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ACPB Meeting Minutes – June 20, 2024

NOTE: The June 20, 2024 meeting of the ACPB was held in person at the Albany County DPW office in Voorheesville. The meeting was also available remotely via Microsoft Teams for the public to participate.

Board Members Present: Brian Crawford, Ta-Sean Murdock and Jeff LaFontaine.

Board Members Absent: Gerry Engstrom

Albany County Public Works Office: Gopika Muddappa, Senior Planner; Lynn Delaney ACPB Secretary; James Mearkle, Traffic Engineer.

Guests: Dan Hershberg of Hershberg and Hershberg; Richard Rosen of Columbia Development; George McHugh, Attorney for Westerlo Planning Dept.; Matt Kryzak, Town Supervisor Town of Westerlo; Lorraine Pecylak, Councilwoman Town of Westerlo; Maureen Sikule, Resident Town of Westerlo; Laura Tenney, Resident, Town of Westerlo; and Lisa DeGroff, Confidential Secretary for the Town of Westerlo and Resident of the Town of Westerlo.

Minutes: Lynn Delaney, Secretary

Call to Order: Brian Crawford called the meeting to order at 3:32 pm.

Vote for Meeting Minutes:

May 2024 - Brian Crawford mentioned that due to the absence of Gerry Engstrom The Board is unable to vote on the May 16, 2024 Meeting Minutes.

Brian Crawford welcomed new ACPB member Ta-Sean Murdock.

Jeff LaFontaine made a motion to move all referrals with a Staff Opinion of Defer to Local Consideration to the front of the agenda and to vote on them as a group. The motion was seconded by Ta-Sean Murdock and was also approved by Brian Crawford.

ACPB 6/20/24 Meeting Minutes (cont.)

Case #: 01-2406040496

Project Name: Ordinance 12.51.24

Applicant: Albany Common Council

Project Location: 139 Lark Street

Municipality: City of Albany

Parcel Size: 0.04 acres

Zoning: R-T Townhouse

Tax Map Number: 65.72-4-29

Referring Agency: City of Albany Legislative Board

Considerations: Rezoning of 139 Lark Street from Residential-Townhouse to Mixed-Use Community Urban.

Action Type: Rezoning

Juris. Determinant: State Road

Potential Impacts: 9W Lark Street

Staff Notes: This is an ordinance amending Chapter 375 of the code of the City of Albany (Unified Sustainable Development Ordinance) by changing the zoning classification of parcel known as 139 Lark Street from Residential Townhouse (R-T) to Mixed-Use Community Urban (MU-CU) and amending the zoning map accordingly. This would allow the property to be more consistent with the neighboring properties on Spruce Street.

Staff Opinion: Defer to local consideration.

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 01-2406040497

Project Name: Ordinance 13.51.24

Applicant: Albany Common Council

Project Location: 184-196 Livingston Avenue

Municipality: City of Albany

Parcel Size: 0.81 acres

Zoning: R-T Townhouse

Tax Map Number: 65.74-1-8, 65.74-1-7, 65.74-1-5, 65.74-1-4, 65.74-1-3, 65.74-1-2, 65.74-1-1

Referring Agency: City of Albany Legislative Board

Considerations: Rezoning of nine lots from Residential Townhouse to Mixed Use Neighborhood Edge.

Action Type: Rezoning

Juris. Determinant: N/A

Potential Impacts: N/A

Staff Notes: This is an ordinance amending Chapter 375 of the code of the City of Albany (Unified Sustainable Development Ordinance) by changing the zoning classification of parcels known as 184 through 196 Livingston Avenue from Residential Townhouse (R-T) to Mixed Use Neighborhood Edge (MU-NE) and amending the zoning map accordingly. This will allow for the construction of new two-story 5,300 SF Underground Railroad Education center on vacant portions of the site to complement the onsite educational and historic functions of the existing National Register listed Myers residence at 194 Livingston Avenue.

Staff Opinion: Defer to local consideration.

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 17-2406040498

Project Name: Manning Apartments

Applicant:

Project Location: 440 Third Ave

Municipality: City of Watervliet

Parcel Size: 0.18 acres

Zoning: Mixed-Use 1 (MU-1)

Tax Map Number: 44.50-2-21

Referring Agency: City of Watervliet Planning Board

Considerations: Site plan review for conversion of existing building in a mixed-use zoning district from commercial to commercial and residential.

Action Type: Site Plan Review

Juris. Determinant: State Road

Potential Impacts: SR 32 Third Avenue, FEMA Flood zone

Staff Notes: The applicant proposes the conversion of existing commercial building into mixed use building including commercial & residential uses. Currently, the building consists of two stories and basement housing all commercial tenants located in the Mixed-Use (MU-1) zone. The second floor is proposed to be converted into four two-bedroom and one-bathroom apartments.

Staff Opinion: Defer to local consideration.

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 04-2406040499

Project Name: Efros Orthodontics

Applicant: Delaware Field Holdings LLC

Project Location: 214 Delaware Avenue, Delmar

Municipality: Town of Bethlehem

Parcel Size: 0.42 acres

Zoning: Commercial Hamlet

Tax Map Number: 86.09-3-6

Referring Agency: Town of Bethlehem Zoning Board of Appeals

Considerations: Area variance for a freestanding sign that will be setback 8' from the property line whereas 10' is required.

Action Type: Special Use Permit

Juris. Determinant: State Road

Potential Impacts: 443 Delaware Avenue

Staff Notes: Under Article VI, Supplement Regulations, Section 128-59, Signs in the Commercial Hamlet Districts, freestanding signs shall be setback not less than 10 feet from the highway right-of-way. The proposed sign will be setback eight feet, which is two feet short of the required ten foot setback. Therefore, the applicant seeks an area variance.

