

**Town of Wawayanda Planning Board  
July 27, 2011**

Members Present: **Barbara Parsons, Chairperson**  
Ben Dombal  
James Driscoll  
Daniel Long  
Mary Markiewicz  
John Neiger  
Richard Onorati, II

Consultants Present: William Bavoso, Attorney  
Patrick Hines, MHE

Recording Secretary: Patricia Battiato

The July 27, 2011 Town of Wawayanda Planning Board work session was called to order by Chairperson Barbara Parsons at 7:30 p.m.

**I. REGULAR BUSINESS**

**Domingue / SBL# 15-2-16 / Accessory Apartment / Ridgebury Road  
SR- Suburban Residential Zone**

Mr. Domingue approached the board and gave a brief overview of the ZBA approval they recently received. Submitted to the board copy of the septic tests and sketch plan showing the three parking spaces.

MHE comments were discussed as follows:

1. The applicants have provided a septic system review prepared by a Licensed Engineer. The septic system was tested with the design flow from a four (4) bedroom residence.
2. A sketch plan depicting three (3) parking spaces on the site has been provided for the existing residential structure and one additional for the accessory apartment.
3. The applicant has appeared before the Zoning Board of Appeals for a variance for lot size for the accessory apartment.

4. Based on a review of the short Environmental Assessment Form Submitted, we would recommend a Negative Declaration for the project.

Discussion amongst the board with regards to waiving the public hearing as the applicant just had a public hearing two weeks ago before the Zoning Board of Appeals and that only one person came out and his concern had to do with making sure the occupants were family. (195-22 A7)

**Motion by Barbara Parsons, Seconded by John Neiger to waive the public hearing pursuant to Article VII, Section 195-69 of the Town of Wawayanda Zoning Law, the Town of Wawayanda Planning Board hereby waives the obligation to hold a public hearing on this matter based upon the fact that a hearing would not be in the interest of the public health safety or general welfare and, therefore, not necessary in the circumstances surrounding this application.**

Barbara Parsons	Aye
Ben Dombal	Aye
James Driscoll	Nay
Daniel Long	Aye
Mary Markiewicz	Aye
John Neiger	Aye
Richard Onorati, II	Aye

Ayes	6	Nays	1	Abstentions	0
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**Motion by Richard Onorati II, seconded by Mary Markiewicz for a Negative Declaration under SEQR.**

**All voting members voted yes. Motion Carried**

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**Motion by Barbara Parsons, Seconded by Mary Markiewicz to grant Conditional Final Approval.**

All voting members voted yes. Motion / Carried

Conditions being:

1. Payment of any outstanding review fees

**PJH REALTY / Worts / SBL# 4-1-36.22 / Amended Site Plan**

Mr. Alfred Fusco representing Mr. Healey approached the board and explained to them that all the Landscape Architects comments have been signed off by Mr. Hansen and completed, and the area variance has been granted from the Zoning Board of Appeals.

Chairperson Parsons said that we have received comments from Orange County Planning Department and that they recommend approval subject to a modification as per comment # 1 as follows;

Site Plan: Although the applicant anticipates purchasing a portion of land currently owned by the New York State Department of Transportation (NYSDOT), we recommend the applicant coordinate with the NYSDOT on any proposed improvements to ensure that the NYSDOT agrees with these improvements. Any agreements for such work should be provided in a written document, such as an easement”.

The board discussed that that information that Orange County Planning was asking for was already written within in the Interim Permit, which is on file with the Planning board but that note # 1 from Orange County Planning will be placed on the plans.

Discussed, at one time the board was willing to prepare a note for the plans with regards to the applicant purchasing the State’s Property and finalized within two years, Mr. Fusco has asked that we don’t put a time limit on it. He said that they are willing to work out a status report. So the following note has been prepared by the Planning Boards Attorney to be placed on the plans:

“The applicant, Healey Bros., Inc., is the permittee under an Interim Permit for use of State owned property signed by the applicant and the State of New York on the 13<sup>th</sup> day of May, 2011. In the event that the applicant had not purchased  
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the State owned property covered by this site plan from the State of New York during the time period covered by this site plan from the State of New York and the applicant, including any extensions to the current permit, that portion of this site plan pertaining to the State owned property will automatically terminate with the result that (a) Healey would not be able to utilize that property after the termination date and (b) the remaining portions of the site plan absent the State owned parcel will remain in effect without further application by Healey. Further every six months after the Planning Board’s final approval, Healey will provide a written update on its negotiations to purchase the property from the state”.

