

**TOWN OF BALLSTON
PLANNING BOARD**

Monthly Meeting: November 29, 2017

Present: Jeffrey Cwalinski, Chairman
John VanVorst, Vice Chairman
James DiPasquale
Patrick Maher
Audeliz Matias
Daniel Shorey
Nicole Rodgers, 1st Alternate
Laura Muschott, 2nd Alternate
Brian Theriault, Building Inspector
Sophia Marruso, Senior Planner/Storm Water Management Officer
Kathryn Serra, PE, Town Engineer
Peter Reilly, Esq.
Members of the General Public

ABSENT: None

Chairman Cwalinski called the November 29, 2017 meeting to order at 7:30 p.m. and led the Pledge of Allegiance. Chairman Cwalinski reviewed the agenda.

Chairman Cwalinski asked for corrections to the October 25, 2017 minutes.

MOTION: Mr. VanVorst made a motion to approve the October 25, 2017 minutes as written. Mr. Shorey seconded the motion and all presented voted in favor; Ms. Matias, Mr. Maher, Mr. DiPasquale and Nicole Rodgers, 1st Alternate abstained – not present at said meeting.

CARRIED.

Chairman Cwalinski stated the next Planning Board meeting is scheduled for Wednesday, December 20, 2017 at 7:30pm – agenda meeting at 7:00pm.

OLD BUSINESS:

McDonalds Corporation

201 church Avenue; 216.-2-27.12 & 216.-2-25

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

John Lapper, Esq. and Steve Wilson with Bohler Engineering presented.

Mr. Lapper stated we gave two very positive letters to Ms. Marruso and Ms. Serra in hopes the necessary changes that the Board has been talking about were made and hoping to go through SEQRA and get conditioned approval tonight for the project.

Mr. Wilson stated the applicant was in front of the Board two months ago and is here this evening to address the concerns – comments outlined in staff and engineering review have been discussed in length.

Building Design

Since the last meeting, significant changes have been made to the building, which included adding the Amulet, which breaks up the windows.

The applicant proposes to change the Hardie Board to make it a more historical color. The Board recommended the applicant look at Stewart's and Dunkin Donuts and changed some of the colors – more muted and natural tones to the Hardie Board; provides a difference between the brick on the foundation and the rest of the wall and reduces some of the yellow on the lattice around the building.

The applicant kept the Barrell roof, however it is only along the front of the building and the remainder of the building has a traditional flat roof with parapets to hide all the mechanicals on top of the building.

Per the Board's request the plan represents actually what is proposed in terms of landscaping, parking lot and lighting.

Mr. Wilson said, "We heard what you said and tried to incorporate as much as the Board requested and think the only thing in terms of the building design, we had concerns with Ms.

Marruso comments indicating a false front door to provide an appearance of connectivity into the street front. Mr. Wilson said, “We really prefer not to construct a false front door because in our experience it creates somewhat of confusion with pedestrians because they try to access the building and constantly walk up to the false front door and try to enter the building and prefer to keep the doors the way they are.”

Mr. Wilson stated it was discussed last time not to have direct access into the play place from the street just for security reasons and would like everyone to enter the play place from within the restaurant.

Mr. Maher stated it is an improvement from the last submission. Mr. Wilson thanked Mr. Maher.

Mr. Cwalinski asked what is to stop snow from falling off the side of the Barrel roof onto the people below.

Mr. Wilson stated the Barrel roof will be pitched back a little so it doesn't go straight down onto the sidewalk.

Chairman Cwalinski stated the Board needs to come to an agreement with the Barrel roof because the Town of Ballston Design Standards do not address it and asked how the Board feels about the Barrel roof for the project – is it acceptable.

Mr. Shorey stated the gas station is much more appropriate for the surrounding buildings for that part of NYS Route 50.

Mr. Maher stated it's acceptable and would prefer something a little more in line with in what we are trying to do in that corridor, but had a fairly frank discussion last time and the applicants position was – this is it. Mr. Maher asked if that is fair to say. Mr. Wilson stated yes. Mr. Maher stated this is as good as you are going to offer. Mr. Wilson stated yes.

Mr. DiPasquale stated the staff has been pretty consistent on the front entrance with the concept of a front entrance on a main road and would like to see some attempt to accomplish that – it's been mentioned numerous times and make the front more presentable.

Ms. Matias stated the applicant indicated they incorporated a lot of the comments and does not think many of the comments were incorporated. If the applicant alerts the customers that is not the entrance; many business say “use side door” would solve the whole false door issue and be in compliance with the Design Standards. Ms. Matias is not a fan of the Barrel roof, but if the false door is incorporated, will live with the Barrel roof the way it is.

Mr. DiPasquale asked if there is a McDonald’s with a similar color scheme.

Mr. Cwalinski stated the color scheme is an improvement of what was initially proposed.

Mr. Cwalinski would like to see a drawing with a false door. Mr. DiPasquale concurs.

A further discussion was held on incorporating a false door on the front of the building facing NYS Route 50.

Chairman Cwalinski stated the Board needs to discuss the Hardie Board because the Town’s Design Standards are silent on that issue.

The Board concurs; in favor of the Hardie Board for the project.