Staff Opinion: Defer to local consideration.

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 07-2406040506

Project Name: BOCES CTE Extension

Applicant: BBL Construction Services, LLC

Project Location: 886 & 892 Watervliet Shaker Road

Municipality: Town of Colonie

Parcel Size: 8.87 acres

Zoning: Office Residential (OR)

Tax Map Number: 30.-2-10.1, 30.-2-11.4

Referring Agency: Town of Colonie Planning Board

Considerations: Site plan review to develop CTE Extension Facility for the purpose of providing career and technical education and workforce training

Action Type: Site Plan Review

Juris. Determinant: County Road

Potential Impacts: CR 155 Watervliet Shaker Road,

Staff Notes: The Project, to be known as the CTE Extension Facility, will be developed for Capital Region BOCES for the purpose of providing career and technical education and workforce training. The portion of the project site located east of South Family Drive include the construction of one (1) single story building totaling 46,000± SF and 25± parking spaces. The portion of this project located on the west side of South Family Drive will be used for the construction of 50 paved parking spaces along with 75± parking spaces, which will be banked. The total available parking on for this project is 150 spaces, and meets the required to parking needed to accommodate BOCES' operation. The proposed building will serve as an extension of BOCES' existing CTE Facility located at 925 Watervliet Shaker Road, which currently serves over 1,200 students from twenty-four (24) member school districts, and adults from throughout the region. There is currently a waiting list of approximately 200 students for additional programming. The existing site totals 8.87 acre and is comprised of two parcels (Tax Map Parcel 30.00-2-10.1 and 30.00-2-11.4) known as 886 & 892 Watervliet Shaker Road at the intersection of Watervliet Shaker road and South Family Drive. The site is bifurcated by South Family Drive and is vacant to the east, and occupied by a gravel parking to the west. The site is partially wooded and is partially occupied by a wetlands. The Albany County Planning Board reviewed this application (07-2401040411) in January 2024 for area variance for the proposed new construction of a 46,000 SF technical and workforce education facility. The ACPB determination was, 'Defer to local consideration

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.' and an advisory note,'1. The Albany County Planning Board advises that the Town/applicant include a Stormwater Pollution Prevention Plan (SWPPP) and any other necessary documents to make a full informed decision when the proposed action is sent back for site plan review as per GML 239.'

Staff Opinion: Defer to local consideration.

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 10-2406040500

Project Name: 3434 Carman Road - Special Use Permit & Area Variance

Applicant: Condor Development Corporation

Project Location: 3434 Carman Road, Schenectady

Municipality: Town of Guilderland

Parcel Size: 3.43 acres

Zoning: Local Business District (LB)

Tax Map Number: 15.18-3-9, 15.18-3-11

Referring Agency: Town of Guilderland Zoning Board of Appeals

Considerations: Special use permit to demolish the existing house for the expansion of multi-tenant site and area variance for development in a buffer between zones and to exceed the maximum lot coverage.

Action Type: Special Use Permit, Area Variance

Juris. Determinant: State Road

Potential Impacts: SR 146 Carman Road

Staff Notes: The applicant proposes to amend the special use permit issued in 1987 to expand the use onto the adjacent property at 7149 Fuller Station Road to alleviate space concerns for current operation. The existing house on the property is to be demolished and 2,400 SF addition is proposed which will be connected to the existing 40'x120' storage shed on 3434 Carman Road. The lot lines are to be combined. The additional space is to be paved to help flow of traffic with delivery trucks on Fuller Station Road. Height, materials and exteriors will be matched to the existing structure. Since the proposed addition is to be placed in a buffer between Local Business zone and residential zone, an area variance is required. The proposed expansion exceeds maximum lot coverage, that is, 73% is proposed whereas 70% is allowed.

Staff Opinion: Defer to local consideration.

- 1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 10-2406040501

Project Name: Andrikopoulos 2 Lot Minor Subdivision

Applicant: Athena Andrikopoulos

Project Location: 2711 Curry Road

Municipality: Town of Guilderland

Parcel Size: 27.83 acres

Zoning: R40

Tax Map Number: 15.00-2-6

Referring Agency: Town of Guilderland Planning Board

Considerations: Two-lot subdivision of 27.83 acres into Lot 1 with 1.56 acres consisting an existing single family dwelling and accessory structure and Lot 2 with 22.27 acres of undeveloped land.

Action Type: Subdivision Review

Juris. Determinant: State Road

Potential Impacts: Interstate 90

Staff Notes: The applicant proposes to subdivide the existing 28.83 acres into two parcels. Lot 1 will consist of 1.56 acres and contains an existing single-family dwelling and accessory structure. Lot 2 will consist of 22.27 acres and is undeveloped land. The property is located in the Pine Bush Preserve Management Area recommended for full protection. No land is to be disturbed during the subdivision as per the Short Environmental Assessment Form (SEAF).

Staff Opinion: Defer to local consideration.

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Advisory Note: 1. The applicant should be advised that the acreage of the proposed parcels Lot 1 and Lot 2 does not add up to 27.83 acres and should be corrected before the final approval.

Case #: 18-2406040502

Project Name: Gas Pump Signage

Applicant: Harbrinder Dhaliwal

Project Location: 585 SR 143

Municipality: Town of Westerlo

Parcel Size: 0.65 acres

Zoning: Hamlet

Tax Map Number: 139.9-3-16

Referring Agency: Town of Westerlo Zoning Board of Appeals

Considerations: Area variance for oversized internally illuminated signage.

Action Type: Area Variance

Juris. Determinant: State Road

Potential Impacts: State Route 143

Staff Notes: The applicant seeks area variance to replace the existing sign with a new internally illuminated sign which is 32 SF whereas 16 SF is allowed as per the zoning code Section 12.110 Signs. A variance is also required to allow internal illumination of the proposed signage.

