowing that it will start.

John said that he cannot control the issuance of the licensing. They don't know where it will go, it could go after A, B, C.

Scott said he understands what they are saying about not knowing how long it will take.

Kelly said they think that the cottages are equally important to the community and that there is a need for those houses.

Scott said the reason the board is concerned is that if a financial hardship happens and you cannot go any further the town is stuck with cottages. The board doesn't want to have 100 houses up there and have to deal with that.

John said that is why they have proposed the phasing, where the board has the control mechanism at each phase.

Charly said yes they have the control but they don't have the control over if the ALF is going to be there. He remembers hearing that there are going to be no building permits issued until the DOT traffic light is in but can a permit be issued.

Dave said he can issue building permits for what the board approves.

Paul said those would all be conditions of approval potentially; the board can control that to the extent that they want.

Kelly said if the permit was issued in the next few weeks from DOT they are advancing the submittals for the long lead items, the poles and the signal boxes are the long lead items. DOT normally stops allowing work in the DOT right-of-way November 14th plus or minus depending on the weather. What they are trying to do is get all of the underground work done before November, so even if the poles come in after the fact they have already done all the foundation, footings, the anchor bolts, etc., so they can set the poles whenever they come in.

Bill said his only concern is that if they get done with phase C and they are done building and the board says no more building until the ALF, is that your understanding.

Kelly said if that is what the board wants.

Bill said he wanted to make sure that the board had that control.

Scott said at any phase of construction, the board will be able to stop, if they are not getting what they want and that will be written in the resolution.

Franco asked if there were any updates.

Kelly said the only update is from DOT, and they will be talking with them again on Monday.

Christian said he has a question on the phasing, when you gave them the approximate milestone for phase A, you said sometime in October, did that take into account the 2-3 weeks regarding the DOT approval for that signal.

Kelly said phase A, they will have to discuss conditions and if the start of that phase is conditional upon getting the DOT approval.

Paul said that he would like to hear from the applicant a little bit more about the urgency of their timing and the reasons for that.

Kelly said the largest wall on the project is wall 11, that wall is \$1.6 million and they have contracted with LHV to prepare that wall because if they waited they would be getting the wall in December. They have paid for 50% of that wall and they are hoping to get that wall on site to try to continue with some of that infrastructure while they have optimal weather, that will allow them to then start putting houses and structures on phase A in the fall.

Paul asked what is the status of their contractor.

Kelly said their contractor is running out of work in another 2-3 weeks, so at that point they will demobilize at that point, they will continue to do the work in the right-of-way, the team that is assembling the wall will leave and then they will have to wait to figure out when they can move forward with that position. Their hope was to be able to continue with the infrastructure, the water, and sanitary, it is keeping a lot of people busy, it is keep staff in the town busy, its keeping inspectors busy.

Dave said that their contractor Corewood has been great to work with, they are very responsive if there was ever a problem on site. Losing Corewood because if the demobilize and go away and they can't come back and they would have to get somebody else.

Kelly said that the site during all those rain events was stable.

Paul said the only reason he brought that up is that it is relevant to the board's consideration of how it wants to proceed. The staff feels comfortable that if the board wants to work with the applicant relative to phasing and to allow the construction to continue to proceed, they can come up with resolutions and conditions that would allow that to happen without giving up any of the Town's interest. There are a few ways that the board can approach this, one way is by phases because there is a lot of details that go with each phase that they are proposing. One of the options that has been discussed is an overall approval of the site and then a detailed phasing review of each phase of the project and then also including conditions that would require installation of the traffic signal and/or DOT approvals and also making sure that the assisted living facility is approved and underway before the bulk of the residential development are authorized to be constructed. There are different ways to approach it and it is entirely up to the board on what they feel comfortable with.

Dave said that the board has received a copy of a memo regarding the cul-de-sac issue and he feels that the length of the cul-de-sacs are not an issue with this project.

