

**TOWN OF BALLSTON
PLANNING BOARD**

Monthly Meeting: January 24, 2018

Present: John VanVorst, Chairman
Audeliz Matias, Vice-Chair
James DiPasquale
Patrick Maher
Nicole Rodgers
Daniel Shorey
Brian Theriault, Building Inspector
Sophia Marruso, Senior Planning/Storm Water Management Officer
Peter Reilly, Esq.
Kathryn Serra, P.E.
Members of the General Public

ABSENT: Laura Muschott

Chairman VanVorst called the January 24, 2018 meeting to order at 7:30 p.m. and led the Pledge of Allegiance. Chairman VanVorst reviewed the agenda.

Chairman VanVorst asked for corrections to the December 20, 2017 minutes.

Page 8 - Strike "accordance with applicable NYSDEC Part 613 regulations, and notification" should be deleted.

MOTION: Mr. Maher made a motion to approve the December 20, 2017 minutes as amended. Mr. Shorey seconded the motion and all present voted in favor. **CARRIED**

OLD BUSINESS:

McDonald's Corporation

201 Church Avenue; 216.-5-27.12 & 216.-2-25

Site Plan Review & Special Use Permit – New 5,200 sf restaurant

John Lapper, Esq. Steven Wilson with Boehler Engineering, Roger Grout, Operator and Christina Pimenta from McDonald's USA were present.

Mr. Lapper stated when we were last here, the Board recommended the applicant get conceptual approval from NYSDOT, which we now have. Mr. Lapper stated we have gone through a lot of issues in the last few months, which leaves us with issues to be discussed from the Town Planner Mr. Lapper stated the applicant his hoping after discussions, if the Board grants an approval, McDonald's would like to get this under construction soon.

Mr. Wilson stated since the November meeting, the applicant only had a few outstanding issues.

The site access issue; NYSDOT has conceptually signed-off on the driveways as they work with the Rossi project as laid out.

Mr. Wilson stated the second issue was providing a front door on the building to provide more connectivity to the street per the Towns Design Guidelines. Mr. Wilson stated the applicant has provided a faux door as previously discussed; a real door is not an option due to security reasons going in or out of the Play Place; McDonald's does not want that to occur along the front of the building.

Mr. Wilson stated the last issue was related to the sidewalks along NYS Route 50. There was a discussion whether the sidewalk was a requirement of the Design Guidelines or not. Mr. Wilson stated based on Counsel's discussion, a sidewalk is not required however, if a sidewalk is constructed, it must be 8' wide.

Mr. Reilly stated that is what we discussed. Mr. Reilly stated he knows sidewalks are not mandatory under the guidelines, but if there is a desire for one, they don't want an 8' sidewalk, they (The Board) would want a 4' sidewalk and as much as it's not required, the Board has the

flexibility to build a more narrow one than what the Design Guidelines would require. Mr. Reilly will refer back to the Board as to their desire.

There was further discussions relative to sidewalks on the east side of the road and if the Board wants sidewalks on the west side.

Mr. Wilson asked, "If the applicant deviates from the 8' sidewalk, that is not a variance."

Mr. Reilly stated that Board can make that determination.

Mr. VanVorst asked the applicant's position.

Mr. Wilson stated there are sidewalks being constructed with the Rossi project on the south side of NYS Route 50 and up our frontage along the new access road. If the applicant would provide a connection to that, it would provide connectivity and walkability that the Town was looking for.

Mr. VanVorst asked don't you feel it would be advantageous for McDonald's to have a sidewalk in front of the property; for now it will be a sidewalk to nowhere.

Mr. DiPasquale stated looking at the long term development of NYS Route 50 if a 4' sidewalk should be installed.

Mr. Wilson stated ok, we can make a 4' wide sidewalk work.

Ms. Matias agrees with Mr. DiPasquale.

Mr. DiPasquale asked if the 4' sidewalk would work with the future improvements.

Mr. Wilson stated we will build it and lay it out so it's not impacted by the Rossi project, but works with it.

Ms. Serra stated the sidewalk would have to be up on the edge of the curbing for the parking lot - pretty far off the existing road, so that when the road is widened for the Rossi project, the

sidewalk in the future will be closer to the road, but when it's built, will look farther off the road.

Ms. Serra asked the Board if the sidewalk will be along the entire frontage of the property; not driveway to driveway.

The Board concurred yes.

Mr. Wilson stated outstanding technical issues related to lighting, provide more cut-offs for preventive spillage; although it was minor outside of the property – applicant to provide a lighting plan to address. Mr. Wilson stated Ms. Serra had some comments about the Storm Water Management Plan; applicant does not see an issue addressing those comments.

Mr. VanVorst asked the Board how they feel about the faux door.

Mr. Shorey feels given that they have chosen to put it off to the left...why bother. Perhaps if it's going to be a pseudo door, would seem reasonable to have it in the middle.

Ms. Matias stated she agrees and feels that applicant did not try.

Mr. Wilson stated no, that was not the applicant's intent and can move the door to the middle.

Mr. Lapper stated it's really because of the security issue that the applicant does not want to emphasize it as a door because of the kids playing inside; we are trying to minimize for a real reason.

Ms. Matias stated if it's not a door, it does not matter.

Mr. Lapper stated if the Board wants the door in the middle, it can be moved to the middle.

Mr. DiPasquale stated personally does not feel it adds to the aesthetics moving it to the middle, but adding the grills to the windows breaks things up esthetically.

Mr. DiPasquale stated his personal opinion does not think it's worth moving that door to the middle; it will look worse.

Ms. Serra asked if the windows will be frosted.

Mr. Wilson stated no, they will be regular windows.

Ms. Matias said, "The purpose of asking for the door was to demonstrate a reason why you (the applicant) was not able to meet the zoning requirement, but if it is not even going to happen, to get the rendering is useless to continue – try to move the door around."

Chairman VanVorst opened the public hearing at 7:46 p.m.

No one wished to speak.

Chairman VanVorst closed the public hearing at 7:46 p.m.

MOTION: Mr. Maher motioned to declare this an **Unlisted Action** under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Mr. DiPasquale seconded the motion and all present voted in favor. **CARRIED.**

Chairman VanVorst stated 13. B. was not answered on the Short EAF form.

13. b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres.

Mr. Wilson stated the answer should be "No."

MOTION: Mr. Maher made a motion that the Site Plan as depicted on sheet C-4 revision dated 1-8-2018 be conditionally approved with the final submission of the SWPPP, a provision of a 4' sidewalk along the entire frontage (east side of Church Avenue) and the elimination of the faux door. Ms. Rodgers seconded the motion and all present voted in favor. **CARRIED.**

Chairman VanVorst read through the four (4) criteria for a Special Use Permit.

- 1) The use shall be such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not

be detrimental to the orderly development of the adjacent districts. The board concurred there were no issues.

- 2) The location and size of the use the nature and intensity of the operation involved or conducted in connection therewith, its site layout, and its relation to streets giving access to which shall be of such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood. The board concurred there were no issues.
- 3) The location and height of the buildings, the location nature and height of walls and fences, and that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof. The board concurred there were no issues.
- 4) The public convenience and welfare will be substantially served and appropriate use of neighboring property will not be substantially permanently injured, subject to appropriate conditions and safeguards as determined necessary to promote the public health, safety and welfare. The board concurred there were no issues.