Staff Opinion: Defer to local consideration.

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 12-2406040503

Project Name: Parking Lot Expansion

Applicant: First Student, Inc.

Project Location: 51 Irving Place

Municipality: Village of Menands

Parcel Size: 7.24 acres

Zoning: T5 & HI

Tax Map Number: 55.6-2-6

Referring Agency: Village of Menands Planning Board

Considerations: Site plan review and special use permit for the installation of a gravel lot built for parking school buses at the rear of the property.

Action Type: Site Plan Review, Special Use Permit

Juris. Determinant: State Road

Potential Impacts: SR 32 Broadway, FEMA Flood zones

Staff Notes: This is a request for site plan approval in connection with the installation of a gravel lot built for parking school buses. These school buses provide transportation for students and need a place to be stored for parking only. No mechanical or repairing of any vehicles are intended for the site. There will be no new exterior lighting provided. The location of the parking lot is at the rear of 51 Irving Place which has storm water requirements. There are two areas with low spots that typically tend to pond during storms causing flooding at times. The applicant proposes to resolve these issues by proposing to construct storm water piping and flare ends at both low spots of the parking lot. These flare ends would discharge into the existing drainage swale which runs parallel with the property line. A total of 0.97 acres of land disturbance is to be expected during the expansion as per the Short Environmental Assessment Form (SEAF).

Staff Opinion: Defer to local consideration.

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Jeff LaFontaine made a motion to accept the Staff Opinion of Defer to Local Consideration for the following cases: 01-2406040496, 01-240604097, 17-2406040498, 04-2406040499, 07-2406040506, 10-2406040500, 10-2406040501, 10-2406040502 & 18-2406040503. The motion was seconded by Ta-Sean Murdock and was also approved by Brian Crawford.

Due to the number of guests we have in attendance, Ta-Sean Murdock made a motion to move Case #10-2406040494 to the next spot on the agenda.

Case #: 10-2406040494

Project Name: Regional Cancer Center

Applicant: Columbia Development Companies

Project Location: 4 Crossgates Mall Road

Municipality: Town of Guilderland

Parcel Size: 8.40 acres

Zoning: Transit Oriented District (TOD)

Tax Map Number: 52.1-1-6, 52.14-1-10, 52.14-1-15, 52.14-1-16, 52.14-1-17, 52.14-1-18, 52.14-1-19, 52.14-1-32

Referring Agency: Town of Guilderland Zoning Board of Appeals

Considerations: Special use permit for the development of a 120,000 SF medical office building with a variance for a reduced quantity of parking spaces provided.

Action Type: Special Use Permit

Juris. Determinant: State Road

Potential Impacts: 20 Western Avenue

Staff Notes: The project is a proposed (55) million-dollar, state-of-the-art Regional Cancer Center to be located at 4 Crossgates Mall Road. The 120,000 square foot, three (3) story facility, will be occupied by New York Oncology Hematology. The facility will take approximately (15) months to build. The new Regional Cancer Center will include radiation treatment, chemotherapy and comprehensive cancer care. It will also have a prescription pharmacy with a drive through lane, serenity garden, and picnic area. There will be three access points to enter the building; two for patients and one dedicated to the Mobile PET CT and staff entry. The facility will be serviced by several CDTA Bus Routes including Bus Routes 10, 117, and 190 on Western Avenue and Bus Routes 10, 12, 114, 117, 155, 190, 712, 763 and 813 via the Crossgates Mall Bus Hub located in the South Lot. As stated in the project narrative, proposed project will

be less of an impact on traffic, water, sewer and natural resources than the design study and generic environmental impact study completed by Pyramid Brokerage. This application (10-2401040412) was previously reviewed by Albany County Planning Board in January 2024 for area variance and special use permit for the proposed construction of a 120,000sf medical office with less than the minimum quantity of parking spaces required by Town Code. The ACPB determination was, 'Modify local approval to include

1. This application is being reviewed for area variance only and not special use permit. The Albany County Planning Board recommends that this application should be sent back for a separate special use permit and that all future application be sent for variance review before special use permit/site plan review to assess the zoning compliance of the proposed project.
2. A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan has been prepared and is being implemented, or submission of a Stormwater Pollution Prevention Plan (SWPPP) that is consistent with the requirements included in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges (GP-0-20-001, January 29, 2020) for construction activities that disturb more than one acre of land.
3. All variance requests such as parking requirements should be assessed to evaluate zoning compliance of the proposed project as a condition to the approval of special use permit.
4. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway should be required.
5. The local fire department should be notified to evaluate for public safety, emergency services access, water availability and any sprinkler system that may be required by building code.
6. Review by the Albany County Department of Health for water supply, waste water discharge, and other necessary permits should be required.'

Staff Opinion: Modify local approval to include

1. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway or involve any change of use or expansion of an existing development on a state highway should be required.
2. The local fire department should be notified to evaluate public safety, emergency services access, water availability and any sprinkler system that may be required by the building code.
3. Review by the Albany County Department of Health for water supply, wastewater discharge, and other necessary permits should be required.

Richard Rosen of the Columbia Group spoke to the Board about this application. He stated that there is already a meeting with the Fire Dept. scheduled for 6/21/24. The parking space variance has not yet been approved by the ZBA, but was approved by the Planning board. Ta-Sean Murdock made a motion to accept the staff opinion for Case #10-2406040494. The motion was seconded by Jeff LaFontaine and was also approved by Brian Crawford.

Ta-Sean Murdock made a motion to move the following cases to the next spot on the agenda. Case #18-2406040493 and Case #18-2406040495 both in the Town of Westerlo.