Ms. Serra stated we are coordinated with NYSDOT on the southern entrance. Ms. Serra stated the applicants comment letter was a little confusing. The applicant replied that the McDonald’s application and the Rossi road, which is almost done. The site plans show the old small cut roadway. Your site plan and engineering is acting like that road is not there. Ms. Serra’s concern is when you do eventually approach NYSDOT about the south entrance is inside the taper of the Rossi loop road, which will be a Town Road in the spring; NYSDOT will not permit that. Ms. Serra stated that applicant cannot move forward when any site plan showing the south entrance may not be allowed to be located there. Ms. Serra asked where is the applicant with NYSDOT and when should the Board receive comments.

Mr. Wilson stated Permit 33 was submitted. The Site Plan was laid out to be shifted where ever NYSDOT decides it needs to go. Mr. Wilson stated their approach to the site Plan is we’re not doing work in the ROW; we are providing the land for the work to occur in the ROW; sidewalks, landscaping, driveways that have to be moved are not being undertaken by McDonald’s and will be part of the highway project.

Ms. Serra asked if the Site Plan was shown to NYSDOT for Permit #33. Mr. Wilson said, "We did."

Ms. Serra stated that is not correct – that is incorrect.

Mr. Wilson stated the applicant is showing to leave it as is for now; if the Rossi project needs to move it or NYSDOT says to move it, then we will work with NYSDOT on it – ultimately it is their road and the site is laid out so their internal curbing, circulation all works; if the driveway needs to move.

Ms. Serra stated if the driveway needs to move 30' to the north will bring the driveway to the building – and have not changed anything on the Site Plan and would have to move some things on the Site Plan; whether it's a minor or major change.

Ms. Serra stated obviously the applicant does not truly understand her point and the Board's concern that NYSDOT has to weigh in and should be hearing back from them in January, but is concerned the Site Plan in front of the Board shows incorrect information; the applicant is not even showing that there is a road built right there; it's not a true representation of what will occur during construction – effectively during the winter or spring. The applicant has shown the Board a plan that is not coordinating with an adjacent project.

Mr. Wilson said, "I don't know how we have a coordinated project; we laid it out, moved the building, moved the drive-thru, re-configured the entire parking lot to accommodate those future driveways – we submitted a plan separate from the Site Plan; that work is not part our project, it will be done by others. This is what McDonald's is doing; the project accommodates the future road and the work along NYS Route 50, but it's not being undertaken by McDonald's.

Mr. Wilson stated we have coordinated with Rossi extensively and NYSDOT so we can work together, but that work is not being undertaken by McDonald's.

Mr. Wilson said, "We will accommodate it and make it work, but it's not our project."

Mr. DiPasquale asked for clarification of the proposed sidewalks.

Mr. Wilson stated that McDonald's is transferring over a sliver of land in the front along NYS Route 50 to accommodate that work.

Mr. DiPasquale stated this plan does not reflect that.

Mr. Wilson stated it does not.

Mr. Wilson said, "When looking at the grey scale, there is a new ROW line that would run right through there.

Mr. DiPasquale stated it was not clear.

Chairman Cwalinski asked the location of the new ROW line.

Mr. Wilson stated it's located right along the new curb.

Mr. DiPasquale asked if it's labeled.

Mr. Wilson stated that becomes part of the NYS Route 50 ROW.

Mr. DiPasquale asked when is that going to happen.

Ms. Serra stated it's happening in the future and her comment letter noted there for future construction does show a sidewalk, however the light poles go off of NYS Route 50 for McDonald's aren't shown there – coordination needs to be done. Ms. Serra stated the biggest thing about that south entrance that needs to be done (and need to wait until NYSDOT weighs in) is NYSDOT going to allow that to be there or is NYSDOT going to ask the applicant to shift it. Ms. Serra stated the Board does not care who constructs the roadway; the Board is approving a Site Plan that may or may not be allowed to use later. Ms. Serra's recommendation to the Board is to wait until NYSDOT weighs in because if NYSDOT choose to ask about that the south entrance review be updated, it may result in some changes to the McDonald's site.

Chairman Cwalinski stated with respect to that ROW line, when is that ROW going to be deeded over to the NYSDOT.

Mr. Wilson stated sometime in the future.

Chairman Cwalinski asked who tracks that to make sure it does happen.

Mr. Wilson stated it is ultimately NYSDOT's approval that the ROW will be transferred over.

Mr. DiPasquale asked when the sidewalk will be installed.

Mr. Wilson said, "It would have to go in with all the other improvements associated with that permit from NYSDOT. Mr. Wilson said, "If the schedule for that road and turning it over to the Town, means the signal will be in and NYSDOT will sign-off on the project and everything will be done by then."

Mr. Lapper stated certainly the applicant is offering that as a condition of approval of whatever NYSDOT requires.

Mr. DiPasquale asked Ms. Serra if NYSDOT approved the Rossi improvements.

Ms. Serra stated yes, the left-turn lane design by Rossi has been approved. This Site Plan package shows (separate exhibit titled "Future Construction Plans") shows the approved layout by NYSDOT. Ms. Serra stated that NYSDOT has not approved this, but have approved Rossi's project.

Chairman Cwalinski asked Ms. Serra if that would hole up with Board's action on SEQRA and would need some NYSDOT approval.

Mr. Reilly stated the Board could move forward with Lead Agency and would not be giving any Declarations at this point.