MOTION: Mr. Maher made a motion that a Special Use Permit be granted for construction of a McDonald's at 201 Church Avenue. Ms. Matias seconded the motion and all present voted in favor. **CARRIED.**

Stewart's Shop Corporation
810 NYS Route 50; 257.10-2-70
Site Plan Review – New Store

Chris Potter with Stewart's Shop Corp presented.

Mr. Potter disturbed a revised plan to the Board.

Mr. Potter stated the only changes to the plans that were submitted tonight to the Board were addressing the comments from Ms. Serra. One change shown on the revised plan was going from four dispensers down to three dispensers and they are now angled. Mr. Potter stated we felt that the flow with the three at an angle works better than four. Mr. Potter said, "After taking a second look at it, felt we were trying to cram too much into that."

Ms. Serra asked if that will change the parking count.

Mr. Potter stated we added two spaces on the outside perimeter, which totals 37 parking spaces. Mr. Potter stated one change was an addition of a storage area that is accessible from the outside and would assume that counts as building square footage; now totaling 3,840 sf., which would then require the applicant to have 38 parking spaces.

Ms. Serra asked the location of the proposed shed.

Mr. Potter stated in the back corner. The shed is used for milk crates and totes that have been stored on the outside of the building underneath the overhang. Mr. Potter stated the applicant is just trying to clean up the delivery area and make it look nicer. Mr. Potter stated the shed is not accessible from the inside.

Mr. Reilly stated he would not use it for a computing parking space.

Mr. Potter stated then the 37 spaces are what we would be required to have and what is being proposed.

A further discussion was held on the location of the proposed shed.

Mr. Potter stated he received a letter from NYSDOT today confirming the right-in, right-out. This plan shows a right-in, right-out and what a fuel tanker would have to do for a fuel tanker to circulate through the lot. The curbing would have to be mountable (anything that is shown in the red) and the blue brick pattern would be stamped concrete; when the fuel tanker would exit, the back trailer would then go up over the curb, sidewalk and then out. Mr. Potter stated this has not been shown to NYSDOT yet, but what is being proposed; otherwise there is no way to get a fuel tanker out of the lot.

Mr. DiPasquale stated that would be similar to what is seen on a round-about.

Mr. Potter stated yes.

Ms. Serra asked if this has been done on other projects.

Mr. Potter stated yes in one area, but was not on a State road.

Ms. Serra stated her only concern would be if NYSDOT accepts this and does not see why they would not; they are obviously restricting your driveway and are losing a lot of the landscaping that is being proposed along NYS Route 50.

Mr. Potter stated it's a small amount and could shift it toward the intersection and keep the same amount of plantings and just relocate them.

Ms. Serra stated ok.

Chairman VanVorst asked Mr. Potter why there isn't any reason why you couldn't bring the truck from the south on NYS Route 50 and enter that way.

Mr. Potter stated it's the same instance – there is a utility pole, guide wires and would need the mountable curb, but the movement in would need that mountable area for that trailer to go over and would be impacting the utility pole and guide wires.

Mr. Potter stated he did reach out to NYSDOT and got no comment to do a painted median instead of a curbed island in between and did not get a response from NYSDOT.

Ms. Serra stated the standards for NYSDOT for restricted access are pretty strict; a painted island does wear off and people ignore it and knows NYSDOT will say no to that.

Ms. Serra is curious if NYSDOT will be ok with that mountable curb because obviously that is how you are going to make your Site Plan work.

Ms. Serra stated she did reach out to NYSDOT and asked for a letter than they said, "they were in a meeting and did send a letter at 2:00 p.m. today."

Ms. Serra stated we will need to see the Traffic Study revised to be consistent to what is being proposed.

Mr. Potter stated in order to receive the requested variance would need a SEQRA determination tonight to be able to have the ZBA act on requested variances and to figure out which variances we do need as opposed to what could be waivers. Mr. Potter said, "Our thought we would need a variance for green space, setbacks for the front building on NYS Route 50 and Lakehill Road and waivers for the double row of parking and the transparency for the elevation on the side facing NYS Route 50." Mr. Potter stated it needs to be 50 percent and the applicant has 42 percent. Mr. Potter stated one other waiver would be the sidewalk width; applicant is proposing 5' and the Design Standard shows 8'. Mr. Potter stated in order to get the 50 percent with the transparency, would either have to lose columns that go on the building or essentially have the windows go to the ground. Mr. Potter said, "We need to pick up 44 sf. of window and one of these windows is 51 sf.; it's almost essentially adding another window, which we do not have the wall space unless you bring them to the ground. Mr. Potter stated we don't bring our windows to the ground obviously with the stone design, but as well as shelving and product that is within the store not being seen through the window. Mr. Potter stated that is why a waiver would be requested for the transparency.

Mr. Potter stated the remaining engineering comments are not a huge issue for the applicant.

Mr. Potter stated the existing tree location was submitted "after the fact" on what was going to be cut down.

Ms. Serra asked if there is any way to look at the grading plan for that slope such that in the area of the home to the east could do something so you are not cutting down all the existing vegetation. Ms. Serra stated that slope has a really nice buffer to what is there today versus trying to screen it after the fact to do something that you don't need; don't let the impact happen so then you are not mitigating for it.

Mr. Potter stated a big issue is a lack of green space that is left there (5' or 6') in that area so reducing that would then not allow us to get back into the delivery area with a delivery truck.

Mr. Potter said, "Maybe instead of a fence we would do trees instead – plant a 6' or 8' tree (know it's going to take a little bit of time), but at least it will provide taller screening.

Ms. Serra stated she is not convinced that is actual screening and did not know if it was company policy that Stewart's uses fences (it's just something to maintain). Ms. Serra said, "The fence is going to look awkward on that slope."

Mr. Maher stated he would like to second that and esthetically is not sure that 300' of fencing along that slope will look.

Ms. Serra stated if there is any way to look at the grading; effectively there is an existing slope and about half of it is on your property and half on the neighbor's side. Ms. Serra asked if the applicant can limit the grading on the slope near their house so you are not cutting downs all those trees. Ms. Serra state a retaining wall is being added to meet the setback compliant, but could you add a short retaining wall off the back side of the driveway going up to try to not knock down so many trees.

Mr. Potter said, "Honestly I don't know that will save any trees because by the time you add the width of the retaining wall of 2' will need to excavate behind it for stone and drainage are probably at the same disturbance that you would be on what we are proposing. Mr. Potter said, "He is definitely open for removing the fence and doing some kind of tree or keeping a section of fence and doing trees or what we have done in the past; a 20' section of fence and a section of trees and staggered it so it's not a white wall running down the property line."

Ms. Serra agrees.

Ms. Matias stated that might look better than having all fence.

Ms. Serra stated by Lakehill Road the fence might actually serve a purpose; people not cutting through.

Mr. Potter said, "Where the property line turns maybe switch to trees."