Case #: 18-2406040493

Project Name: Boosted Coatings

Applicant: Shepard Farm LLC

Project Location: 6844 SR 32

Municipality: Town of Westerlo

Parcel Size: 87.39 acres

Zoning: Rural Development/Agricultural District (RD/A)

Tax Map Number: 176.-1-14.1

Referring Agency: Town of Westerlo Planning Board

Considerations: Special use permit to allow powder coating facility in the Rural Development/Agricultural (RD/A) zone.

Action Type: Special Use Permit

Juris. Determinant: State Road, County Road

Potential Impacts: State Route 32, CR 405, NWI Wetland

Staff Notes: The applicant seeks a special use permit for a commercial use, Powder Coating Facility, in the Rural Development/Agricultural (RD/A) zone which includes cleaning of metal parts and application of powder coat with a specialty spraying gun that electrostatically charges the powder to be able to stick to the metal. The parts then go into an electric batch oven for further processing. All powder coat that is applied is non-flammable and non-toxic as per the project narrative. As per zoning Article 8 Section 8.40(3)c, commercial use should be located in preexisting buildings in the Old Shepard Resort Complex. The building is being rehabbed to accommodate this use. Less than one acre is to be disturbed during the proposed action as per the Short Environmental Assessment Form (SEAF).

Staff Opinion: Disapprove

1. The Town should strongly discourage the proposed powder coating facility that is industrial in nature as it is incompatible with the adjacent properties in the Rural Development/Agricultural zoning district. The applicant should consider the relocation of the proposed use to a more suitable zoning district in the Town such as the Light Industrial zoning district.
2. The Albany County Planning Board strongly discourages the proposed use considering its impact on the existing land uses and to protect community character as per the General Municipality Law Section 239-L.
3. The Town should consider the precedent setting nature of approving special use permits that allow significant changes in the Rural Development/Agricultural Zoning District.
4. Review by the New York State Department of Environmental Conservation to determine potential contamination of toxic materials into the ground and water due to the proposed usage of powder coat and cleaning of metals in the facility.
5. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway should be required.

The guests (listed on pg. 1) introduced themselves to the Board.

George McHugh, Attorney for the Town of Westerlo stated that the Planning Board already approved this application with a condition that it's pending ACPB approval which was against his advice. In addition he gave other advice to the Town Planning Board that they also chose not to take. For example, he believes that Powder Coating should be looked at as an industrial use vs a commercial use and therefore they would need a variance. He said he also advised the Board on May 14th to retain an engineer for review of this application which the Westerlo Planning Board chose not to do. He believes the application is incomplete as they didn't complete the long form EAF and then attempted to do it at the meeting, but skipped the first 10 pages of the application. They also did not do a SEQR analysis though the building inspector told them that it was needed. Mr. McHugh stated that there was an email to DEC who responded stating that an engineer review is needed for this project. Town Supervisor Kryzak said he has concerns about the environmental impact, specifically the chemicals used and wonders why that wasn't addressed in the application.

Maureen Sikule stated that she attended the town meeting and there was a lot of discussion about the process that needs to be followed and it's her understanding that the Town Planning Board sought some other legal advice and did believe that they were following all the processes required. She felt it would be helpful if we could speak with a member of the Town Planning Board to get

their perspective. Brian Crawford stated that his initial impression was that the ACPB would likely disapprove this due to the reasons that have already been stated regarding the environmental impact. Gopika stated that the details submitted for this project from the applicant were extremely light. There wasn't a SEQR review and there wasn't a complete Environmental Impact Form and the narrative was very sparse. Lorraine Pecylak said that she was concerned about the impacts to air which would be addressed with a proper environmental review. James Mearkle, Albany County Traffic Engineer, asked that a note be added about contacting DOT as well (noted above as Modification #5).

Jeff LaFontaine made a motion to Disapprove Case #18-2406040493. The motion was seconded by Ta-Sean Murdock and was also approved by Brian Crawford.

Case #: 18-2406040495

Project Name: Local Law 3 of 2024

Applicant: Town of Westerlo

Project Location: Town of Westerlo

Municipality: Town of Westerlo

Parcel Size: N/A

Zoning: N/A

Tax Map Number: N/A

Referring Agency: Town of Westerlo Legislative Board

Considerations: Local law to abolish the planning board and transition its functions to the zoning board of appeals which is to be known as the "Planning Board/Zoning Board of Appeals".

Action Type: Local Law

Juris. Determinant: N/A

Potential Impacts: N/A

Staff Notes: Town of Westerlo proposes a local law to abolish the Planning Board and transfer its functions to the Zoning Board of Appeals which will result in a streamlined review process for applicants and promote economic development by providing a more efficient and coordinated land use review process within the Town of Westerlo. Coordination of land use review functions pursuant to this local law will maintain the highest standards of review and approval as required by applicable state and local laws and regulations which will continue to protect and enhance the Town of Westerlo.

Staff Opinion: Modify local approval to include

1. As per the New York State Enabling Law, subdivision reviews become the jurisdiction of the Town Board when the Zoning Board of Appeals and Planning Board is consolidated.
2. Notification of the proposed local law should be sent to all adjacent municipalities, pursuant to GML § 239 - nn.

Advisory Note:

1. As advised by the New York State Department of State, consolidation of Zoning Board of Appeals and Planning Board is not the best practice as it does not allow for appropriate separation of power between zoning and land use administration.
2. The Albany County Planning Board advises the Town to increase the board capacity from five members to seven members to maintain efficiency since the precedent has already been set by the Town of Coeymans and Village of Ravena.