Mr. Reilly shares Ms. Serra's concern about this Board giving this applicant any kind of approval before NYSDOT weighs in on this project.

Mr. Reilly stated the consensus of the Board is to get some kind of faux front door seems to be acceptable and return with that and see where the Board is at with NYSDOT.

Mr. VanVorst stated there were discussions in the agenda meeting about the signage on the wall and the Board has no statistics as to how many square feet their sign proposal is.

Mr. Wilson stated it's on the Site Plan.

Ms. Serra stated the applicant shows what their proposal is, but neglect to identify what zoning requires.

Ms. Marruso stated the resolution would be to extract from the current plan and would be pursuing an area variance from the signage at a separate time.

Mr. Wilson stated he was under the impression by staff comments that the walls signs were 100 sf.

Ms. Serra stated the applicant is proposing 129.7sf; 30 % higher and the Planning Board cannot grant this variance – we don't have a purview. Ms. Serra asked the applicant if they would like to go to the Zoning Board of Appeals now or after.

Mr. Lapper stated we will remove the extra sign on the north side of the building.

Mr. Wilson stated the sign to be removed is 33 sf and decide to remove will go below the 100 sf requirement.

Chairman Cwalinski opened the public hearing at 7:58 p.m.

Frank Rossi, Jr., Esq., 1 Constitution Court stated he is glad to hear that the Board is appreciative of the changes that are made to the façade of the building. Mr. Rossi stated that he has been reaching out to Wendy Holsberger, PE with VHB formally of Creighton Manning who has seen through our project since 2010. Mr. Rossi stated he had reached out to Lorinda Tennyson, NYSDOT to find out that status of the project. Mr. Rossi stated there are general concerns because last year the applicant had asked us to see what NYSDOT's flexibility was with their entrance plan at that time when the Wal-Mart approval had been granted. A plan was given with 100' between their driveway and the future signalized intersection (south driveway – right-in only) at that point in time, because of all the other accessibility and NYSDOT would reserve their rights if something was failing in those situations. Mr. Rossi stated what

happened here was it may have lacked 20 to 30 feet from what Ms. Serra is saying in this new plan, and because it is a re-development, NYS DOT is taking a fresh look at it because it's not meeting the same conformity that last year's design did and it is a new design. Mr. Rossi stated the right decision is being made tonight, but NYSOT is not going to do anything that is not going to hurt the applicant ultimately and wants to make sure everything works out here between these two roads and are trying to cooperate as much as possible and making sure the utilities are put in the right spots in case we get to our final agreement with McDonald's with the new road going in adjacent to them. Mr. Rossi stated he is trying to do everything on their end to expedite everything as well. Mr. Rossi stated they are taking care of the west side of Church Avenue creating walkability from Thomas Avenue all the way to the signalized intersection to the crosswalk there. Mr. Rossi stated anyone on the east side will be responsible for their own sidewalk if they are doing redevelopment. Obviously Augie's at some point will be doing that and does not know what Jim's Service Station idea is, but they already technically have a certain level of cement out front and the question is – what does McDonald's do with their front – don't want an obligation on Rossi in the first place for being responsible for sidewalks.

Chairman Cwalinski adjourned the public hearing for this evening at 8:00 p.m.

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

CARRIED.

Mr. DiPasquale stated there seems to be conflicting information regarding sidewalks.

Ms. Serra stated that Mr. Rossi and the prior Wal-Mart application had the sidewalk on the west side of the road.

A further discussion was held on sidewalks on the east side of Church Avenue.

Ms. Marruso stated the Design Standards call for a minimum of 8' wide sidewalks in the Mixed Use Center North Zoning District.

Chairman Cwalinski stated that is a requirement and a (shall); so the applicants provide sidewalks or go to the ZBA for a variance.

Mr. Reilly stated it is mandatory.

Mr. Wilson stated it's a Design Standard issue that does not require a variance rather a waiver from the Planning Board.

Chairman Cwalinski stated he believes it states – (shall have).

Ms. Serra stated that the Design Standards are part of the Zoning.

Mr. Reilly stated the Board's interpretation is now the way they are drafted unlike many that do allow for waivers from the Planning Board, those that are mandatory that are in the Zoning Law, cannot be waived by the Planning Board and would need a variance by the ZBA.

Ms. Marruso stated the public spaces have two components that dictate what the sidewalk material should consist of – it indicates a minimum of 8' width for sidewalks is within the same components that street lighting and off street parking; does not see where it is an option.

Ms. Serra stated the Board should research the zoning.

Mr. DiPasquale stated the goal was to get sidewalks so people can walk outside the roadway.

Ms. Serra stated the only argument to make in favor of not making the applicant put in a sidewalk, is the Rossi's are mandated to put a sidewalk across the street, a cross walk and then a sidewalk right along the edge of McDonald's property going into the site. Ms. Serra stated at some point in the future, there will be a sidewalk right along the southern property line of McDonald's along the new Town Road.

Chairman Cwalinski stated there would be walkability coming across the west side.

Ms. Rodgers stated she would think the Board would want consistency.

Mr. Wilson stated an 8' wide sidewalk is a lot of sidewalk and if the applicant does not have an 8' sidewalk, would need a variance from the ZBA.

Chairman Cwalinski stated yes, because it is part of the Town's Law and we do not have the legal authority.

Mr. Wilson stated the universal standard for a sidewalk is typically 5' wide.