Ms. Serra stated we definitely would look heavily at the species, spacing, and the height at installation.

Mr. Potter stated we would pick something that is fast growing; obviously evergreen even during the winter months provide screening.

Mr. Potter said, "We can reach out to the property owner and see if they would want anything additional on their property as far as plantings that could help with the screening."

Ms. Matias stated that would be a good idea.

Ms. Serra said, "You are controlling the bottom of the slope" and recommended to talk to the adjoining neighbor to the east to discuss.

Ms. Matias feels that is a good idea.

Mr. DiPasquale feels it's a great idea and worked with the Planning Board on the Church Avenue store, which was a great improvement for the neighbors and met all the concerns; it's a great approach to look at to minimize the impact.

Mr. Shorey stated or a combination of keeping the existing trees and getting rid of the fence if you don't need it and plant some fast growing additional trees toward the back area.

Ms. Serra stated the way the grading is working now is the applicant is cutting down most of the trees closest to the house.

Mr. Potter stated we are cutting about half of what's there. Mr. Potter said, "There are approximately 18 trees and are proposing to cut 20 trees."

Mr. Potter said, "If they were willing for us to go in on their property and plant something lower to provide that screening where the openings are."

Chairman VanVorst asked if Stewart's were going to reach out to the neighbor.

Mr. Potter stated yes.

A further discussion was held on the proposed vinyl fence.

Ms. Matias asked about the connectivity to the south property.

Mr. Potter stated we reached out to the property owner and could not come to terms on an inner connect easement, but we would be willing to set it up to where if they come before the Board, we would be willing to allow it to happen; we have a plan that shows connectivity to that parcel.

Chairman VanVorst asked if Stewart's will be putting up the curbing or are they.

Mr. Potter stated in the event if they come before the Board "they are going to be stuck doing it."

Chairman VanVorst stated you are not putting up curbing.

Mr. Potter stated we are putting up curbing along our property, but in the event they come back and at that point need Site Plan Approval and they say..."we want to inner connect with Stewart's, now that is one them, not us." Mr. Potter stated we would be willing to do it now.

Ms. Marruso stated as long as the applicant is bringing at least the pavement and that access and width to that property line for the Board to enforce that connection.

Chairman VanVorst asked Mr. Potter to explain the sub-surface storm water units and the aqua swirl. Chairman VanVorst stated in the SWPPP, it mentions Mr. Bachand who will be the recipient of all the storm water that leaves the property.

Mr. Potter stated he is not going to be getting anymore storm water then what he currently receives today.

Chairman VanVorst stated the underground system that is there.

Mr. Potter stated he has issues on his property. Mr. Potter stated we did meet with him prior to the meeting and what we offered up for him to help him out a little bit was; what's not shown on the plan (on his property) is an additional manhole that's collapsed. Mr. Potter stated for Mr. Bachand to save some money, we would allow him to use their manhole for his pipe connection to continue to replace his pipe on his property and then he can do away with the man hole that's on his property. Mr. Potter stated any sheet flow or drainage will go into the manhole that is ours.

Chairman VanVorst asked if Mr. Bachand is happy with that.

Mr. Potter said, "I'm not sure if he is happy."

Mr. Potter stated as far as the underground area, which is for detention and the aqua swirl if for the quality piece of the SWPPP to meet the state regulation.

Chairman VanVorst stated after reading, it kind of processes the storm water that enters into it and separates out the pollutants.

Mr. Potter stated the aqua swirl...yes.

Chairman VanVorst stated there won't be any oil or gas (petroleum products) entering the storm water system.

Mr. Potter stated correct, in all of our structures we have a hood in there that prevents the oil (if there ever was a spill) to leave the catch basin.

Chairman VanVorst stated normally on a Site Plan map we include the property owners on the other side of the streets, which is not included on your plan. Chairman VanVorst asked the applicant to provide that information for the next meeting.

Chairman VanVorst opened the public hearing at 8:20 p.m.

Tim Bachand, stated he did go to Town Hall today and is not aware of the new map presented to the Board.

Mr. Bachand stated he met with Mr. Potter and Mr. Marshall today to address his concerns with this project.

Mr. Bachand stated he went to the Burnt Hills Visionary Committee.

Mr. Bachand stated he likes the Stewart's, but has issues with visibility pulling in and out and heading east on Lakehill Road.

Mr. Bachand asked if the Town has any right to cut back any of the shrubbery that is encroaching on the road. Mr. Bachand stated there is also a street sign there. Mr. Bachand stated his biggest concern is the aesthetics of the property. Mr. Bachand stated he has lived in Burnt Hills his whole life and worked at the hardware store for 42 years and looks at that property; back in the day it was a pond.

Mr. Bachand is not happy about the hole that is kind of being left in the back. Mr. Bachand said, "We had this meeting and we are kind of pushing this property back and have an excess amount of dirt and offered to give Stewart's the dirt to fill it in."

Mr. Bachand stated the steep grade coming off of the back of their building dropping down and that short parking space behind the dumpster location is a 7' drop. Mr. Bachand suggested at least up by the front of the road could bring a retaining wall back there. Mr. Bachand would like to see a retaining wall go across there (similar to the developer behind Ollari Landscaping on NYS Route 50).

Mr. Bachand stated he does not want to look at the back of their building and suggested we try to work together and try to fill in a common area; eventually somebody may want to have a walkway through there. Mr. Bachand stated their chain link is secure and keeps out blowing garbage; having trouble with people cutting the chain link fence to get through there.

Mr. Bachand asked if a fence is being proposed back facing his property or the current "Veeder" building.

Mr. Potter stated there is an existing fence.

Mr. Bachand said, "You are not going to leave that there, it's all falling down...the wooden fencing and stuff."

Mr. Potter asked the old CVS property.

Mr. Bachand stated yes.

Mr. Potter stated if that is on our property, then it would come down.

Mr. Bachand asked if it will be replaced with a vinyl fence or is it just coming down.

Mr. Potter stated it's just coming down.

Mr. Potter stated with the grade that is there with a fence back there is useless.

Mr. Bachand stated that is why a nice retaining wall would be nice.

Mr. Bachand stated he does not like the aesthetics....there is a steep grade and if there is a fire back there, the police or somebody would have to get back there – it's just a real steep drop-off. Mr. Bachand said, "He offered to give them free fill." The other problem is the water.

Mr. Bachand stated he spoke with Ms. Marruso today and stated the piping isn't exactly right on that; it's got to go further. "It comes out across NYS Route 50 and goes all the way around, but has to come further this way." The CVS and V&Y property all end down the spillway where water comes through; it's caving in.

Mr. Bachand stated that Stewart's wants to take the old pipe and leave it in (pipe been there since 1986).

Mr. Bachand stated they are going to attach old pipe to new pipe and leave that pipe where it ends on Mr. Bachand's property is caving. Mr. Bachand stated ACOE has looked at this, but anybody in their right mind "would say it's got to be fixed."

Mr. Bachand stated their solution is to cut back that old metal pipe (15') and they are just going to attached their new pipe and then come to Mr. Bachand's property.