George McHugh commented that this is already being done in the Town of Coeymans and the Village of Ravena and he believes in small communities this streamlines the process for approvals. He stated that this would not work in a larger community like Colonie or Bethlehem. He said Westerlo doesn't have enough applications to feed each Board and you don't have the population and pool to choose from to get the right talent on these Boards. Mr. Kryzak said that the prior Town Supervisor for Westerlo first discussed the idea of consolidation and he has decided to continue the process to consider getting the Local Law enacted. He added that there were 2 months this year that the Planning Board didn't meet because there was no business before them so combining will increase the efficiency. He said that residents complain about how long it takes for something that appears to be a simple request (like a subdivision to give a piece of property to a family member). He stated that he agrees with the suggestion of having 7 vs 5 members because that will allow them to take experienced Planning Board Members and add them to the Zoning Board members and then possibly have one more alternate member also from the Planning Board.

Maureen Sikule spoke about the Town meeting that was held the week prior. She stated it was very well attended and "nobody was in favor of this law". She feels that by combining the boards you are losing your checks and balances for something that isn't popular in the town. She said that at the Town Meeting the Zoning Board Chairperson commented on a lack of comfortability with becoming the Planning Board also because of the increased responsibility.

Laura Tenny then spoke and also talked about the number of attendees at the Town Meeting and that there was strong feeling that the residents are not in favor of consolidation. She said the reasons for consolidation that were presented at the meeting were mostly financial in nature which were questioned as the Town appears to be in good financial shape. She is wondering why those reasons weren't mentioned today.

Lisa DeGroff, Confidential Secretary for the Town Supervisor, stated that she fields calls from residents regularly who ask why processes are taking so long. In addition, she said that not everyone in the room at the Public Hearing was against it. She added that there were less than 60 people in attendance which represents less than 2% of the Town Population, so she feels that stating that the Towns people do not agree with this change is not a fair assessment.

George McHugh said that the Planning Board/Zoning Board are not checks and balances to each other. The checks and balances is the ACPB and the Article 78 Supreme Court.

Brian Crawford commented that the ACPB has been through this before with The Town of Coeymans and the Village of Ravena and that the ACPB does not have the jurisdiction to say no to this Local Law because legally it can be done. He stated that it is mentioned in our notes that that ACPB doesn't necessarily think it's a great decision, but it is a Town decision. Ta-Sean Murdock commented that Westerlo should consider the Board member burnout. He said that sometimes when you consolidate boards because it seems more efficient, in the end it turns out to be more work for the people on the Board and you can have members quit for that reason.

Jeff LaFontaine made a motion to accept the Staff Opinion for Case #18-2406040495. The motion was seconded by Ta-Sean Murdock and was also approved by Brian Crawford.

Maureen Sikule asked where a citizen can obtain a copy of the ACPB decision and would it contain some of the notes mentioned. Gopika Muddappa told her that the Decision is sent to the person who submitted the application from the town and that the Modifications and Advisory Notes will be listed with the approval letter. In addition, with a FOIL request, a copy of the meeting recording may be obtained. Lynn Delaney, Secretary for the ACPB added that a draft copy of the meeting minutes will be made available on the website and that will have the final recommendation listed as well.

Case #: 03-2406040504

Project Name: Giebitz Subdivision

Applicant: Alex Giebitz

Project Location: 208 Filkins Hill Road

Municipality: Town of Berne

Parcel Size: 69.50 acres

Zoning: RAF: Residence/Agriculture/Forestry

Tax Map Number: 91.-1-36.100

Referring Agency: Town of Berne Planning Board

Considerations: Subdivision review to divide 69.5 acres into Lot 1 with 49.5 acres and Lot 2 with 20 acres.

Action Type: Subdivision Review

Juris. Determinant: Agricultural District

Potential Impacts: Agricultural District

Staff Notes: This is a subdivision of 69.5 acres into two parcels of 20 acres and 49.5 acres. Lot 1 with 49.5 acres consists of existing dwelling. Lot 2 with 20 acres is currently undeveloped. As shown in the site plan, gravel driveway, dwelling septic and well is proposed on Lot 2.

Staff Opinion: Modify local approval to include

1. Review by the Albany County Department of Health for water supply, waste water discharge and other necessary permits should be required.

Advisory Note: 1. The Albany County Planning Board advises the Town to ensure that the Town Highway Supervisor checks the access for ingress egress for the proposed parcels and the adjacent properties.

Brian Crawford stated that we should add an advisory note regarding checking driveway access (noted above as Advisory Note #1)

Ta-Sean Murdock made a motion to accept the Staff Opinion for Case #03-2406040504. The motion was seconded by Jeff LaFontaine and was also approved by Brian Crawford.

Case #: 04-2406040505

Project Name: Jericho Acres

Applicant: Jericho Acres, LLC

Project Location: 939 Route 9W

Municipality: Town of Bethlehem

Parcel Size: 24.95 acres

Zoning: Rural District

Tax Map Number: 109.00-3-28

Referring Agency: Town of Bethlehem Planning Board

Considerations: Site plan review for the development of multi-family buildings varying from 3-4 units with garages including public parking, driveway, private water mains, storm water collection system, bio retention basin, dry swale and landscaping.