Chairman Cwalinski stated the applicant will need to go to the ZBA for a variance.

Ms. Serra stated do the Design Standards actually mandate a sidewalk – it refers to the materials and width; does it actually say "is it mandatory."

Mr. Reilly asked Mr. Lapper to review the Design Standards relative to sidewalks.

Mr. VanVorst asked if the applicants are going to put a door in.

Chairman Cwalinski asked the applicants to submit a sketch with a door.

The applicants coordinate with NYSDOT for the road cuts.

Chairman Cwalinski asked Mr. Lapper to discuss the sidewalk issue with Mr. Reilly.

Chairman Cwalinski stated the Board resolved the siding (Hardie Board) – no need for a variance.

Chairman Cwalinski stated the Board resolved the Barrel Roof issue.

Ms. Marruso asked the applicant to add a lighting fixture detail to the plans for the next submission.

Chairman Cwalinski stated the deadline submission for the next Planning Board meeting is December 6, 2017 at 12:00 p.m.

Application tabled.

Stewarts

810 NYS Route 50; 257.10-2-70

Site Plan Review – New Store

Chris Potter, a representative from Stewart's presented.

Mr. Potter stated at the last meeting, there were some concerns about the number of parking spaces not meeting the requirement; the plan now shows 37 parking spaces for the project that is required.

Mr. Potter stated Stewart's has reached out to NYSDOT regarding access to the site; a meeting is scheduled with NYSDOT on December 4, 2017 to discuss the project.

Mr. Potter stated a Traffic Impact Study was submitted for review, but based on that, the project will have no impact on traffic to the roads as well as the site driveways proposed on the adjacent street.

Mr. Potter stated they are working with ACOE to get the permitting to locate the culvert that goes through the site.

Mr. Potter stated there were some comments about rotating the proposed building. Mr. Potter stated we did take a look at that; if the building is rotated, parking is lost and is not a desirable layout internally for Stewart's.

Mr. Potter stated we added an additional door, enlarged the porch on the North West elevation on NYS Route 50 having two fronts to the building.

Mr. Potter stated there is also a comment regarding blank wall space and are proposing adding false windows on the North East elevation of the proposed building and on the North West side.

Mr. Potter stated they will provide the Board with a septic system design at the next submittal.

Mr. Potter stated the height of the light poles is 15'. There is some light spillage out on the road. Mr. Potter stated there are lights in the entrances are a good thing to have so people know where the entrances are located.

Mr. DiPasquale stated from a practical point of view, there are street lights located there on NYS Route 50 and LakeHill Road.

Ms. Serra stated her comment states, it's not code compliant.

Chairman Cwalinski stated the applicant will have to go the ZBA for a variance.

Ms. Serra stated she did not know.

Ms. Serra stated historically the Board has allowed some in the past.

Chairman Cwalinski stated the Board did allow at the last Stewart's.

Ms. Serra stated the numbers are 4, 5 and 6 in the NYSDOT ROW; it's a lot not a little.

Ms. Serra stated obviously the applicant has some light spillage off of the property line that is not along the road, it's not permitted.

Mr. Potter stated we can look at and may be able to change.

Mr. Potter asked what the Board would like to see in the roadways so the applicant has a sense of design for the site.

Ms. Serra stated the only argument the applicant has with the code is to have your engineer figure out what the illumination is currently in the ROW for the street lights; if the applicant is not increasing that, could argue that you are code compliant – you are matching the existing.

Chairman Cwalinski concurs.

Ms. Marruso asked if there are going to be shields for the lighting.

Mr. Potter stated the lights that Stewart's uses have a back shielding feature, which would cast light out; could be done along the residential property and the driveways themselves.

Ms. Serra stated Mr. Potter mentioned meeting with NYSDOT on Tuesday. Mr. Potter stated yes, it is not particularly for this project, but will be looking at eight other projects to discuss and generally meet with NYDOT every December to go over all our projects.

Ms. Serra asked if Ms. Tennyson has been providing a Traffic Study.

Mr. Potter stated yes, and reached out to her to see if she would have comments for the revision and to date, has not looked at anything yet and should have something by next week.

Ms. Serra stated she will provide comments to Stewart's once BFJ reviews their Traffic Study.

Mr. Potter stated building code does not require a sprinkler system for food preparation; plans show a 1" water service would remain. Water lines will be provided on the plan in the next submission.

Mr. Potter stated as far as shifting the entrance on NYS Route 50, the pole is there and two guide wires and are as far away from the intersection without impacting the guide wires.

Ms. Serra stated she did not see NYSDOT allowing Stewart's a left turn-in south bound onto NYS Route 50. Traffic would be crossing two lanes of traffic; queues on NYS 50 northbound signaling in the PM are too long. Ms. Serra asked if that would change anything in your site plan if that was not a restricted entrance or would it just be signage.

Mr. Potter stated at this point signage. Mr. Potter stated we did explore the option of doing a shared entrance with the neighbor to the south, they were not in favor of that – we definitely would be and set something up in the future for inner-connect.

Ms. Serra stated most likely the traffic consultant is most likely to provide that as an adjustment to the plans. Ms. Serra has briefly reviewed the Traffic Study before forwarding to BFJ – the queue lengths north bound is 480', which brings traffic back to the entrance of CVS and now asking someone to cross the intersection and stop at the intersection and make a left hand turn after crossing two lanes of traffic. The Traffic Study assumes more access, but more than likely making a left onto LakeHill Road and an immediate right onto site, would be less of a burden operationally.