Continued Public Hearings

180 South Street LLC: Commercial Site Plan: 180 South St. SBL: #87.3-5-14.

Review Status: Public hearing opened on 4/27/23

SEQRA Status: Unlisted Action

Dave said that he spoke with the applicants last week saying that there was still some concern about the drainage line that runs under the parking lot and the elevations of the building. He said that the illustrations that were shown to the board seemed plain. They submitted what the owner's other buildings look like and they are not plain. He knows that there was issue with where the drainage pipe is located and where it went by a neighbor and the board understands that it could be a problem. As they do construction on site the building department will be out there, if they find the pipe and it has to be moved, that is something that could be done in the field. He will have CPL come out and confirm on what they need to do and where it needs to go.

Scott said he thinks the board was concerned that there was no easement and making sure that the maintenance of that drainage was always maintained.

Dave said the owner he feels will give the board whatever they need in terms of easements and access. It will actually be better if they move the pipe, so it doesn't go under where they are going to put the loading bays.

Franco said that because it drains the neighbor's property and crosses South St, which is a county road. He thinks that they may have to get the county involved because were there permits to put that drainage pipe in underneath the road.

Dave said that he doesn't know, but he will reach out to the county.

Scott said he thinks the board is close with them.

Paul said that he is just waiting on conditions from CPL, if there are legal issues related to drainage, he wants to know about them, so they can require appropriate easements. There is a draft resolution that has been prepared.

Peppino's Food: Amended Site Plan: 304 Station Rd.: SBL #86.4-1-22.100

Applicant is seeking an amended site plan to construct a 70' X 165' building for produce storage.

Review Status: Public hearing opened June 22, 2023

Patti (applicant's agent) said that at the ZBA meeting last month even though the public

hearing was not held there was some public comment, to be able to get out on the table what the concerns were. One of the things that she would like to discuss with the board this evening is in regards to the buffer to the adjacent farmland. What she would like from the board is what they consider to be an adequate buffer in that area, obviously that entire 50-foot strip was the old railroad bed, so the ability to plant anything in there is somewhat limited due to what has been dumped in there for 100 years, the oils, the fact that it is gravel, so it seems more appropriate that a fence be placed there, then the question is where.

Scott said that the definition of agricultural buffer was redone.

Dave said that everyone has a copy of it.

Patti asked if the one on the website is not the most current.

Franco asked since it is the old railroad bed is there a chance that they could turn this into a walking trail in the future.

Dave said no, this is private property now. For some reason they ended at the Central Hudson site, they gave the town everything else where the trail is now and the rest of it they sectioned off and abandoned.

Scott asked wasn't there a specific footage that was mentioned in the law because he doesn't see it in there.

Dave said that would be in the section on agricultural buffers in 100-15.

Patti said 100-15 (11)(a) says "Buffers adjacent to actively farmed lands within a New York State certified agricultural district shall be established in new residential subdivisions and other nonfarm uses. The buffer area as part of the new residential or other nonfarm use shall consist of an enhanced setback of at least 50 feet and, at the discretion of the Planning Board, up to 100 feet depending on the type of agriculture or farm use, the topography, and the proposed design of such buffer. Appropriate landscaping and/or vegetative screening shall be established and maintained on such buffers. Such buffer and its standards shall be noted on any approved subdivision plat or site plan." The new definition of agricultural buffer shall include natural or planted vegetation or fencing or both, sufficient to provide both visual and noise buffer as required by this chapter. It shall not be paved, used for buildings, accessory buildings, parking or storage.

Scott said it will be up to the board to decide the footage on that.

Paul asked if the board had a proposal from Patti yet on how they will approach the buffer.

Patti said that the applicant wants to do is a fence, 30-feet westerly of the boundary line

which would then leave 25-feet between the building and the fence line, so that there is circulation around the building for emergency service vehicles.

Paul said do you have a sense what level of buffering that would provide to the neighboring farm.

