



Town of New Lebanon

Planning Board Regular Meeting Minutes – Unapproved
September 16, 2020

Present: Elizabeth Brutsch, Chairperson
Jim Carroll, Planning Board Member
Greg Hanna, Planning Board Member
Bob Smith, Planning Board Member
Tegan Joy Cook, Planning Board Member

Absent: William Banker, Planning Board Member

Others Present: Ted Salem (Zoning Board Member), Bob Gilson (CAC) Paul McCreary (Town Engineer) Cissy Hernandez (CEO) Jeff Hattat (Deputy CEO) 4 members of the public (Lori Bashour, Michael Lee, Alan Staack, Betsey Feathers, Bryce Recer, Robert Linville)

I. Call to Order

Chairperson Brutsch called the regular meeting of the Planning Board to order at 7:30 pm.

II. Regular Meeting

Building- Zoning Permit Application Denial 20-065

Property owner is requesting a jurisdictional determination on the ZEO's denial on her request to reconfigure unit 3-112-113 (former OTB) at the Midtown Mall to create 3 new units for three different uses. The ZEO's denial was based on the use table and the change of use requires site plan approval.

Attorney Robert Linville (representing Lori Bashour) explained that his client would like to modify an existing assembly space that was used by the OTB. The use is less intensive. They would like to expand M & M's with a banquet hall and 2 retail/office spaces. This request is for less intense purposes. Board member Carroll asked, "What is the parking space allotment for OTB and what was its parking space allotment: How does it compare to the expected parking lot allotment for the 2 small areas and M & M's banquet hall?" Lori Bashour, "The M & M banquet hall would not be used during COVID." Mr. Linville explained that the parking space use for the banquet hall would be less.

Board member Carroll stated that M & M's banquet hall would be able to hold more people because he would be utilizing a larger space. Attorney Linville, "The banquet area would be a place where you would have larger groups. People are dining with hesitation indoors."

Board member Hanna explained that OTB was a state run business and they did not need to apply for parking. They do not need to pay attention to local laws. Ms. Bashour, "the OTB has 20 spaces allotted to it. Chairperson Brutsch wanted to know how many people frequented OTB daily. Ms. Bashour said that she wasn't sure how many people frequented the OTB, but that the parking lot was never full. She went on to explain that the mall has a 98-100 car parking capacity, with an accommodation to switch out spaces when certain retail is open in the evening.

Chairperson Brutsch, “Would M & M’s serve out of the existing kitchen.” Ms. Bashour, “yes, M & M’s would still be using the same kitchen”.

Board member Cook asked if it would be just two offices going in. Lori, “offices or retail is the request”. Member Carroll, “How do you get into the offices? There are no doors shown on the plan. Lori explained this is just a sketch, the actual drawings are not required at this time. They don’t need to be shown at this time,

Member Smith, “I don’t know why she has to come in front of the board all of the time”. Town Engineer McCreary explained that that is the way the code is set up. Member Carroll asked for Clarification, “The request is for approval for 2 retail/ office spaces and banquet. Is there a Mechanism to do an approval for three uses at one time”?

Ms. Bashour explained that because of COVID we would be without rent until the government gives us the go ahead. We are asking for it to be a banquet use to give us more options”. Ms. Bashour, “What is the reason to ask for that”? Chairperson Brutsch replied, “There are concerns with the septic and rodent problems”. “There is a concern if the septic would be able to sufficiently handle the new uses. You might have to add another toilet in the future”. Ms. Bashour, “The Board Of Health regulates the septic. Chairperson Brutsch, “it would not meet code with the number of bathrooms the way it is now.” Ms. Bashour, “The new uses would be connected to the existing restrooms”.

Ms. Bashour explained the septic issue. There was an overflow. The current system has a capacity of 3,000 gallons a day and is inspected yearly. The overflow problem has been fixed. The current septic system uses 1,500 gallons a day. CEO/ZEO Hernandez explained that the town had received a notice of sanitation violation for the septic from the Columbia County Health Department. Ms. Bashour explained that the issue was resolved. Ms. Hernandez explained that the town would need notification from the county that the problem was resolved. Ms. Bashour explains the rat issue. She had Orkin come out and they prepared a plan for the entire building. They are confident that they can manage the issue.

Member Cook, “I don’t have any issues, I believe the use would be less. For the banquet hall think of the future usability. The hall may allow the restaurant to get back to capacity. I don’t see it as a higher use, or larger impact”.

Ms. Bashour clarified that the banquet space would not be an expansion of the restaurant. Chairperson Brutsch stated, “we can classify it has a banquet use, but I think that if we approve it for a restaurant it should come back to us as a site plan review for that use. I think it is an increased use in that space. You are doubling the amount of the restaurant”. Attorney Linville, “OTB use was more intense than what Lori proposes. Banquet occasions are not every day, and therefore it is a lesser intensity use”. Chairperson Brutsch, “We can classify it as banquet use but it doesn’t stop him from putting people in there. I’m fine with approving the retail/professional use, but I think if we approve it for a restaurant it should come back as a site plan review for that”

Lori, “If you want you can put in if another kitchen is added you need to go to the Board of Health and make sure you meet all requirement. You can make a note if you would like that

He cannot add another kitchen.” Member Carroll, “How would it be a problem, would a new use need to be determined. It would be strictly for banquet purposes”.