Mr. Bachand stated the flow is not supposed to be increasing any; the damage to the flow is when they drained the pond. Mr. Bachand stated the pond was tranquil and filled up spun over into spillway into his waterway and when they took the pond out; they just crammed in the pipe and did a bad job connecting Mr. Bachand's pipe and their pipe, which has caused the washout.

Mr. Bachand is not happy and thinks they are leaving a “crap hole” back there and have offered to help and do it.

Mr. Bachand stated we need some wording in their –“this is a drainage ditch and the building line.” Mr. Bachand stated right now that is still on the Ballston town map as a ditch with a waterway with a 50’ and cannot build to it. Mr. Bachand stated verbiage indicating it’s a drainage ditch and the 50’ barrier doesn’t matter; otherwise you are putting this water line over to this guy’s property and does the 50’ build line matter anymore or not.

Mr. Bachand stated that he offered this connection for possible further cut through and Stewart’s does not want it. Mr. Bachand thinks it’s a mistake, but that is not up to him.

Mr. Bachand said, “They were supposed to say something in this meeting or the next meeting that they are going to allow me to go on their property and fix that new catch basin and dig up 16’ of their property and rip out the old concrete dam/spillway and attach to my new property.”

Mr. Bachand said, “This is currently caving in and asked the current people that own the CVS property that there are holes that are opening up back there and ask for a security fence back there so somebody doesn’t fall in.”

Chairman VanVorst stated that is not the Planning Board’s issue.

Mr. Bachand asked who he contacts.

Mr. Potter stated it’s on private property.

Chairman VanVorst adjourned the public hearing tonight at 8:52 p.m.

Ms. Marruso stated the Board added a stretch of vinyl fence on the south west to help screen that southern facing elevation and with the grease trap and septic tank there inhibit wrapping the fence any further.

Mr. Potter stated yes, the grade starts to drop off, but the original trees that Ms. Marruso mentioned could be done with that slope.

Ms. Marruso stated if this is something the Board thinks would add value to the plan and suggests that if the applicant wants to provide some additional methods of screening of that elevation and that would be requesting additional vegetation, fencing and some mature trees with a mix and variety.

Chairman VanVorst asked if the Board is able to make a SEQRA Declaration without them having been granted the variances.

Mr. Reilly stated you have to make a determination and also being conducted as a Coordinated Review, the other involved agencies cannot make any determination until you (The Board) make a SEQRA determination.

Ms. Serra stated the issue with SEQRA at this point, now that NYSDOT has finally weighed in that they finally agree with the Town's traffic consultants comments of December 7, 2017, which ask that revision be made to the Site Plan and also does require some revisions to be made to the Traffic Impact Study (TIS); normally under SEQRA you look at the Traffic Study and does not see how procedurally how the Board can grant a Negative Declaration at this point, when the Traffic Study on the record is not consistent with the Site Plan anymore. Ms. Serra stated it did take NYSDOT two months to review the documents, but that is out of our hands.

Mr. Reilly stated he does not know where the Town stands with the drainage situation in the back.

Ms. Serra stated the applicant did address the majority of C.T. Male's comments pertaining to drainage and they are installing that sub-surface detention system, which the rate of run-off and post development will not be higher than pre-development. Ms. Serra stated the only outstanding issue she has from a SEQRA standpoint would be the Traffic Study not being updated; everything else can be worked out as part of Site Plan approval.

Ms. Marruso asked if it's futile for the applicant to return to the Zoning Board of Appeals.

Ms. Marruso stated she did not believe the applicant needed to submit new materials to the Zoning Board of Appeals.

Chairman VanVorst stated he believes the applicant does because when he applied last month, he applied for a variance for the setback from NYS Route 50 and did not apply for the variance on the green space and the setback from Lakehill Road.

Ms. Marruso stated if the Zoning Board of Appeals was in a position to identify any additional variances that were needed; as long as the area variances were generally advertised.

Mr. Reilly stated the legal advertisement the way it was placed was adequate, but the application in front of the Board itself needs to be clarified as to what exactly you are looking for. Mr. Reilly stated both build-to lines and the green space because that was not even in front of the Board; the applicant itself needs to be updated. Mr. Reilly stated what could happen procedurally if this Board is in a position to give a Negative Declaration at its next meeting, and then they could get on and be on for the Zoning Board meeting the first week in March to get the variances and come back here.

Mr. Potter said, "We are running into a timing issue with clearing trees came up with ACOE and the Endangered Bat cannot clear after March 31, 2018. Mr. Potter said, "We need Zoning Board approval and to close on the property; we would lose our window of construction for 2018."

Ms. Serra asked why an ACOE permit is needed.

Mr. Potter stated for the stream disturbance.

Mr. Potter asked if it's possible to get on the February agenda for the Zoning Board of Appeals.

Mr. Potter said, "He did not know how much the Traffic Study is going to change."

Mr. Maher stated isn't that kind of an administrative matter as opposed to updating the documentation.

Ms. Serra stated the Traffic Study is not updated at almost no fault to the applicant.

Mr. Maher stated if NYSDOT had been a little timelier in their response we would not be having this discussion.

Ms. Marruso said, "Could this Board establish this as an Unlisted Action (Neg Dec) it, get it to the ZBA, when it comes to the Site Plan, get the traffic information integrated, contemplate any deviations from the SEQRA scope at that time, if there were any.

Ms. Serra said, "Every other time for projects that we (The Board) do require a Traffic Study, we do not grant a SEQRA determination until that Traffic Study has been accepted."

Ms. Serra said, "For this particular case, does not believe the changes of the Traffic Study will warrant intersection improvements that need to be made, but we don't have that document in front of us."

Chairman VanVorst asked Mr. Reilly if it would be inappropriate for the Board to make a Negative Declaration.

Mr. Reilly stated based on the extenuating circumstances and the fact that this Board will look at this again if something does come up; there is room to react with Site Plan approval. Mr. Reilly stated just based on the meeting schedules and could support a SEQRA Determination this evening to keep this thing moving at this point.

Ms. Matias asked if the Board is setting a precedent.

Ms. Serra stated she agrees the Board is setting a precedent, but there is the ability for the Board to understand that there are reasons why we grant exceptions.

Mr. Reilly stated each decision stands on its own merits. The Board has done a coordinated review and got the Zoning Board of Appeals involved and just going back and forth to the meetings is a compelling reason to grant the relief.

Ms. Marruso stated the Board still has not granted Site Plan approval and still have the ability to evaluate the impacts.

Ms. Serra said, "She would argue that we got this letter from NYSDOT saying you have to do a right-in/right-out on the access on NYS Route 50. Mr. Serra stated that Mr. Potter came today and said, no we are doing full access and does not care why NYSDOT says...I think we are in a place to say no you are not getting SEQRA – we are not at that juncture. Obviously Mr. Potter

has worked in that short order to provide the Board a layout knowing that his consultant needs time to update their study and have been working on trying to address the comments and waiting for about two months on NYSDOT.”

MOTION: Mr. Maher motioned to declare this an **Unlisted Action** under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Mr. DiPasquale seconded the motion and all present voted in favor. **CARRIED.**

Mr. Potter stated based on Mr. Bachand’s comments and what he is asking Stewart’s to do is work on his property; it’s his pipe that is failing.