Action Type: Site Plan Review

Juris. Determinant: County Road, State Road

Potential Impacts: CR53 Jericho Road, Route 9W, Agricultural District, Historic District

Staff Notes: The applicant, Selkirk Reserve, LLC, proposes to seek approval for the development of Lot #1 for the existing property owner. Lot #1 will be developed into six (6) multi-family buildings varying size from 4 to 8 units for a total of 35. The unit distribution is as follows: BLDG 1- 6 units, BLDG 2 – 8 units, BLDG 3 – 6 units, BLDG 4 – 6 units, BLDG 5 – 5 units, BLDG 6 – 4 units. A private roadway will run through the site and end in a truck hammerhead turnaround. Seventeen (17) Surface parking spaces in areas adjoining the private roadway and 35 garage parking spaces with 35 additional spaces in the driveways of each unit. Three handicapped spaces are included in the 17 along the roadway. Private water and sewer mains will be included along with landscaping, lighting, and a storm water management system. As per the project narrative, The Town of Bethlehem Sewer District will have to be extended to serve this site. Public Sewer Extension No. 35 which includes the flow from Lot. No. 1 has been reviewed by Town officials. It includes a new private sewer main running through Lot #1 and to Lot #2, connecting to a manhole on Jericho Road. A pump station will be included on Lot #2 due to the grade difference. A new private 8” HDPE water main will run through the site and serve the buildings on Lot #1. This line will connect to an existing water main on Jericho Road and have a hot box protecting this connection. His portion is currently vacant grassed land much of which was formerly farmed. Lot No. 1 contains two wetlands (Waters of the United States) totaling 0.367 acres but no NYS Freshwater Wetlands. The site is not listed on any register of historic places. A determination letter was sent to Columbia Heritage, the archeologist, from New York

State Historic Preservation Office (SHPO) stating no adverse impact. A total of 5.45 acres of land is to be disturbed during the development as per the Full Environmental Assessment Form (FEAF) and a Stormwater Pollution Prevention Plan (SWPPP) was included in the submission.

Staff Opinion: Modify local approval to include

1. Review by the Albany County Department of Health for proposed new sewer and water main running through Lot #1 and to Lot #2.
2. A highway work permit from the Albany County Department of Public Works for driveway construction, drainage and public utility connections within the county right of way is required.
3. The local fire department should be notified to evaluate public safety, emergency services access, water availability and any sprinkler system that may be required by building code.

Dan Hershberg of Hershberg and Hershberg stated that this is his project and they are aware of all of these requirements and they will be taken care of. Ta-Sean Murdock made a motion to accept the Staff Opinion for Case #04-2406040505. The motion was seconded by Jeff LaFontaine and was also approved by Brian Crawford.

Case #: 07-2406040511

Project Name: Speedway Canopy & Tanks (Phase 2)

Applicant: 7-Eleven Inc./Speedway

Project Location: 719 Loudon Road

Municipality: Town of Colonie

Parcel Size: 0.46 acres

Zoning: Commercial Office Residential (COR)

Tax Map Number: 31.6-2-20

Referring Agency: Town of Colonie Planning Board

Considerations: Site plan review for Phase 2 of the project to include installation of dispensers, canopy columns, concrete slabs, and removal of additional pavement/sidewalks as required to facilitate other removals and installations.

Action Type: Site Plan Review

Juris. Determinant: State Road

Potential Impacts: Route 9 New Loudon Road

Staff Notes: The applicant proposes to replace the existing canopy with a new canopy with similar photometric in compliance with lighting ordinances of the Town Code. The site is currently a gas station, fuel canopy, kiosk and parking lot. Phase 2 of the project includes the following:

- Existing 10,000 gallon, 8' diameter double wall fiberglass underground storage tank (UST) for midgrade tank is to remain. The midgrade tank is to be converted to diesel fuel containment. Contractor to clean the existing midgrade fuel out of the tank as required per local, state, and federal requirements prior to the tank conversion. Swap locations of existing equipment in STP sump and multiport sump for reuse. Replace manhole assemblies as required.

- Existing 10,000 gallon 8' diameter double wall fiberglass UST for regular fuel to remain. Swap locations of existing equipment in STP sump and multiport sump for reuse. Replace manhole assembly as required.

- Existing 10,000 gallons 8' diameter double wall fiberglass UST for premium fuel to remain. Swap locations of existing equipment in STP sump and multiport sump for reuse. Replace manhole assemblies as required.

- Install 2 new Gilbarco 700S 3+0 dispensers and 2 new Gilbarco 700S 3+1 dispenser.

- Install new OPW Loop System from existing USTs to new dispensers.

- Install 3 new vapor/vent risers with Bravo Vent Box and Bravo vapor vent rack for support.

- Install new 2" fiberglass piping from vapor/vent at USTs to new remote vent.

- Install new concrete at disturbed areas at tank slab for new piping per SEI standards.

- Install new concrete at disturbed areas at canopy slab for new piping per SEI standards.
- Install new U Bollard at dispensers and remote vent to SEI Specifications.
- Activate intercoms inside the dispensers.
- Install 2 new fire extinguishers at ADA compliant height at canopy columns.
- GC to provide and install 4 new trash can/wash bucket combo units at canopy columns.
- Paint LED signage frame, poles, new bollards, canopy columns per Speedway branding specifications.
- Route new electrical conduit to new electrical through exterior of building, verify location with SEI construction manager.
- Demolition – remove existing canopy and existing fuel product and vent piping completely. Remove additional pavement/sidewalks as required to facilitate other removals and installations.
- Install new 52' x 36' like for like Speedway branded canopy for 4 new dispensers.
- Install 1 new E-Stop on building exterior at ADA compliant height.
- Install 4 new 5' x 4' x 13" stainless steel islands at dispensers.
- Install new Veeder Root TLS-450 Plus site monitor console. Field verify location.
- Install 1 new interior E-Stop behind the sales counter. Field verify location.
- Install 1 new Hydrx fuel conditioning system in the diesel STP sump.

This application (07- 2404040465) was reviewed by the Albany County Planning Board in April 2024 for site plan review to add temporary lighting to the Speedway canopy and the ACPB determination was, 'Modify local approval to include

1. A certified light plan should be required from the applicant.
2. The applicant should be required to provide back and side shielding to eliminate light trespass on adjacent properties.'