Chairman Cwalinski stated it's a busy intersection come 3:00 p.m. to 3:30 p.m.

Mr. VanVorst stated there is a rumor in the community that Stewart's has bought the property to the East.

Mr. Potter stated no.

Mr. VanVorst has a hard time understanding the leach field on top of the water system.

Mr. Potter stated the underground stream is getting redirected. There is a 48" culvert that goes through, which will be removed and it's the large "dash line" on the plans will be the new location.

Mr. VanVorst asked why will parking spaces be lost if the building in rotated.

Mr. Potter stated because the spaces extend beyond the building (on the short side) – if it's rotated and flipped, would project into the delivery area and those two spaces will have to go away to allow for the delivery truck to get into the building.

Mr. VanVorst stated if the building was rotated, could parking places be put to the South East side.

Mr. Potter stated no, and would not be able to add anymore to that side. There would be no room on the South East side to add more parking spaces.

Chairman Cwalinski asked if the plan has been laid out and verified. Mr. Potter stated yes.

Chairman Cwalinski stated this Board is very visual and asked if the applicant could provide the Board with a copy of that drawing.

Mr. Potter stated yes.

Mr. Maher stated the Board would like to see the building along NYS Route 50, but if there is a genuine issue with the orientation and the impact of doing that with parking.

Mr. Potter stating two parking spaces would be lost by doing that.

Ms. Serra stated if the applicant wants the front of their proposed building to be along NYS Route 50 and present a common façade, is losing two parking spaces, would be that much of a problem.

Ms. Marruso stated the Planning Board has the ability to have sub-standard parking as long as the applicant can show banked parking; show two more banked parking spaces with the orientation might strike a compromise.

Ms. Serra stated in the past have asked applicants who requested a parking waiver – “what do you see at your site.”

Mr. Potter stated the applicant needs all 37 parking spaces.

Ms. Marrusso asked if Stewart's has gone through a parking waiver at the Church Avenue location. Mr. Potter stated yes, but now is lacking parking.

Chairman Cwalinski agrees.

Mr. Maher asked if the applicant would have a similar issue at this location.

Mr. Potter state yes.

Mr. Potter stated the larger issue is the internal flow inside the shop; not exactly the two parking spaces, but if the internal flow does not work because of the pump locations.

Mr. DiPasquale stated the revised elevation comes pretty close to a front entrance on NYS Route 50.

Ms. Matias asked, "If the North West side be the main entrance and the North East side can be the side with the faux windows and extra door, which will allow keeping an eye on the pumps and the door for people coming in."

Mr. Potter stated it's not necessarily the eye for the door to people to come in – it's the inner workings of all of our products that are marketed within the shop. Mr. Potter stated Stewart's did this before and is really not conducive to the way Stewart's lay's their stores out to have the orientation that way. The main door is the front and then put that on the side would have customers coming in on the side – would force all customers coming in to our ice cream seating area. Mr. Potter stated we are ok with that as a secondary entrance, but not as the main entrance.

Ms. Serra asked if that could be shifted to give an entrance similar to Eastline Road/NYS Route 67 store.

Mr. Potter stated no, not with this roof line.

Ms. Serra stated Stewart's does have an option from a store layout to have a corner entrance.

Mr. Potter stated not with this building. Ms. Serra stated a different architectural treatment (roof line) would be needed.

Mr. Potter stated yes, if the Board was ok with a Mansard roof.

Mr. DiPasquale stated this roof style is more compatible with the "Downtown."

Ms. Serra asked if there is a side entrance to this proposed store.

Mr. Potter stated yes, the side that faces NYS Route 50 is the secondary entrance.

Chairman Cwalinski asked if the Board would like to see a drawing with the building rotated 90 degrees.

Mr. Potter stated going forward is a deal killer for Stewart's. If Stewart's had to rotate the building, would have to withdraw their application for the project.

Ms. Marruso asked how it is working at Exit 11.

Mr. Potter stated it isn't, the internal flow is very difficult.

Ms. Serra stated the Town requirement has the main entrance presenting at the road. The Board needs proof and a sketch may help the Board to definitively say "we are ok with this" because the next applicant that comes in, might not have a reason like Stewart's; a simple concept sketch describing losing parking and the flow is worse. Ms. Serra stated she can visualize what you are saying, but most of the Board can't.

Mr. Maher stated the Board did look at this and the applicant has expressed their concerns with internal traffic flow and would be something the Board could review.

Ms. Serra stated a great example is the application before you – they are not presenting a main façade to NYS Route 50, but the Board saw an option they have tried to, but look terrible and did not work and are not meeting the intent of the Town's zoning.

Chairman Cwalinski stated it gives the Board justification for saying, "Do it this way, you are making an attempt to comply with our Design Standards and if this looks ridiculous, we can say, "it just doesn't work"- you have made an attempt; here is the proof and go do it your way."

Mr. VanVorst said, "We can then live with ourselves."

Chairman Cwalinski stated exactly, we have done our job.

Mr. VanVorst asked the applicant show the exterior of the store in Perth (4-corners).