Attorney Linville asked to please consider the approvals with the landlord, the use of space & application of the town code. Prohibit extension of restaurant with a kitchen addition”. Chairperso Brutsch, “I would like to remove the banquet completely, and approve it for retail/office space and if you wanted to pursue the full banquet then you should come back for a full site plan review”. Chairperson Brutsch, “We need to address in some way that it would be for banquet purposes only”. Member Carroll, “If they wanted to go make it a bigger restaurant would they have to go to the CEO?”

Member Cook, “we need to identify it has strictly banquet purposes only and if the owner uses it as A restaurant then he would get fined”. Member Carroll, this would be an expanded floor space to restaurant. There is no use for banquet”.

Member Carroll, “Does anyone know what the seating capacity is in M& M’s?” CEO, “83”. Chairperson Brutsch, “the NYS code says 260 people capacity.” Member Carroll, “According to the drawing it would hold 48.”

The Board asked for input from the town engineer. Paul McCreary, “A strip mall is designed to have multiple uses. This building was created in 1988. There was no planning review in 1988. This is an existing facility. The restaurant wants to expand, the restaurant can expand. What are The impacts? Traditionally under SEQR that would be traffic, and septic. Sounds like to me the Town knows nothing about the septic. Does the septic have a SPDES permit?” Lori, Yes”. Mr. McCreary, “Please forward a copy of that to the CEO”.

Mr. McCreary, “This is an extension of the restaurant, if they wanted to use it as a banquet hall it Would be a lesser intense use regardless of how many people could occupy the space. This doesn’t mean they would fill it. It comes to the board that this is a banquet hall, This doesn’t seem like out of the ordinary for a strip mall based on that it was an existing facility that was approved sometime, some way. There has not been a significant change to the building. You are stuck with whatever parking is there. I do not see this as a large impact the way the town has the code right now”.

Lori asked if it was necessary to come before the board every time someone new wants to rent a space. Mr. McCreary, “There is no choice, you have to come to planning board, that’s the town law”.

Board member Smith makes a motion to accept the OTB space to be used for retail/ office and Accessory Use for Restaurant, with conditions as identified in the Decision Document. Board Member Cook second the motion. The vote carried as follows:

Chairperson Brutsch-	Aye
Member Cook-	Aye
Member Carroll-	Aye
Member Hanna-	Aye

Member Banker- Absent
Member Smith- Aye

Case No. 2020-004 Minor 2 lot Subdivision (TM # 19.4-1-34.100)

Agent: Fred Haley

Preliminary review on a request for a minor sub-division into two conforming lots

Mr. Haley is representing Sheryl Roden. Mr. Haley explains that Mrs. Roden would like to gift a lot to her grandson. It is a non-conforming lot. He explains the map, and asks for the board to accept the preliminary request and schedule a public hearing. Town engineer informed the board that there are federally regulated wetlands on the property. The Board asked for additional notes to be made to the plan indicating such.

Member Smith made a motion to approve the preliminary meeting and schedule a public hearing. Member Cook second the motion

The vote carried as follows:

Chairperson Brutsch- Aye
Member Cook- Aye
Member Carroll- Aye
Member Hanna- Aye
Member Banker- Absent
Member Smith- Aye

Case No. 2020-005 Sketch Plan Conference- Nokomis School & Ecology

Bryce Recer spoke on behalf of Nokomis LLC. The applicant would like to build a school. The original proposal was made in 2018. In the meantime they would like to proceed with the application with a change of location to Wadsworth Hill Road. The lot is 27-1-26 on Wadsworth Hill Road they would like to add a school.

Chairperson Brutsch asked about the parking. “The driveway will be complete,” stated Recer. Chairperson Brutsch asked for a complete application at next month’s meeting with a paved entrance.

Member Carroll, “Will there be a school bus”. Mr. Rever will discuss with applicant and reach out to local school to determine the size bus that could come. Mr. McCreary , “ The board needs to review A SEQR form and make sure the environmental review is sufficient and what the traffic expectations are. Traffic and parking need to be included in the narratives”. An escrow needs to be set up in the amount of \$5,000.

Board member Carroll makes a motion to move this case to a preliminary conference. Member Hanna second the motion. The vote carried as follows”

Chairperson Brutsch- Aye
Member Cook- Aye
Member Carroll- Aye
Member Hanna- Aye
Member Banker- Absent

Member Smith- Aye

Approval of Minutes

August 19, 2020

Board Member Hanna made a motion to accept the August 19, 2020 minutes. Board Member Hanna second the motion. The vote carried as follows:

Chairperson Brutsch-	Aye
Member Cook-	Aye
Member Carroll-	Aye
Member Hanna-	Aye
Member Banker-	Absent
Member Smith-	Aye

Acting Chair Brutsch adjourned the meeting at 9:00.

Respectfully submitted,

Michelle Bienes

Michelle Bienes
Planning/Zoning Clerk