Mr. Potter stated Stewart’s offered Mr. Bachand to connect to their manhole.

Mr. Reilly asked Mr. Potter to get the updated application in so it can be placed on the next ZBA agenda.

Application tabled.

Mourningkill, LLC

1445 NYS Route 50; 228.-1-8 & 228.-1-7

Site Plan Review & Special Use Permit

Jason Dell, PE was present on behalf of the applicant.

Mr. Dell stated the project is located along the western side of NYS Route 50 and encompasses about 1.5 acres.

The applicants are proposing to construct two buildings for a total of 31 multi-family units.

The applicants were before the Board last month with one particular remaining technical item that needed to be provided to the Board was a Traffic Study where both projects were put into the same Traffic Study and that has been submitted and at this point in time, have addressed all of the technical comments from C. T. Male have been addressed and placed on the Site Plan and also addressed the Boards comments.

Mr. Dell stated we are here this evening to request approval for the Special Use Permit and Site Plan approval.

Chairman VanVorst stated the applicants comment letter #8 Comment: The applicant needs to verify that the first story height of both buildings is a minimum of 12' floor to floor. The Response "The Town of Ballston Planning Board provided a waiver for the 12' floor to floor dimension at the December 20, 2017 meeting."

Chairman VanVorst stated he did not think that the Board provided a waiver and agreed that we would, but thinks that statement is inaccurate and does not think the Board passed a resolution to provide that waiver.

Chairman VanVorst stated the comment is the same for Comment #9.

Mr. DiPasquale stated at the last meeting, the applicant agreed to install a sidewalk, but the plan does now show a continue north across the northern driveway.

Mr. Dell stated the sidewalk is extended along the property line up-to the northern entrance.

Mr. DiPasquale asked how about beyond the northern entrance.

Mr. Booth said, "We did not do it all along the frontage of the property so that would be a correction that would need to be made."

Chairman VanVorst opened the public hearing at 8:43 p.m.

No one wished to speak.

Chairman VanVorst closed the public hearing at 8:44 p.m.

MOTION: Mr. Maher motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Mr. Shorey seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. Maher motioned to declare this an **Unlisted Action** under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Mr. DiPasquale seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. Maher made a motion that the Site Plan depicted on drawing LP-1 dated 1-9-2018 be approved with revisions to include sidewalks of the entire length of the property frontage and waivers – 12’ floor to floor and first floor transparency calculation as depicted on the letter dated January 9, 2018. Ms. Matias seconded the motion and all present voted in favor. **CARRIED.**

Mr. Maher read the four criteria for a Special Use Permit.

- 1) The use shall be such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of the adjacent districts. The board concurred there were no issues.
- 2) The location and size of the use the nature and intensity of the operation involved or conducted in connection therewith, its site layout, and its relation to streets giving access to which shall be of such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood. The board concurred there were no issues.
- 3) The location and height of the buildings, the location nature and height of walls and fences, and that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof. The board concurred there were no issues.
- 4) The public convenience and welfare will be substantially served and appropriate use of neighboring property will not be substantially permanently injured, subject to appropriate conditions and safeguards as determined necessary to promote the public health, safety and welfare. The board concurred there were no issues.

MOTION: Mr. Maher made a motion to a Special Use Permit for the (Smith) property located at 1445 NYS Route 50. Mr. Shorey seconded the motion and all present voted in favor. **CARRIED.**

NEW BUSINESS:

**Spinney Group at Ballston Lake
60 Middleline Road; 238.-2-26.2
Sketch Plan Conference – PUDD**

Jason Dell, PE, was present on behalf of the applicants.

The applicant has been referred to the Planning Board by the Town Board for a recommendation back to the Town Board for a PUDD. Mr. Dell stated our goal for this evening is to introduce the concept plan to the Board and have the applicants speak to the Board about their goals and objectives for the project and moving the project along for a positive recommendation back to the Town Board for the PUDD.

Mr. Dell stated the parcel is located at 60 Middleline Road as well as frontage on NYS Route 50.

Mr. Dell stated the project encompasses about 62.79 acres and is zoned both Business Highway -2 (NYS Route 50) and Rural. The frontage along NYS Route 50 in the Business Highway-2 zone is about 8.1 acres and 54.69 acres in the rural zone.

Mr. Dell stated the property is former farmland, which is currently vacant.

Mr. Dell stated there are some ACOE wetlands located along the eastern side of the property on NYS Route 50. A small disturbance will be proposed as the project moves forward in order to achieve access to the project property.

Mr. Dell stated the plan is a PUDD, a mixed use development with the focus being on active senior adult housing.

Mr. Dell stated the proposed development consists of three distinct areas for this project.

Mr. Dell stated frontage on NYS Route 50 proposing office and retail space – three buildings proposed each with a footprint of about 5,000 square feet; each building would be 10,000 square feet totaling 30,000 square feet of office/retail space. Situated behind that and to the

side of that is the proposed parking and the parking numbers do meet the code requirements for the Town of Ballston.

Mr. Dell stated the center of the project consist of the multi-family portion of the project – 41 total buildings for a total of 264 units – there are a mixture of four unit buildings, six unit buildings and eight unit buildings. The majority of the units will have a garage as well as a driveway; there are a couple of units that do not have a garage that is situated with an external parking area are immediately adjacent to it.

Mr. Dell stated the central area of the Senior Living Facility is a very large community center that will be a focal point as you drive into the development. There is a proposed clubhouse situated directly across from the entrance, parking area, proposed Dog Park, proposed pool and a community garden. In the north eastern corner is a proposed facilities garage for maintenance purposes and 60 storage units proposed for members of the community.

Mr. Dell stated the perimeter of the project along Middleline Road and Wakeman Road are proposing 12 single-family residences. The applicants feel these residences' located along the outside provide a nice transition from the single family housing on the opposing site of Wakeman Road and are of similar size and nature to the existing homes.

Mr. Dell stated the access along the property will be off of Middleline Road and NYS Route 50 with boulevard entrances. All of the roads within the project are proposed to be private.

Mr. Dell stated networks of sidewalks are being proposed located internally as well to promote a real pedestrian friendly atmosphere and connections throughout the project.

Mr. Dell stated street trees as well as street lighting is proposed.

Mr. Dell stated a conceptual Storm Water Management Plan was submitted to the Board as to how the applicant proposes to manage storm water as we move through the project, which will be done in accordance with NYS requirements.

Mr. Dell stated water will be supplied from NYS Route 50 – the front portion is within the Water District however, there will be a Water District required for the remainder of the property.

Mr. Dell stated the applicants will work with the Town and the Saratoga County Sewer District in providing sanitary sewer service to the project; the exact route and mechanism will have to be detailed however, the initial documents and studies being looked at would have it going up NYS Route 50 to the McCrea Hill pump station possibly, but again, we would have to work through all those details with the Town and with the sewer district as we move through the project.

Mr. Dell introduced Morgan Ruthman, Alex Ruthman, Samantha Raynor and Jason Raynor (who could not be here tonight), are pursuing this application for this active adult senior community.