**Motion by Barbara Parsons, seconded by Daniel Long, to over-ride the decision by Orange County Planning Comment Note # 1.**

**All voting Members voted yes                      Motion / Carried**

The board discussed that they need an executed copy of the Stormwater Management and Control Facility Maintenance Agreement for the files and could make that a condition of approval.

Patrick Hines said that the applicant has submitted a short form EAF on the two small additions and the increase in parking area and based on the information submitted on the plan, reports and drainage reports, MHE recommends a Negative Declaration.

**Motion by Barbara Parsons, seconded by Daniel Long, for a Negative Declaration under SEQR.**

**All voting members voted yes                      Motion / Carried**

**Motion by John Neiger, Seconded by Daniel Long for Conditional Final Approval.**

**All voting members voted yes                      Motion / Carried**

Conditions as follows:

1. Payment of any outstanding review fees to be paid in full.
2. The following note to be added to the plans: “The applicant, Healey Bros, Inc., is the permittee under an Interim Permit for use of State owned property signed by the applicant and the State of New York on the 13<sup>th</sup> day of May,

2011. In the event that the applicant had not purchased the State owned property covered by this site plan from the State of New York during the time period for which a valid permit exists between the State of New York and the

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applicant, including any extensions to the current permit, that portion of this site plan pertaining to the State owned property will automatically terminate with the result that (a) Healey would not be able to utilize that property after the termination date and (b) the remaining portions of the site plan absent the State owned parcel will remain in effect without further application by Healey. Further, every 6 months after the Planning Board's final approval, Healey will provide a written update on its negotiations to purchase the property from the state".

3. The exact language on Note # 1 from the Interim Permit from NYSDOT to be added as a note on the map.

4. The Long Term Maintenance Agreement for the green infrastructure to be sent to the board for execution.

5. Note # 1 from Orange County Planning comments dated 6/27/11

"Although the applicant anticipates purchasing a portion of land currently owned by the New York State Department of Transportation (NYSDOT), we recommend the applicant coordinated with the NYSDOT on any proposed improvements to ensure that the NYSDOT agrees with these improvements. Any agreements for such work should be provided in a written document, such as an easement", this note to be added on the plans.

**GEOVATION / SBL#20-4-2, 3 & 6 / Site Plan / Rte. 284**

Patrick Hines explained that this was a proposal to go into an existing single family residence. They tell us in their narrative, that they are an engineering firm that does site remediation for chemical spills. They won't be doing it on site, their office will be here, to do office work, and they have a small garage on the site which they are going to store some of their equipment indoors. The parcel is located on Rte. 284, the Evans parcel. There are two zones on this property, Town Commercial and Suburban residential. 195-10 of the towns zoning allows, with

the Planning Boards approval to select the zone and the Town Commercial use for this site is more conducive of what is being proposed for there.

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The following MHE comments were discussed:

1. The application is for a site plan and special use for an office and storage facility located on a lot which is contained in both the TC and SR Zones. Section 195-10 addressed lots in more than one district which states that the Planning Board may allow the extension of activities permitted in one district to the other as a special use. This is to permit more flexibility in a use of large parcels.
2. Section 20 Block 4 Lot 6 is a landlocked portion of the property. We would recommend that Lot 6 and Lot 2 depicted on the plan be consolidated into one lot for the commercial activity. Existing lot 3, which contains a residential structure does not need to be part of the application before the Board, rather than provide necessary easement for common access from the Lot 3 and the consolidated Lots 6 and 2.
3. The applicant has identified non construction activities or improvements which are proposed on the site. The Planning Board should determine what information is required for site plan special use review.
4. The conversion of the residential structure to an office will reduce hydraulic loading to the septic system such that existing residential septic system sill serve the office use.
5. Bill Bavoso's review of appropriate easements for common driveway access and maintenance should be received.
6. The project required referral to the New York State Department of Transportation and Orange County Planning.

Patrick Hines explained that the plans shows three separate parcels, looks like only two will be involved in the commercial activity. Lot number three in the upper left hand corner that has a single family residence is not being used in the

commercial proposal and will remain the same as it exists. It does not have to be part of the proposal at all. Patrick Hines suggests that lots two and six be consolidated into one lot for the commercial use of the site. With lots two and six combined, it becomes about 2.25 acres; it gives free access out to the road rather

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than crossing some other lot, gives frontage because currently lot six island locked. The only thing lot three needs is a crossing and maintenance agreement. There is no construction activity proposed for it, no change. You have two trucks, four employees, note all of that, plus the hours of operation on the plans so that the Building Inspector knows exactly what their looking at for the office use and garage, and so that it does not grow into something else.