Staff Opinion: Modify local approval to include

1. Review by the New York State Department of Environmental Conservation to determine potential jurisdiction under bulk petroleum storage regulations and that the underground Storage tank (UST) systems meet both state (6 NYCRR Part 613) and federal (40 CFR 280) regulations should be required.

Ta-Sean Murdock made a motion to accept the Staff Opinion for Case #07-2406040511. The motion was seconded by Jeff LaFontaine and was also approved by Brian Crawford.

Case #: 10-2406040507

Project Name: 4478 Western Turnpike - Area Variance

Applicant: Michael Floccuzio

Project Location: 4478 Western Turnpike, Altamont

Municipality: Town of Guilderland

Parcel Size: 10.00 acres

Zoning: RA3

Tax Map Number: 26.00-4-1

Referring Agency: Town of Guilderland Zoning Board of Appeals

Considerations: Three-lot subdivision of the parcel with new dwellings and accessory structures proposed in a watercourse setback.

Action Type: Subdivision Review

Juris. Determinant: State Road

Potential Impacts: SR 20 Western Tpk, SR 158, NWI Wetland (Watervliet Reservoir)

Staff Notes: The applicant is proposing to subdivide the property into three (3) single family lots with sizes of 3.23± acres (Lot 1), 3.74± acres (Lot 2), and 3.74± acres (Lot 3), in accordance with the RA3 Zoning standards. Each lot will have its own driveway, connection to Town water, and a raised bed septic system. Lot 3 will contain a 10-foot-wide easement along the eastern edge of the property to allow descendants to access the historical family cemetery. Because the property is along the Watervliet Reservoir, it is subject to the 500-foot setback requirements set forth in the Town of Guilderland Zoning Code § 280-30C. Strict adherence to this section of code would make only 6% of the total lot area usable for development, with only 2% available for buildings. The applicant is seeking an area variance to allow the following: 1. 300-foot clearing setback on all lots, with remaining area to be deed restricted as forever wild 2. 400-foot building setback for Lots 2 and Lot 3, variable 300-400-foot building setback on Lot 1. The proposed variance will only allow the area of the property furthest from the Reservoir to be used for development, with a permanent 300-foot (at minimum) densely wooded buffer to the shores of the Reservoir. The proposed building setbacks and forever wild buffer are greater than what exists along many other areas of the Reservoir, including a few recently approved projects such as Guilderland Towing and Recovery and the Clover Pond Vineyard. The property is surrounded by a mix of residential and commercial properties to the north and west, and the shores of the Watervliet Reservoir to the south and east. The property is currently vacant and densely wooded, except for a historical family cemetery located near the Reservoir on the east side of the property. This application was reviewed by Albany County Planning Board in

February 2024 for Three-lot minor subdivision of the 10.71 acres into Lot 1 with 3.23 acres, Lot 2 with 3.74 acres and Lot 3 with 3.74 acres and the ACPB determination was, ' Modify local approval to include

- 1. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway.
- 2. Review by the Albany County Department of Health for the proposed septic for the proposed dwelling on each parcel and other necessary permits should be required.
- 3. All variance requests such as the reduction from the required 500' Watervliet Reservoir setback should be assessed to evaluate zoning compliance of the proposed project before granting the final site plan approval.' Along with advisory notes, ' 1. A shared access agreement (including a maintenance agreement) should be referenced in the deeds for both properties, due to the proposed 10' wide easement on Lot 3.
- 2. The proposed subdivision should be discouraged from encroaching on the reservoir and the need for an area variance to grant the relief from the required 500' Watervliet Reservoir setback.

Staff Opinion: Modify local approval to include

- 1. Review and permits by the New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway or involve any change of use or expansion of an existing development on a state highway.
- 2. Review by the Albany County Department of Health for the proposed septic for the proposed dwelling on each parcel and other necessary permits should be required.

Advisory Note: 1. The Albany County Planning Board advises the Town to discourage developments that encroach the Watervliet Reservoir setback.

Ta-Sean Murdock made a motion to accept the Staff Opinion for Case #10-2406040507. The motion was seconded by Jeff LaFontaine and was also approved by Brian Crawford.

Case #: 11-2406040508

Project Name: Reservoir Road Solar Array

Applicant: Reservoir Road Solar 1, LLC

Project Location: Reservoir Road (68 Sturgess Rd)

Municipality: Town of Knox

Parcel Size: 300.30 acres

Zoning: Residential

Tax Map Number: 47.-1-27

Referring Agency: Town of Knox Planning Board

Considerations: Site plan review for the installation of 5 MW AC ground mounted solar array with approximately 14,000 panels mounted on a fixed tilt structure.

Action Type: Site Plan Review

Juris. Determinant: State Road

Potential Impacts: NYS 156 Berne Altamont Road, NWI Wetlands (Altamont Reservoir), Agricultural District

Staff Notes: The Project proposes to construct a 5MW AC current solar array, equipment pads, access roads and required stormwater treatment practices. The Project will utilize the existing Reservoir Road as the main access to the site. The solar array will use approximately 14,000 solar panels mounted on a system of steel posts, racks, and will be enclosed within chain link fencing for screening and restricted access. Stormwater will be treated and attenuated onsite in accordance with the NYSDEC General Permit for Construction Activity. A Stormwater Pollution Prevention Plan (SWPPP) document has been provided for project review. Stormwater will be directed to stormwater management area consisting of swales and detention areas and ultimately, stormwater will be conveyed to onsite wetlands. The parcel is currently zoned Residential, and the project is a permitted use according to the Town of Knox Solar Code. The approximate 89.4-acre project site is currently forested and undeveloped with several logging roads recently used to harvest timber. The greater surrounding land use consists of a mix of residential, forested, and agricultural parcels. Schumaker Consultants completed a wetland and waterbodies delineation in August 2021 and October 2022 142 acres of the parcel. A total of fourteen (14) wetlands, five (5) streams, and two decommissioned reservoirs were identified. Both waterbodies are decommissioned reservoirs and are outside the project limits. Sanitary or water services are not proposed for this project. A total of 25 acres of land is to be disturbed during the installation as per the Full Environmental Assessment Form (FEAF). As per FEAF,

Northern Long-Eared Bat is identified to be present that is listed by the federal government or NYS as endangered or threatened.