Mr. Ruthman thanked the Board for taking the time to listen to their proposal and is aware that this application has been before the Town Board for some time. Mr. Ruthman stated they acquired this property in December 2015 and made an initial presentation to the Town Board in June 2017 and the referral process is taking a little longer than what was anticipated due to circumstances in the Town due to the Water District litigation. Mr. Ruthman said, "We are part of that litigation and were granted an intervention back in the Fall and one of the conditions to the Town Board's approval and recommendation of their application to the Planning Board was that we would be proceeding at our own risk," Mr. Ruthman stated as a part of that litigation, hope to have resolution very soon; solely to the Water District issue.

Mr. Ruthman stated this project is very exciting and did a lot of due diligence and research before acquiring the property and thinks the Town of Ballston is an excellent candidate for this type of housing community just based on demographic, economic and social economic data. Mr. Ruthman stated anecdotally received a tremendous amount of positive feedback from community members that we encountered and meeting with the Town Board had a lot of chance to "meet with the folks in Town." Mr. Ruthman stated that Mr. Szczepaniak and Mr. Cwalinski visited their project in Schodack and had many positive things to say Spinney at the Pond View (Town of Bethlehem). Mr. Ruthman stated those two communities are thriving and extremely well received not only by the residents of those communities, but the municipalities as well. Mr. Ruthman stated the clubhouse is the focal point for both communities and a good place for people to engage in church groups, speaking groups and different kinds of volunteer organizations are contacting us to maximize exposure to the residents.

Mr. Ruthman stated we currently own and operate an apartment community in the Town of Bethlehem and have a polling station at the clubhouse.

Ms. Raynor, Director and Marketing for the Spinney Group stated we are not your run of the mill 55+ active adult community. Ms. Raynor stated the Spinney concept and approach is much different to active adult living than the 55+ communities that you are seeing popping up around the Capital District and America.

Ms. Raynor stated the Spinney approach is different because of the fact that we don't even call our units (apartments). Ms. Raynor stated we are set apart and try to target the lifestyle; the majority of 55+ demographic are living in right now in single-family homes. The 55+ demographic living in single-family homes has a mindset unlike that are living in apartment complexes – that is what sets Spinney apart is that we build all of our buildings in accordance to a one-story concept and the fact that we have so many buildings and don't build multi-level communities. Ms. Raynor stated no one will ever live above or below you if you live in a Spinney. Ms. Raynor stated you pull right into your attached garage and have your own private entryway, private front porch, and private back porch, which emulates the private lifestyle you have been used to living in your single-family home.

Ms. Raynor stated we have had this property for some time and have been to quite a few Town Board meetings to Visioning Committees and what has personally walked away from is a huge sense of love for the Town of Ballston and is a theme seen through the Town of Bethlehem and the Town of Schodack; people love the Towns they live in and stay in the Towns they live in. Ms. Raynor stated she did not think there was a better fit than a Spinney for the Town of Ballston to keep your residents here and happy and is a perfect seamless from a single-family home to a more apartment style living; you are not living in an apartment, but a cottage – it's much different than what you are used to seeing.

Ms. Raynor stated the clubhouse has become the epicenter of our community.

Ms. Raynor stated she is the manager of the all the Spinney's and is amazing to see the connections that their residents make; they are in the communities they know and love and have been there for over 30 years – they have their own friends, families and doctors, but they chose to foster the community within the Spinney turning their neighbors into friends, looking

after each other; that is the beauty of an age qualified community. Ms. Raynor stated she hopes the Board can see the benefit they can bring to the Town of Ballston.

Ms. Rodgers asked if the single-family homes will be sold off privately or will they be rented.

Mr. Dell stated sold.

Ms. Matias stated the rest will be rented.

Mr. Dell stated yes.

Ms. Serra asked do you phase construction with your other projects.

Ms. Raynor stated construction is phased.

Mr. Ruthman stated the multi-family is the point of emphasis of this development; the commercial is obviously an additional approved component and would be in keeping with what's permitted under the Business Highway-2 regulations and have looked at the rural transition regulations and to becoming into effect with zoning changes and what is being proposed will be in general alignment with those regulations. Mr. Ruthman stated as far as timing and sequencing is concerned, would look at the commercial of the first phase of the residential on a contemporaneous fashion to make a seamless transition between the two.

Ms. VanVorst said, "Morgan you are fairly optimistic you are going to get this water extension and if you don't, is that a deal killer."

Mr. Ruthman stated we need municipal water for this project to succeed. Mr. Ruthman said, "He is not going to go into details about the litigation, but the Town Attorney and the Planning Board Attorney could discuss that with the Planning Board; there has been extensive briefing and at this point, it's in the courts hands, but the alternative is to wait four years and opt out of the Ag District and if we want to do that, will come back and four years and talk then, but our goal is to move forward now."

Mr. Ruthman stated there are many avenues for us to do that and is very optimistic about the outcome of the litigation, but it's too soon to tell.

Mr. Reilly said, "Without getting into all those details had a motion to intervene that has been granted. Mr. Reilly stated his understanding is there are two actions going on at this point and there is a motion to join those actions."

Mr. Ruthman stated that is a question that would probably be more appropriately directed to the attorney for Mr. Katz, Mary Beth Slevin, Esq. but yes, there are two actions pending.

Mr. Reilly stated his understanding is there has been a motion to join those actions and did not know if that was granted or ruled upon at this time point in time.

Mr. Ruthman stated his understanding is that there is a motion pending and has not been ruled upon.

Ms. Serra stated she asked this of the Town Board at their meeting and they really did not answer my question as to what is the role of the Planning Board at this step. Ms. Serra asked is the Planning Board doing any level of environmental review or is this purely just to give a thumbs up to go back to the Town Board to do the SEQRA process.

Mr. Dell stated as Ms. Serra just mentioned, on the last couple of projects we have done it in different ways and not to throw it back to the Planning Board, but the applicants goal is to get a positive recommendation back to the Town Board for the project. In the past, have done SEQRA here and others at the Town Board and would discuss it now.

Ms. Serra stated technically that is the Town Boards decision as to who the Lead Agent is and asked at the last Town Board meeting and either did not know or chose not to respond, but thinks that needs to be decided sooner rather than later because there are probably questions that the Planning Board has that would be asked during that environmental review – what are the impacts to, Ag lands, resources, trees and traffic. Ms. Serra stated if we are not the Board that is supposed to be reviewing those documents, then I don't know what else you could provide the Planning Board for their review short of maybe proposed legislation to review.

Ms. Marruso stated her understanding is without having traffic legislation it would be simply having a recommendation (positive or negative) with conditions back to the Town Board and

then they would have to make the determination if they are Lead Agency and a coordinated review.

Ms. Serra stated she did not perform an engineering review because there is really not much to look at, but is wondering if Chairman VanVorst can reach out to the Town Board to ask “where are we in this.”