Mr. Potter stated Stewart's bought that building (did not design) and purchased the competitor across the street and sold the one they originally purchased.

Mr. DiPasquale asked the applicant to provide proper screen to the south east.

Ms. Serra stated the proposal is to raise the grade back there 6 or 7' and that homeowner is not really used to having that parcel so high up; existing use being much farther down.

Ms. Marruso asked that the future submission be amended of what the ground floor transparency is – there is a 50% requirement.

Ms. Marruso stated we talked about changing the lighting and clarify the dumpster location and what materials will be used for screening.

Mr. Potter stated it's shown as a chain link fence, but are proposing a 7' high white vinyl fence enclosure.

Mr. Reilly stated the applicant is not inclined or in favor on changing the orientation and if you (the applicant) did, would that change your application to the Zoning Board of Appeals.

Mr. Potter stated it would.

Mr. Reilly stated it may be beneficial to the applicant and the ZBA to look at this as it might change and to hold off on that agenda for this coming Wednesday and wait until you (the applicant) finalize (conceptually) before going in front of the ZBA. Mr. Reilly stated it's up-to

the applicant (Stewart's is on the ZBA agenda). Mr. Reilly stated the ZBA would not act on it until there is a determination from the Planning Board as far as the concept.

Ms. Matias asked the applicant is there is data showing how many stores Stewart's has where the main entrance faces "x" versus the secondary access.

Application tabled.

Surinaer Cheema

1324 NYS Route 50; 228.-3-9.2

Site Plan Review and Special Use Permit – renovate existing gas station

Richard Nolan, PE with Nolan Engineer presented on behalf of the applicant.

Mr. Nolan stated that he has received comments from the Town and C.T. Male for the project.

Mr. Nolan stated at the last meeting, the Board asked for colored elevation renderings, which have been provided for the project.

Façade

Mr. Nolan stated proposed is cream colored siding with a 4' high stone wall; side windows have been provided for the project.

Septic System

Mr. Nolan stated a perc test and deep hole tests were performed for the location of the proposed septic system and drywells.

Lighting Plan

Mr. Nolan stated he is working on the photometric plan to show the proposed lighting plan for the project. The Design Standards did now show LED lights as an option. Mr. Nolan said, "He spoke to someone at the Town and said they were fine with LED lights."

Sidewalks

Mr. Nolan stated the proposed sidewalk to match existing 4' wide sidewalk.

Ms. Marruso stated the applicant is providing functionality and working with existing very recently installed conditions and said, "It's a different circumstance."

Chairman Cwalinski stated there is no requirement for the applicant to go to the ZBA for a variance.

Mr. Reilly stated no, connect to the existing width of the existing sidewalks.

Landscaping Plan

Mr. Nolan said, "The Design Standards calls for trees to be planted, but recognize, due to the turn-off on the road, would not be a good location to have trees planted and choose items that would not block the view."

Signage

Mr. Nolan stated the applicant proposes a 4' x 8" (32 sq. ft.) street sign located on the north side of the parcel (replace existing sign) and a 6.5' x 3' (19.5 sq. ft.) wall sign; the applicant is 9 sq. ft. over the signage requirement. Mr. Nolan stated that the canopy has signage on it and is not addressed in the Design Standards. Mr. Nolan said, "The canopy has one long sign facing NYS Route 50 with two short sides totaling 55.6 sf. Totaling over 100 sq. ft. and were told by the gas station that it is an absolute requirement to have signage on the canopy."

Ms. Marruso stated a sign variance would be required by the Zoning Board of Appeals.

Ms. Serra recommended a chart on the front of the plans showing the setbacks of the areas – lay it out and calculate what you (the applicant) say to be the zoning requirement and that way it is easier for the Board to tell you (the applicant) whether you are compliant.

A further discussion was held on the windows on the building for the project.

Ms. Serra asked Mr. Nolan if the windows would be brought up to the top to meet the top of the windows of the front door.

Mr. Nolan stated yes.

Ms. Marruso asked the transparency of the windows.

Mr. Nolan stated the applicant is not planning on tinting the windows.

Ms. Marruso said, "If something were to obstruct the window, it would clear and visible from the outside."

Mr. Nolan stated yes.

A further discussion was held on plain or wood grained textured vinyl siding.

Mr. Nolan stated the applicant to use wood grain textured vinyl siding for the exterior of the proposed building and false windows on the north and south side of the proposed building.

Ms. Rodgers said, "Could you add shutters to the transparent windows and closed ones on the other sides."

Ms. Nolan stated the dumpster screening will be specified and will complement the proposed exterior.

Mr. DiPasquale asked if the applicant is reusing the existing canopy.

Mr. Nolan stated the proposal is to use the footprint (12' steel columns) of the canopy.

Ms. Serra suggested the Stewart's proposal that was before the Board was a canopy that the Board has liked from an architectural standpoint – feel free to use that.

Mr. DiPasquale asked the applicant to put that detail on the front elevation.

Mr. Nolan stated the canopy elevation will be provided.

Mr. Nolan has an issue with a Traffic Study requested by C. T. Male for a gas station that is there, but not in use.

Ms. Serra asked if the applicant could do a queue analysis and provide the peak hours and provide the Board with a report of the queuing.

Ms. Serra stated knowing this area, Brookline Road entrance does have significant issues with that queue way past the existing gas station and that white house on Brookline Road.