Patti said it depends on the height of the fence. As was discussed there were difficulties providing buffering on this site as most of this is the fact that the railroad bed was cut in because railroads need to be level, so that left an extremely steep slope along the easterly boundary of this property. The elevation of the neighboring property is approximately 8-10-feet higher than what this property is. Even if you plant an 8-foot tree which will die because there is no soil or put up an 8-foot fence, it is still creating a situation where it is tough to provide that buffer.

Gerry said it was 35-feet right and they went to 50-feet and then expanded it to 100-feet.

Patti said the code has not changed in that regard. It has always been an enhanced setback of 50-feet, so the zoning setback for a side yard is 35-feet, so it has been expanded from 35-feet to 50-feet at a minimum.

Gerry said 50-feet, there isn't a residential house there, it is a commercial building, he thinks 50-feet more than adequate for any kind of spray material. It is only going to be used for emergency access to go around the building.

Patti said they are proposing to put the fence at 35-feet. The definition of the buffer is that it shall not be paved, nor used for buildings, accessory buildings, parking or storage. Basically, you have a building setback in any zone and instead of it being 35-feet to the building, now in the agricultural buffer, its spread not only to the building, but also to accessory structures and parking.

Gerry said you are still going to have the 50-foot buffer if not more.

Patti said they will have the buffer 50-feet, by definition of this buffer, but within that buffer they have to put some kind of screening and what they are proposing is a fence at that distance.

Franco asked what type of fencing.

Patti said it will have to be a solid board fence, she has not discussed that with the applicant because she wants to hear from the board first.

Scott said as you mentioned before the elevation on the other property is a bit higher than that property, he isn't sure what the difference is.

Paul asked if they have talked with the neighboring property owner and would there be

any opportunity for planting and or fencing on their property, that might better provide screening for the applicant's building.

Patti said yes, she did discuss that with them and basically they want, because one of the points is that is already is a tree line berm on the neighboring property at the top of the hill, the buffer has already been there and planted with trees, but the neighbor wants the ability to be able to clear cut their entire property because they don't feel that they should be burdened with not being able to use every foot of their property, so they are not interested in leaving that berm or leaving the trees on the berm as a guaranteed buffer.

Charly asked is it about 8-feet.

Patti said yes.

Charly asked is that gravel driveway going to stay gravel or are you intending to make it all grass.

Patti said all the blacktop has been pulled up. It's supposed to be a 50-foot buffer, but for the safety and emergency service vehicles, she has requested the board to consider allowing us to have a gate at either end that restricts access. Right now, there is an overhead door at the southeast corner of the building, so there are vehicles that use it right now because that is where they load and unload. The applicant has agreed that it will be closed after the construction of the new building. It has been used in that nature forever, since the railroad was there, these buildings were there as a siding for the railroad.

Scott asked if the board could let the public speak on the project.

Paul said that the public hearing was continued until August 27th, but if there is someone from the public who wants to speak and the Planning Board would like to hear from them. He thinks the applicant has been amenable to hear from the public, so he doesn't see any problem with that.

Scott Anzalone (neighbor) said that he spoke with Patti at length, and unfortunately their position has not changed. As the properties around him are being redeveloped, subdivided, new site plans, he is trying to use the law as much as possible to protect themselves as the last remaining farm. On the other side it is residential, and the buffer is 100-feet, but they can go inside at night and have the doors and windows closed. The difference on this side is that the building is within 50-feet and the minimum is 50, the board has the ability up to 100. The building cannot be changed, but they can change what's there. The problem that he has is that he didn't create the berm on the property, they created the berm when they created the parking lot, it was enhanced on their side, the berm was not completely there. The berm is on his side and so is the swale unfortunately it is much higher, so spray travels and it drifts down. There unfortunate position is that they are at a higher elevation and they do sell food, so the risk for them