Mr. Reilly stated as Ms. Serra stated we (The Board) have done it either way and the Planning Board can be the Lead Agency even though it is the Town Board that makes the decisions on the zoning change. Mr. Reilly stated the Planning Board has been the Lead Agent on more applications because of the Boards expertise dealing with SEQRA and land use matters more so than the Town Board. My concern is from the applicant’s standpoint on how far they want to go with engineering at this point because you are doing this at your risk and getting into any engineering that is necessary for a SEQRA determination would refer to the applicant as to some extent what the applicant wants to do.

Mr. Ruthman stated that is what we discussed with the Town Board and are prepared to move forward and thinks the timing is going to come into alignment and if it would be acceptable to the Board maybe what we (the applicant) would propose is submitting some kind of letter or writing to the Planning Board and Town Board advising on which direction the applicant wants to go in leading to Lead Agency – is that something the Board would accept.

Mr. Reilly stated your request would be looked at and then talks to the Town Board and make a decision and it was mentioned this month that the Board did not even receive draft legislation to look at.

Mr. Maher stated just procedurally we (The Board) cannot act on this until the zoning changes are approved.

Mr. Reilly stated the initial referral that was made to the Town Board and referred here is a recommendation action, but more often than not has been combined with a SEQRA review and determination; it’s a fairly detailed look at the project where the sewer is going and storm water, C.T. Male looks at that.

Ms. Serra stated that SEQRA should always be done early and appropriately because that defines the potential environmental impacts of the PUDD and if you continue to push this project along without even starting the SEQRA process is unfair to the applicant and procedurally backwards. The applicant is ultimately going to have to fill out a Long EAF and whoever goes through the checklist whether it's the Planning Board or Town Board, will need a lot of studies that are timely and expensive for the applicant. Ms. Serra stated from a standpoint from the Planning Board, can you make a recommendation back to the Town Board at this point of your thoughts about this project.

Ms. Marruso said, "It's just about the concept.

Ms. Serra stated yes the concept, but what about traffic and Ag lands.

Mr. Maher stated it's very nebulous.

Ms. Marruso stated it's just a zoning concept and the Town Board is looking at a new piece of legislation and that is how the Planning Board should look at this (so they need to make a general thumbs up or thumbs down) on the project and need to just focus on that action.

Ms. Serra stated all the Town Board wants is does the Planning Board like this or not and next time it goes to the Town Board, Ms. Serra stated she can or the Town Attorney can press them for who will be Lead Agency.

Ms. Matias asked when the last time this land was actively farmed.

Mr. Ruthman stated the seller of the property was Theodora Smith who operates an Equine Veterinary Clinic across the street on Middleline Road and when she purchased the property with her husband (who is now deceased), had intentions of farming the land, but never actually actively farmed it. Mr. Ruthman stated it has not been farmed by us and Mr. VanVorst may have some farming history.

Mr. VanVorst stated he is going to say it's been eight to ten years.

Mr. VanVorst asked Mr. Merchant if he has any idea.

Mr. Merchant stated they had corn there a couple years ago and the farm is still active across the street and there is a buffer now and you can't build next to that farm within 150' off the road and there are water restrictions in the Town; it's still in the Ag District and no water or sewer – the rules still apply.

Mr. Simpson stated just because you don't want to talk about them, the rules still apply.

Mr. Ruthman stated it is not being farmed right now.

Ms. Matias stated have other apartments been done as a PUDD too.

Mr. Ruthman stated yes, the one in the Town of Bethlehem is a PUDD and in the Town of Schodack was zoned R-2 – Multi-family.

Mr. Ruthman stated the age restriction question has come up by the Town Board in the past and as part of the draft legislation which will be submitted to the Town eventually; the age restriction is forced on these apartments in a couple different ways. One of which was a Restrictive Covenant would run with the land, the PUDD approval within itself contains language concerning the age limitations of residents and the lease documentation incorporated into the PUDD approval also contains an age qualification criteria for residents. Mr. Ruthman stated the Town wanted to obtain some of the assurances from the developer that this would in fact maintain and remain an 55+ community and would not revert back to a standard multi-family.

Chairman VanVorst stated it seems as though all we are looking for is a thumbs up or thumbs down.

Mr. Ruthman stated his understanding based on the way the PUDD legislation is currently drafted is that the Planning Board can evaluate and based on Ms. Marruso's memorandum a number of criteria that the project is seeking to satisfy and a referral back to the Town Board would be for the actual vote on the zoning change, but barring some kind of determination of who the Lead Agency is, I suppose we would just request that would could perhaps confer with our engineering team and have an opportunity to submit something to the Town. Mr. Ruthman stated we are not seeking any Board action tonight, but was intended to present the

conception of presenting the Sketch Plan Review for the Board's consideration and want to be sure we are responsive to the Board's concerns.

Chairman VanVorst asked if any Board member has a negative reaction to this.

Ms. Matias stated she doesn't really have a negative reaction and likes the idea and concept and do not have anything like that in the area. Ms. Matias is just concerned about the whole water situation and having to take land and do a PUDD because the zoning does not allow it.

Mr. Maher said, "If you ask me if I have any issues in a vacuum if I have any issues with this, no, but we don't exist in a vacuum so it's hard for me to make that determination."

Mr. Maher stated the concept as described, it sounds like you have had success with your other projects. Mr. Maher said, "In a vacuum have no negative issues with it, but there are too many other factors."

Ms. Serra stated the concerns you have would be addressed in the SEQRA process and are not saying there is a fatal flaw to what the applicant is proposing.

Mr. Maher agrees.

Mr. Dell stated we were just discussing the appropriate Board for the SEQRA action. In the past, one particular PUDD, we started out with the Town Board as the Lead Agency and they undeclared themselves Lead Agency and sent it onto the Planning Board. More recently, the SEQRA action was done at the Town Board level and all believe here that the Planning Board would be the appropriate Board for the reviewed however, knows there are other extenuating circumstances where the Town Board may want to be the SEQRA Lead Agent based upon the Water District issues.

Mr. Dell asked is it going to move the applicant along any further if the Planning Board declares them Lead Agency or wait the additional month to come back if in deed at the point in time the Town Board agrees that the Planning Board should be the Lead Agent.

Ms. Serra stated last thing procedurally we should probably discuss this in house with the Town Attorney just because the one case where the Planning Board was SEQRA Lead Agent with Abele Woods.

Ms. Serra stated it does work out well when the Planning Board works out SEQRA on these projects because they are more versed in that format, but for the Planning Board to say we should be Lead Agent may be presumptuous.

Ms. Serra stated we can reach out to the Town and ask what their thoughts are.

Ms. Serra said, "A lot of the review regardless of the Lead Agent will be at the Planning Board level."

Ms. Marruso stated her understanding of a PUDD the zoning requirement is that the Board will somehow have to memorialize back to the Town Board whether it's a positive or a negative recommendation. Ms. Marruso stated she would recommend that has to be established if the Planning Board is giving a recommendation tonight.

Ms. Marruso stated this is just a referral (recommendation) and the Town Board is thinking about drafting legislation for the new zoning.

Ms. Marruso stated the Town Board needs to know as part of the PUDD creation and process, is it thumbs up or thumbs down from the Planning Board.

Ms. Marruso stated shouldn't we have some sort of a resolution or motion "saying these are the members of the Board that give a positive or negative recommendation so the Town Board has that knowledge."