Mr. Nolan stated he has never been held up at the intersection.

Ms. Serra stated NYS Route 50 is not bad at that time, but the PM peak hours traveling west bound gets really backed up.

Ms. Serra stated the applicant will have to apply for permits from NYSDOT and Saratoga County DPW and does not know what they are going to ask for from the applicant; at a minimum, provide a queue analysis for the project at that intersection at the PM peak hours. Ms. Serra stated a courtesy gap will be necessary to get out of site and be less of an impact to the road network and more of an impact to your business. Ms. Serra recommended moving the entrance on Brookline Road farther to the east, but that the location of the proposed septic system. Ms. Serra stated that NYS Route 50 is in favor of improving the access point, but Saratoga County DPW may give the applicant a hard time. Ms. Serra said, "Anything at this point because the applicant is bringing the Brookline entrance closer and the neighboring gas station is already close; the applicant is coming in even closer. If it comes off of the queue analysis that entrance is going to be tough to navigate during the peak as long as it does impact the local road network, does not believe the Board would object proof that the applicant is not impacting the local road. Ms. Serra agrees that a full blown Traffic Study is unnecessary given the applicant is not generating new traffic; people don't go out of their way to a gas station – there is one at every corner."

Ms. Serra stated that Stewart's is intensifying the use of what is there presently.

Mr. Nolan stated a demolition plan was added to the sheet set.

Mr. Nolan stated the applicant is working on a topography plan.

Mr. Nolan stated the mislabeled waterline was fixed.

Chairman Cwalinski asked if the applicant had any issues with C. T. Male's comments.

Mr. Nolan stated no.

Ms. Serra said, "BFJ's recommends certain conditions be read into the record during Site Plan Approval."

Ms. Matias stated the applicant is going to use the 12' freestanding sign and using the same size of the graphics or will the size of the sign change.

Mr. Nolan stated the applicant is going to use the exact same location and is not sure of the height of the existing sign and the proposed sign detail meets the zoning requirements.

Chairman Cwalinski stated he thought the height requirements was 8' max.

Ms. Serra stated the applicant is talking about the total height of the pole.

Mr. DiPasquale stated water collects at the Brookline Road exit and freezes in the winter and to look into alleviating that issue.

Chairman Cwalinski opened the public hearing at 9:05 p.m.

No one wished to speak.

Chairman Cwalinski adjourned the public hearing for tonight at 9:06 p.m.

Mr. Nolan stated if the Board could address all comments that were made at the meeting, is there likelihood at the next meeting, to get a conditional approval pending NYSDOT.

Chairman Cwalinski asked what is needed from NYSDOT.

Ms. Serra stated given the site, if the applicant can perform a queue analysis as requested. Ms. Serra stated she had an issue from a NYSDOT standpoint that she had about Stewart's. Ms. Serra said, "She feels NYSDOT is going to stay it's a similar historic use, basically using the same entrance – different ballgame than a Stewart's."

Chairman Cwalinski asked the applicant to address the outstanding comments. The deadline is December 6, 2017 at 12:00 p.m.

Application tabled.

NEW BUSINESS:

Oak Grove Motel

830 NYS Route 50; 257.6-3.1

Burnt Hills, NY 12027

Site Plan Review – Addition (front & rear) to existing building & second story over garage.

Richard Nolan, PE with Nolan Engineer presented on behalf of the applicant.

Mr. Nolan stated Mr. Zhang (the applicant) has operated the motel for 16 years and lives on the property and operates the business out of the main house located to the south of the property.

Mr. Nolan stated the applicant proposes to construct a 20' x 20' one-story office off the front of the main residence, construct a master bedroom and a sunroom off the southeast side of the parcel (the residence to remain a two bedroom); current existing bedroom to turn into a bedroom with a hallway and construct a second story over the garage (to be used for storage) and a deck.

The parcel is located in the Mixed Use Center South zoning district and the setback limits are not applicable because the applicant is adding onto an existing structure.

Proposed setbacks

12.6" South

150' North

11" West
10'.8" East

The setbacks in the Mixed Use Center South are 10' rear and zero side yard setback and front yard is the build-to line.

Mr. VanVorst stated page 3 of the EAF stated "Ballston Spa" change to "Burnt Hills", page 8 the applicant answered "No" change to "Yes."

Mr. Nolan stated the proposed addition to match existing façade.

Mr. DiPasquale asked if the property line dispute has been resolved as stated on plan (Note 4) – part of the proposed addition is on the "disputed" area.

A further discussion was held boundary line survey for the Lands of Zhang and Lands of So.

Mr. Nolan asked Mr. Zhang is there is still a dispute over the property line.

Mr. Zhang stated no.

Mr. Nolan asked, "What line are there are they disputing."

Mr. DiPasquale said, "The little triangle in the back and the left side."

Mr. Zhang said, "Yes, we got the line approved with a certified survey."

Mr. DiPasquale said, "Note 4 on the plan and the addition is going on the area of the southern parcel."

Chairman Cwalinski stated the Board is not going to resolve any property line disputes tonight.

Mr. Reilly stated there is a public hearing and Tom Andress, PE with ABD Engineering & Design is present on behalf of Sam So.