Board Member Daniel Long asked Mr. Zimmer what exactly they consider light manufacturing. Mr. Zimmer replied that they do mixing of solution then, transport to the properties and apply them. Mr. Zimmer explained that he didn't want to call it "storage" and said looking at your code it was best to call it light manufacturing.

Patrick Hines asked about the formula, what kind of formula, and Mr. Zimmer said that there is like a 1/2 dozen pallets, most are oxidizers and occasionally phosphate. Mostly fertilizer type compounds, you can't apply the fertilizer you have to buy a certain grade in order for the DEC to allow you to put it in the ground. Mr. Hines asked Mr. Zimmer to explain to the board what exactly they do.

Mr. Zimmer replied that we clean up contaminated spills, on a commercial scale 1/2 petroleum and other chemicals. A company sometimes may have a leak or a discharge. We don't do the emergency response, or any of the surface clean-up. What we do is we go in afterwards, and will drill wells, or dig holes, figure out how much of the subsurface has been impacted, how wide spread it is, if its moving and then design a clean- up program. It was also explained that no contaminants come back to us, there is a permitting process to apply at the site, not to manufacture. If there are contaminants they are containerized on the properties themselves, and become part of the waste stream that is being dealt with.

More questions were asked and the applicant is going to include the MSDS Chemical listing, and this information will be put on the plans and sent to the jurisdictional fire company.

Board Member Richard Onorati commented that from a nitrogen standpoint, law enforcement regulates nitrogen based chemicals in this County. Chairperson Parson asked Mr. Onorati if this is regulated through the Police Department and

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also if he needs some sort of certificate or something. Mr. Onorati said no; it's regulated by the Sheriff department, and it is just maintained in the data base.

We need a regular site plan with MHE comments addressed, consolidation of the two lots, cross access of the maintenance and driveway easement, and conform to present zoning.

When we get the plans back with the MSDS on it we can forward to the Jurisdictional Fire Company, and the Orange County Sheriff's Department.

Motion by James Driscoll, Seconded by Daniel Long, for the board to act as Lead Agency.

All voting members voting, voted yes Motion / Carried

### **KENT FARM / SBL# 1-1-38.1 / PAC Housing**

Chairperson Parsons explained that, Mary Markiewicz, Patrick Hines and herself met with Mr. Hayes from Kent Farm as they wanted to make some changes to their plans, and the reason which has to do with the funding / banks; apparently the lending institution is encouraging more rentals than single family residential homes.

The following MHE Engineering comments discussed:

1. The applicant is back before the board with revisions including a reduction in the number of single family units and increased in the number of apartments. Previous application before the Town Board and Planning Board contained 66 single family homes and 56 apartment units and 20,000 square feet of commercial use in the proposed PAC. The applicants

are requesting to revise the unit count to include 54 single family house, 96 apartment rental units and 10,000 square foot of commercial use.

2. Bill Bavoso's comments regarding whether the PAC zone approved by the Town Board requires modification based on unit count and layout as well as a reduction in commercial space is required.
3. Site data bulk table should be corrected accordingly. Based on the square footage provided for single family homes, each of the single family homes will be approximately 2200 square feet and the apartments will be 833

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feet. This should be clarified. A reduction to 10,000 square foot of commercial falls within the two percent to twenty percent range of Commercial in a PAC equating to five percent based on square footage provided.

4. The project is before the Board to determine Lead Agency. Interested agencies include Orange County Department of Public Works, Orange County Department of Planning, New York State Department of Environmental Conservation, Orange County Department of Health, Town of Wallkill Town Board and Town of Wawayanda Town Board. We would recommend that the Planning Board declare its intent for Lead agency for environmental review of the project. Upon minor revisions to the EAF, answering questions which were not answered in the long form submitted, the long form EAF and plans can be circulated to involved agencies for a determination for Lead Agency for the project.

The maps that were submitted do not show the changes. Chairperson Parsons explained that she asked them to bring this new change to the board to see how they feel about the changes.

There was a lengthy discussion with regards to each phase having a mix, the applicant was asked to come up with a possible ratio of single family, apartments and commercial for each phase of construction, not just build all apartments first then commercial, then single family.