Mr. Reilly said, "If you look under procedure, under PUDD, the materials necessary for the Planning Board to make a recommendation and understand the issues that are out there for this project pertaining to water, but if you look at the statue, this Board needs a draft Local Law, sketch plan and it's not at a point where it can be given a recommendation pursuant to the term to the procedure."

Ms. Serra stated it does require legislation.

Mr. Reilly stated the sketch plan is fairly detailed and the applicant has never given (and understands what Ms. Marruso is saying and some Town's handle it that way) and to keep it

moving; this is not what our ordinance reads and the Board need much more information to make any kind of recommendation.

Mr. Maher stated he has been on the Board for four years and has never seen this.

Mr. Ruthman said, "Mr. Reilly is on point and our expectations this evening was to come in and present this on a conceptual basis and it's also our expectation and assumption that we are going to be coming back on a number of occasions with additional reports, archeological, traffic, additional studies, information, draft legislation and at each stage of that process, we welcome feedback so we can sure we are moving in the right direction, but certainly wasn't the expectation tonight to receive any kind of recommendation and a referral back to the Town Board. Mr. Ruthman stated as far as Lead Agency is concerned, we are comfortable with the Planning Board being the Lead Agency and confident the engineering teams have knowledge of these things and if it requires a discussion with Ms. Kaelin, Town Attorney, that is fine too and let the applicant know what to provide to the Board."

Mr. Dell stated between now and next month could have that discussion with the Town Board.

Application tabled.

Oak Grove Motel
830 NYS Route 50; 257.6-3-1
Site Plan Review – Addition

Richard Nolan, PE was present on behalf of the applicant.

Mr. Nolan was in front of the Board last month for the Oak Grove Motel and did receive Planning Board approval for an office addition on the front of the building, a bedroom addition off the back of the building and second story over the garage.

Mr. Nolan stated when researching the setback requirement, the online charts were a little confusing and thought there were some setbacks that had to be met, but subsequently found out it was a zero setback to the property lines.

Mr. Nolan stated the owner would like to add a couple additions to what was presented to the Board last time.

Mr. Nolan stated the applicant proposes a 4' addition off the back of the (one foot short of the length of the garage).

Mr. Nolan stated the applicant proposes to increase the bedroom 1' off the back to the east and 2' more toward the south.

Mr. Nolan stated the office on the front of the building did not change.

Mr. Nolan stated there are no setback limits.

Ms. Serra asked what the new setbacks are being proposed for this project.

Mr. Nolan stated from Sam's Chinese Restaurant its 10'.5" and from the school the shortest distance would be from the new deck off the back of the garage is 5'.

Ms. Serra stated that has a side setback to the school.

Mr. Nolan stated the drawing shows 10'

Ms. Serra asked Mr. Theriault and Ms. Marruso if they had the zoning tables because she feels the rear setback in the zone is 10 or 15'. Ms. Serra stated she did not review this application and apologized to the applicant. Ms. Serra stated there is a zero side yard setback in that zone however, is that the one that is building of height base.

Ms. Marruso stated doesn't think the rear is articulated.

Ms. Serra stated she does not want the Board to approve a rear setback that is not compliant.

Ms. Marruso stated there is no rear yard setback established in the Mixed Use Center.

Ms. Serra asked it is technically zero.

Ms. Marruso stated correct.

Chairman VanVorst opened the public hearing at 9:30 p.m.

Tom Andress, PE with ABD Engineers, LLP stated he is here on behalf representing Sam So who is the owner of Sam's Chinese Restaurant.

Mr. Andress stated as initially stated at the last meeting went through the approval process; this is adding another 2' to the south property line. Mr. Andress stated the applicant is proposing to add 2' to the bedroom.

Mr. Andress stated based on the map prepared by Santos Associates versus the map that was prepared by MacFarlane, which is a subdivision map that was filed with the Town in 2000, the bedroom is approximately 8' over on to the Sam So property and with the extra 2' would total 10'.

Mr. Andress stated obviously there will have to be a Boundary Line Agreement and possible litigation before that is constructed, but is just informing the Board that is just pushing it that much further over the line that is in dispute. Mr. Andress stated again, that line is not only in dispute, but the applicant has on the map that a specific Boundary Line Agreement is needed there and if the Board had an opportunity to look at the map would know that the property lines versus the deeds have a couple flaws on them. Mr. Andress stated their property is noted as 191', but the deed for the property is 167'; almost 30' off between the two. Mr. Andress stated one of the other lines is 150' versus 169'; almost 20' off between the two. Mr. Andress stated there are some significant issues and are not saying there are not significant issues with Sam So's property, that is why Santos Associates noted that a Boundary Line Agreement is needed and ask that the Board consider that during deliberations.

Chairman VanVorst closed the public hearing at 9:32 p.m.

Mr. Nolan asked who completed that survey.

Mr. Andress stated that was your survey map with the plotting of the building you have because you did not have it plotted on the applicants map; the applicants map did not show the

parcel lines and survey lines in the same manner that the Santos Associates map does; we just plotted the two together.

Mr. Nolan asked if the red line (as shown on the map) is drawn in by hand.

Mr. Address stated no, that is on the Santos Associates map.

Mr. Address stated he just traced over it in red.

Mr. Nolan stated that last month a representative from Santos Associates testified to the best of his belief the property line that he had shown was accurate; it was disputed not that because he felt it was wrong, he just wanted to make it known that others were disputing the issue.

Mr. Nolan stated that based on reading the deeds with the applicant feel that line is appropriate.

Mr. Reilly stated this is the third time looking at this and as you know, the Board adjourned to see if there was going to be any agreement and there wasn't. The applicant came back with full knowledge of a potential dispute, however we have a certified survey in front of us and the Board has every right to rely on that. Mr. Reilly stated if the approval is given, structures are built and what happens between private property owners is beyond jurisdiction and does not feel there is no impediment to the Board act this evening.

Mr. Reilly stated the applicant has gone on record knowing there is evidently some risk involved in the property line dispute and it may be in their best interest to get a Boundary Line Agreement in place before they construct the improvements. Mr. Reilly stated that is nothing this Board needs to or should get involved.

Chairman VanVorst stated the Board approved a Site Plan previously and asked if the Board amend that Site Plan.

Mr. Reilly stated the Board can just approve this application conditioned to.

MOTION: Mr. Maher motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Ms. Rodgers seconded the motion and all present voted in favor.

CARRIED.

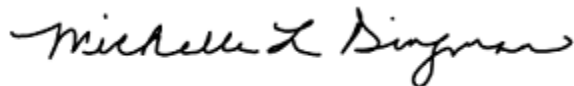
MOTION: Mr. Maher motioned to declare this an Unlisted Action under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Ms. Matias seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. Maher made a motion that the Site Plan as shown on sheet 1 dated 1-10-2018 be approved. Ms. Rodgers seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. Maher made a motion to adjourn. Mr. DiPasquale seconded the motion and all present voted in favor. **CARRIED.**

Meeting adjourned at 9:40 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michelle L. Dingman".

Michelle L Dingman
Planning Board Secretary