is higher on this side than it would be for the residential side where people can restrict their activity, their concern is that this is a food distributor which is why their position has been so strong on this side to preserve the buffer as much as they can to restrict that traffic. If it is going to be for emergency vehicles they understand that need, but they want to make sure that buffer on their side is as strong as possible because under New York State Right to Farm Law they have the ability of using every square inch of their property, they as a farm cannot be restricted by the town for the right that they have in the agricultural district set forth by New York State. The reason they are not amicable to create a buffer on their side is that they don't have to, and he needs to be able to use every square foot if that opportunity arises. The other issue that he has is that they wrap around the property to the south as they are expanding, they are planting more trees, they are getting animals and have other things that they plan on doing with their farm and orchard, it's not just a buffer on the eastern side the buffer also needs to be expanded on the southern side. Even though there is an agricultural buffer, even though going to the Zoning Board and they were not supposed to use it, the parking lot was supposed to come out, the driveway was supposed to come out, they are still using it for the overhead door, he understands that is their access right now until they amend their site plan. His concern is still the same if they are giving emergency access are they still going to continue using the driveway or the access for uses that are not what they are allowed for. Last week they were mowing the buffer, they were mowing his side of the buffer, they were throwing debris on his side of the buffer, they have cut trees on his side of the buffer. They are trying hard to protect the buffer, but it is not being protected, there are vehicles constantly parked there, not just the service vehicles.

Patti asked if he could give them a hint on what he thinks is appropriate for the buffer.

Scott Anzalone said appropriate would be returning it to natural vegetation, with as much vegetation as possible, in order to keep that border as strong as it can on that side.

Charly said you have 55.2-feet from the building to the property line is that the flat area that can be mowed and moving stuff around.

Patti said yes.

Charly asked if they were going to put the zig-zag trees back in there, are you going to stop touching that area.

Joe (Property Owner) said he is thinking about putting a fence in.

Charly asked where are you putting the fence because it is not on the plan.

Joe said that last year they were trying to put in bushes and trees. The lawyer who went to the meetings told him that they need to move the parking because the original site plan shows it in the front and keep the area plain and you don't have to do anything anymore, so forget about the trees and everything else. The grass has been coming up, so they clean it, by just cutting the grass and nothing else. They haven't parked over

there in a year and the only thing they use is the back door to load and unload, there are only two cars that get parked over there is his son's car and his car. Once they get the new building that door is going to be abandoned.

Charly said you are going to have your two gates up for fire access.

Joe said if they put the fence 50 feet away, he won't be able to open his office door as there is only 5 feet, so if there is a way it could be split in the middle to put the fence and they can plant trees. It's a railroad bed he doesn't know if trees will grow.

Charly said it probably wouldn't from all the chemicals.

Joe said unless they can buy some kind of artificial plant to put in there to make sure no one goes over the halfway boundary.

Charly said with the lot line to be removed in the back, now that it will be a part of that parcel in the future is there going to be clearing.

Patti said no he is planning on leaving that wooded.

Charly said can something be put on the map that it is going to stay because he would like to see that area be undisturbed.

Scott said that there should be a note added to the map that they are not to be using that property on that side yard where that buffer is.

Joe said that there will be no parking.

Scott said that you are going to put a fence up or a gate from the corner of the building to the buffer line.

Charly said if the board kept the 50-foot buffer he wouldn't have any room.

Patti said that is why he is asking that it be placed at 35-feet instead of 50-feet.

Charly asked 35-feet off the building and then from there at the end of the fence, the grade goes up 8-feet, so if you put an 8-foot fence that isn't going to do anything. He would rather see them go back to the plantings.

Patti asked if they are going to grow and what happens if they don't.

Charly said can you build a berm on top of that, fill into the side of the hill, come out and then plant on top.

Joe said he will talk with a landscaper, he has Top Seed come in once a week and clean up, so he will talk with them and see if they can come up with something.

Dave said that Patti pointed out 100-15 (11)(a) which says, “an enhanced setback of at least 50 feet.” Which sounds like a number and if the board is going less that sounds like an area variance.

Patti said what it says is an enhanced setback and the definition of a setback is to a structure, except that they have changed the definition of a buffer when it comes to an agricultural buffer, saying that within an area it shall not be paved, or used for buildings, accessory structures, parking or storage. It doesn’t say that the entire buffer has to be covered with natural or planted vegetation. It says that it shall include natural and planted vegetation.