Mr. Reilly stated there were discussions in the agenda meeting there are a lot of other things to be discussed and approvals will be given eventually when presented with a survey showing they believe this to be the property line; we are not going to get involved with a property line dispute and could grant the approval's on this if the adjoining owner feels as though there are encroachments, or will be when construction is undertaken, and obviously would have recourse to stop that. Mr. Reilly stated as long as the Board is presented with a certified survey, you can certainly have based on that, but not getting in the middle of a dispute. Mr. Reilly does agree with Note 4 on the survey and has Mr. Andress' letter and does not know if there was further discussion since then.

Chairman Cwalinski asked if this is residence.

Mr. Nolan stated yes.

Chairman Cwalinski asked if the applicant is adding new bedrooms.

Mr. Nolan stated yes, adding a new bedroom, but removing existing bedroom; the number of bedrooms will remain the same.

Chairman Cwalinski asked if there are any changes to the septic system.

Mr. Nolan stated no.

Chairman Cwalinski asked what is being stored over the garage.

Mr. Zhang stated it will be used for storage.

Chairman Cwalinski asked if hazardous chemicals will be stored over the garage.

Mr. Zhang stated it is to be used for storing furniture.

Chairman Cwalinski asked if there is any additional lighting being added.

Mr. Nolan stated just in the covered porch area.

Chairman Cwalinski asked if there are changes to the signage.

Mr. Nolan stated no.

Chairman Cwalinski asked about HVAC equipment.

Mr. Nolan stated to be located inside of house or basement.

Chairman Cwalinski asked if additional antennas will be on the roof.

Mr. Nolan stated no, no additional antennas or satellite dishes on the roof.

Chairman Cwalinski asked Ms. Marruso or Ms. Serra if there were other comments.

Ms. Serra stated she did review the application, but did not require engineering review.

Chairman Cwalinski opened the public hearing at 9:23 p.m.

Tom Andress, PE with ABD Engineering & Design

Mr. Andress stated the Board should be in receipt of his letter. Mr. Andress represents Sam So, the adjoining property owner. As Mr. Reilly stated earlier, there is a dispute in the property line. Mr. Andress has been working with their Surveyor from Santos Associates. The last discussion we had was towards the end of the summer in reference to the property line.

Mr. Andress stated in 2001, there was a survey presented to this Board for a Subdivision for Mr. So's property that showed a property line that is significantly different than the survey that was done by Santos Associates by the end of last year. Mr. Andress stated he has had discussion regarding the note on the survey with a representative from Santos Associates. Mr. Andress stated if you read the deeds, there are discrepancies between the properties. Mr. Andress stated that Mr. So has not objection to the approval of what is being proposed for this project, except for the bedroom area. The bedroom area (the orange on the map would be the boundary line (approximately) where the disputed property is. Mr. Andress stated asked the Board, as we (the applicant) move forward; we would like to get a boundary line agreement with the two parties. There is physical evidence, which includes a fence on the property line

that the “McFarlane” survey claimed as the property line – there is physical evidence to show the “MacFarlane” survey has some validity and whether or not in the end there will be a boundary line that will move that “MacFarlane” property back into Mr. So’s property line. Mr. Andress stated in his letter to the Board, that it is not this Board’s obligation to determine a property line, but since it has been identified, and since there is a note on the plan, and is a disputed area and this Board needs to be very careful in taking an action on that portion of the project.

Mr. Reilly asked if there are ongoing discussions.

Mr. Andress stated he has had discussions, but there have not been discussions between the two parties; only discussions between ABD Engineering & Design and Santos Associates. Mr. Andress stated one email said, “There would not probably be an agreement”, but that is between the two parties. Mr. Andress stated it’s ultimately up-to the properties owners to make some kind agreement.

Chairman Cwalinski closed the public hearing at 9:30 p.m.

Mr. Reilly asked if Mr. Nolan was aware of the situation.

Mr. Nolan stated no he was not.

Mr. Reilly asked Mr. Nolan if he would get involved to some extent.

Mr. Nolan stated yes.

Mr. Zhang asked who is Mr. Andress .

Mr. Reilly stated Mr. Andress is a Professional Engineer who has been retained to represent the adjoining owner on the issue of where that common property line is.

Mr. Reilly stated the Board is not going to hold this up over a property line dispute between two private land owners, but at this point, would behoove of you and Mr. Nolan to talk to Santo Associates and get up-to speed on the dispute and where it lies. Mr. Reilly stated he does not know if there is a way to reconfigure the proposal to stay away from the property, if not, can

move forward and this Board will act on it and may result in a private action by the adjoining owner to remove the alleged offending improvements.

Mr. Zhang explained he had a certified survey of his property.

Further discussion was held on the boundary lines of the two properties.

Chairman Cwalinski asked the applicant if they are going to talk to Mr. Andress and try to resolve this and maybe even try to re-configure.

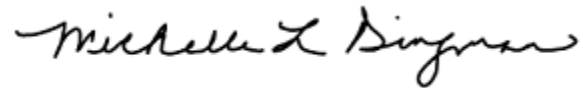
Mr. Nolan stated yes, that is his number one priority

Application tabled.

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

Meeting adjourned at p.m. 9:37 p.m.

Respectfully submitted,

A handwritten signature in black ink, reading "Michelle L. Dingman". The signature is written in a cursive style with a large, stylized initial "M".

Michelle L Dingman
Planning Board Secretary