Staff Opinion: Modify local approval to include

1. Any wetlands disturbance will require notification to and review by the U.S. Army Corps of Engineers for permits under Section 404 of the Clean Water Act.
2. A decommissioning plan or established conditions requiring abandoned solar systems to be removed by the applicant should be required prior to final approval of the project.
3. Review by the New York State Department of Environmental Conservation Division of Environmental Permits (Region 4) to determine if permits or additional reviews are required due to the presence of Northern Long-Eared Bat in the proposed location.

Ta-Sean Murdock made a motion to accept the Staff Opinion for Case #11-2406040508. The motion was seconded by Jeff LaFontaine and was also approved by Brian Crawford.

Case #: 13-2406040513

Project Name: Special Use Permit for Farming Activity

Applicant: Maureen & Nicholas Snyder

Project Location: 19 Deer Meadow Lane

Municipality: Town of New Scotland

Parcel Size: 5.20 acres

Zoning: RA- Residential Agricultural

Tax Map Number: 95.-3-59.22

Referring Agency: Town of New Scotland Planning Board

Considerations: Special use permit for farming activity to keep four alpacas on property for personal use.

Action Type: Special Use Permit

Juris. Determinant: Municipal Boundary

Potential Impacts: Intermunicipal Boundaries of Town of New Scotland and Town of Bethlehem

Staff Notes: The applicant requests the allowance of four alpacas on their property with a special use permit. The rear of the property is to be fenced between 1.25-1.5 acres. The fence panels are to be 60" with T-posts. A 12'x20' structure would be placed within the fenced area for the alpacas.

Staff Opinion: Modify local approval to include

1. Notification of the proposed special use permit should be sent to the Town of New Scotland, including all required notices pursuant to GML §239-nn.

Ta-Sean Murdock made a motion to accept the Staff Opinion for Case #13-2406040513. The motion was seconded by Jeff LaFontaine and was also approved by Brian Crawford.

Case #: 15-2406040512

Project Name: Be Golden Farms

Applicant: Mary Michael & Pat D'Ark

Project Location: 15 Gifford Hollow Road (47 Gifford Hollow Rd.)

Municipality: Town of Rensselaerville

Parcel Size: 104.00 acres

Zoning: A/RR- Agricultural/ Rural Residential

Tax Map Number: 126.-1-26

Referring Agency: Town of Rensselaerville Planning Board

Considerations: Special use permit for farm stand and bakery use in a new building.

Action Type: Special Use Permit

Juris. Determinant: County Road

Potential Impacts: County Road 6

Staff Notes: The applicant proposes to build a farm stand and bakery space on the property along with a 100' long high tunnel. The new building will be multipurpose and serve several different aspects of our business, including retail for pasture-raised meat and seasonal vegetables, weekly pizza nights/special events and expansion of sourdough bread operation. A septic plan has been designed to serve the operation and was approved by the Albany County Dept. of Health. 14 parking spaces are proposed with overflow around the greenhouse when needed. Two handicap spaces are proposed next to the new building.

Staff Opinion: Modify local approval to include

1. Review by the Albany County Department of Health for food service and other required permits should be required.

Advisory Note: 1. The Albany County Planning Board advises the Town to require professional drawings that show site location, ingress/egress, setbacks and property lines in the site plan prior to final approval.

Jeff LaFontaine made a motion to accept the Staff Opinion for Case #15-2406040512. The motion was seconded by Ta-Sean Murdock and was also approved by Brian Crawford.

Case #: 15-2406040514

Project Name: Imrich/Imrichova Minor Subdivision

Applicant: Dominik Imrich

Project Location: 60 County Route 360

Municipality: Town of Rensselaerville

Parcel Size: 116.10 acres

Zoning: A/RR- Agricultural/ Rural Residential

Tax Map Number: 172.-2-26.3

Referring Agency: Town of Rensselaerville Planning Board

Considerations: Subdivision review to divide the existing 116.10 acres into Lot 1 with 95.70 acres and Lot 2 with 20.40 acres.

Action Type: Subdivision Review

Juris. Determinant: County Road

Potential Impacts: CR352 Fox Creek Road, Agricultural District

Staff Notes: The applicant proposes to subdivide the existing 116.10 acres into Lot 1 with 95.70 acres and proposed dwelling, septic and well. Proposed Lot 1 consists of existing black top driveway access via CR 360. Lot 2 will consists of 20.40 acres and existing dwelling, driveway and shed.

Staff Opinion: Modify local approval to include

1. A highway work permit from the Albany County Department of Public Works for driveway construction, drainage and public utility connections within the county right of way is required.

Ta-Sean Murdock made a motion to accept the Staff Opinion for Case #15-2406040514. The motion was seconded by Jeff LaFontaine and was also approved by Brian Crawford.

Unfinished Business: Kate Powers will hopefully have her final approvals in time for next month's meeting.

New Business: The next meeting of the Albany County Planning Board will be on Thursday, July 18, 2024. The deadline for municipalities to submit referrals to the ACPB for consideration at that meeting will be on Monday, July 8, 2024.

Brian Crawford announced that he will be on Vacation and unable to attend the July meeting.

Adjourn: Jeff LaFontaine made a motion to adjourn at 4:31 pm.