Dave said that he agrees with Patti on that, but the distance to property line is the issue.

Patti said so even the emergency service vehicle even though it was pre-existing to this.

Dave said that the buffer now as part of this new site plan says at least 50 feet.

Patti said she thinks the buffer says that the buffer area as part of the new residential or other nonfarm use shall consist of an enhanced setback of at least 50 feet. They are meeting that setback requirement, with the exception of the emergency services driveway which was pre-existing.

Scott said he doesn’t think the driveway was ever defined as emergency access, it was parking.

Patti said that before it was it was parking it was always access around the building. The applicant didn’t put the overheard door in, it was existing.

Scott said that it wasn’t defined as emergency access.

Patti said no, she is proposing it as emergency access now.

Scott said at that time they weren’t in question of the buffer now they are having a problem with the buffer. His thought is now that the buffer is the main interest in what the board is talking about, they still have the laws that state a minimum of 50 feet. How are you going to maintain a minimum of 50 feet or the board can go up to 100 feet.

Dave said what Patti’s point is, is that the 50 feet becomes a new bulk table side yard setback as that is what creates the enhanced setback, if they went to court, the court would probably defer to Patti because in that instance the language is iffy because in the same paragraph there are two words buffer and setback. Having heard that argument he would tend to agree that they are making the 50 foot setback and now the board needs to decide what goes in the buffer and how big that buffer is.

Paul said the way he reads is that the buffer has to be 50 feet and what the board wants

in the buffer, basically between the property line and the building, there is no opportunity for any kind of structure or anything like that. Whatever kind of buffer the board wants in terms of landscaping or fencing. Even if the board allows an emergency drive around the building, he would still say it's up to the Planning Board on what is done between the emergency access drive and the property line and is sufficient and that could be a combination of fencing and/or landscaping.

Scott said that the board needs more time to think about this.

Paul said that it is up to the board on whether Patti's suggestion that they do fencing, he is not sure if any other landscaping is being proposed within that 50 foot area, or whether the board wants trees and plantings to basically cover every part of it that is not covered by the fence.

Dave said as a reminder to the board that in this instance the board can allow a 8-foot fence, which is 2-feet higher than is allowed in any other area because this is a separation between a business and any other use.

Scott said that they are already thinking that 8 feet is not going to be high enough, due to the elevation changes between the two properties.

Gerry asked if they could get a variance for a higher fence.

Dave said theoretically.

Paul said over time depending on what kind of plantings are done it could provide value to the property next door. If you plant 6-to-8-foot trees and allow them to grow and over time that will be good. He does think that at the end of the day if this idea was ever pushed that the idea of an emergency access road which is required by the building code around a pre-existing building would be allowed by anyone who is looking at this including a court. It is just a matter of what the board does with the remainder of the buffer area to satisfy what the board thinks is appropriate.

Patti said that she thinks Joe is willing to talk to his landscaper, she has heard from the board, heard from the public, she just wanted to raise the issue and discuss it a little bit tonight, so when they come back they were better prepared.

Christian said that it was mentioned that someone mentioned installing a berm and planting landscaping on that, along that easterly line there is a drainage swale that appears to be on the farm's property. He just cautions that if the applicant is looking to put in a berm of any length, you want to make you are not adversely impacting drainage patterns.

Bill asked if the Ulster County Planning Board letter has been addressed yet.

Patti said that this public hearing will be continued until August, so there is some time

to address the comments.

Charly said what you were thinking 35 feet, so that would be 35 feet off of the building.

Patti said yes.

Charly said that between that 35 feet and the building, you would be putting in fire access gate on both ends that have keys that are just going to the fire department.

Patti said correct.

Charly said then between that 35 feet over to the property line, that is where you are talking about possibly building a berm, trees aren't going to grow in the gravel as it doesn't work. From there you are talking about doing a berm, but he sees what Christian was talking about with the swale, but that seems to be up higher in the hill correct.