Also discussed was the water, where it will be coming from and if there has been an agreement with the Town of Wallkill.

The applicant also needs to revisit the Town Board, as the Town Board approval was based on the original submission. You will need them to re-affirm to the Planning Board that the Town Board is ok with the proposed changes under the PAC Zoning.

**Motion by Barbara Parsons, seconded by Mary Markiewicz, for the Planning Boards' intent to act as lead agency.**

All voting members, voted yes Motion / Carried

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MHE said that his office will handle the lead agency circulation. The applicant needs to provide maps to Patrick Hines so that he can do the circulation.

#### **BROOKFIELD / Update**

Chairperson Parsons addressed the board and explained that they had a meeting with Jim Ullrich, Mary Markiewicz, Patrick Hines, and John Razzano. At that meeting Brookfield is now discussing phasing, so I asked Jim Ullrich to come in and give this board an update with regards to these changes.

Mr. Ullrich joined the board and handed out some newer maps that he brought with him. (Copies were not provided to board members just a few were passed out for members to share.)

A lengthy discussion took place with regards to the phasing of the project, what would be built in each phase versus the change from building the whole project at once. Numerous questions were asked by the board members.

All members agreed, with regards to the phasing, that it is very important that each stage can stand alone.

Chairperson Parsons said that there are still a lot of issues that have to be Addressed in the DEIS yet, traffic issue is not complete, even volume, still having a problem with that, as well as Steve Fleischacker's issues are still outstanding with the air.

Patrick Hines said that one of the things with phasing that is it gives you the chance to look at traffic issues, looking at some of the mitigation there, putting in

post construction traffic counts to actually document before they build phase II will tell you how much traffic was in Phase I.

Chairperson Parsons said that what we are here to do today, is to see how the board feels about the phasing. Patrick Hines said that once the board decides were its going with phasing, then we have to have a consultant's meeting.

**Motion by Richard Onorati, seconded by John Neiger to accept the concept of phasing so each phase can stand on its own with an approved operation at the end of each completed phase.**

All voting members voted yes

Motion / Carried

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Attorney Bavoso said; that the next major step is to get everybody together and to look at and discuss the new Phase I. Let's get everybody's comments and responses, and get us together to talk about it and hash it out.

Patrick Hines, said, we need to look at Jim's major comments, where his conceptual comments have to do with other consultant's comments. The other consultants have not seen the revised phasing plan, which may alleviate some of their concerns because of the smaller scale initial project.

James Ullrich said his goal is to get the DEIS accepted, so you can start getting public comments.

Our goal is to re-do Book I, give that to everybody and the response letter, probably plans that were submitted here tonight. Get that to you and your consultants so you can digest that, and to hopefully make up for some ground we've lost, get kind of an accelerated review process, get a meeting scheduled.

Patrick Hines said that he thinks we should meet with the consultants before you generate that next book. Possibly that will save that expedited review, maybe even more expedited, I think it would save, possibly that extra review possibly, even more.

James Ullrich responded, OK.

At this point Board members agreed with Patrick Hines

James Ullrich, said just a small meeting then, you and the consultants, Barbara (Parsons, Chair), Mary (Markiewicz), Patrick (Hines) Tom and himself, one of their air guys will be there. I'll talk to Dave Donovan too, as to whether he should be there.

Chairperson, Barbara Parsons said she would like Bill (Bavoso) there.

Patrick Hines said that would be good because that way we can put these 6 or 7 major issues that you have, stream line, clarifying, etc., and put them to bed. Stream line them; clarify them, because if you generate a book again, we will get comments again.

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James Ullrich said we worked through the hardest ones in two hours the other day.

Patrick Hines said, "But the other two guys (our consultants) weren't there".

James Ullrich said, but they will have it ahead of time, the things that they're happy with we don't even have to talk about.

But Patrick Hines said, and if they give you back that same comment that is qualitative not quantitative, you are not going to be happy again.

## **II. OTHER BUSINESS**

### **Approval of Minutes for June 22, 2011**

**Motion by Daniel Long, Seconded by John Neiger, to approve the minutes from June 22, 2011 as submitted.**

**All voting members voted yes.**

**Motion Carried**

The July 27, 2011 Town of Wawayanda Planning Board meeting was adjourned by Chairperson Barbara Parsons at 10:08 p.m.

Respectfully Submitted,

Patricia Battiato  
Secretary to Planning