Patti said no it is right at the bottom.

Charly said so that might be tough.

Patti said he also has to have an engineer review some of the other comments that were made by CPL.

Joe said they don't have any real food, everything is packaged, they have tomato cans, bags of flour and they don't manufacture anything. They only buy and sell everything that is packaged.

Gerry said there is no produce on this side of the property.

Patti said there is no produce that he sells at all.

Gerry said his only other concern is that any windows or air units on that side of the building.

Charly asked if there is anything like that on that side or a fan.

Joe said no.

Short-term Rentals (Public Hearings)

David Cervini- 151 Bellevue Rd.

Dave Cervini (applicant) said that he has owned 151 Bellevue Rd for 5 almost 6 years. He has spoken to his neighbors who are supportive, there is one neighbor who has some concerns based

upon previous experiences. He has been living there since 2018, he first came to the area 20 years ago and fell in love with it. 19 years ago he started a business and part of that business is that he brings people up to the Hudson Valley for little weekends for hikes and things like that. He has 3.7-acres there are 4 bedrooms, 3 bathrooms and about a 3,000 square foot house. Since the changes in the New York State Auto Insurance Laws, they have been unable to rent the 15-passenger vans that they used to bring people on tours of the area. He can only bring up small groups which has really hurt him and they are on the brink of closing down. He said that most of the neighbors are supportive, but there is one that has some concerns based on the previous owner who had an Airbnb before the new regulations came into effect. He has made some amendments to the standard house rules to specifically help insure that the neighbor that has concerns feels comfortable with their plan to use the house as a short-term rental and to avoid any issues.

Franco asked are there were 4 bedrooms.

Dave C. said it has 4 rooms.

Franco said the assessor has it as 3 bedrooms and 3 baths.

Dave C. said that there are 3 bedrooms, but they used the basement as a bedroom, but it wouldn't be used as part of the short-term rental. That is a storage room.

Franco said you are going to maintain it as 3-bedrooms.

Dave C. said correct.

Franco said that he would have to amend the application because it said 10 and you are looking for 6.

Dave C. said that room is storage now and it is locked.

Scott asked if there was a sign for the property.

Dave C. said no, should he have one.

Scott said you should have something stating the address, so the people who are renting your property know where they are at for the most part if there is an emergency.

Dave C. said they have signs for the address, on the road and on the shared road.

Dave B. said to clarify the one on Bellevue indicates the house, the one that is on the private/shared driveway that leads back to your house, is there some kind of arrow or other designated signage saying you have arrived at our Airbnb.

Dave C. said there is an arrow.

Scott said that the board just wants to make sure that there is something there to prevent people from entering onto others property.

Dave C. said that he has had conversations with his neighbors.

Scott asked how many parking spaces there were.

Dave C. said he thinks he limited it to 4 cars, as some of the issues in the past were that people were parking on the lawn.

Gerry asked if there were any outstanding code violations.

Dave B. said it was all good.

Scott asked for a motion to open the public hearing.

Motion made by Gerry, 2nd by Lambros.

All ayes, motion passed to open the public hearing.

No public comment

Paul suggested that the board leave the hearing open until next week where he will have a draft resolution prepared and in case anyone shows up to speak next week.

Administrative Business

Silver Gardens: Subdivision Extension

Applicant is seeking a 90-day extension of the subdivision approval.

Mr. Gerentine said that he has received funding from the state by tax credits. They are closing November 1st the subdivision approval does not allow him to wait until that time, so he is here for a 90-day extension, he will probably need 1 more 90-day extension after this one just to carry it beyond the November 1st deadline.

Paul said they subdivision extension is administrative issue and there really is no reason not to grant it. He recommends that the board is provided with a resolution for approval at next week's meeting.

Scott said one of the board members asked can it be extended 180-days in that resolution.

Paul said unfortunately the way the law is constructed it only allows 90-day extensions.

The board asked for a draft resolution.

Motion to Adjourn.