

Meeting of the Planning Board of the Town of Lewisboro held via the videoconferencing application Zoom (Meeting ID: 957 4529 2964). The audio recording of this meeting is Lewisboro Planning Board 06-15-21.mp3 and the YouTube link is <https://www.youtube.com/watch?v=bD5fYuufYoA> (video starts at 2:11 of audio).

Present: Janet Andersen, Chair  
Jerome Kerner  
Charlene Indelicato  
Greg La Sorsa  
Maureen Maguire  
Judson Siebert, Esq., Keane & Beane P.C., Planning Board Counsel  
Jan Johannessen, AICP, Kellard Sessions Consulting, Town Planner/Wetland Consultant  
Ciorsdan Conran, Planning Board Administrator  
Mary Shah, Conservation Advisory Council

Approximately 14 participants were logged into the Zoom meeting and 2 viewers on YouTube.

Ms. Andersen called the meeting to order at 7:30 p.m.

Janet Andersen: Hi, I'm Janet Andersen and I'm calling to order the Town of Lewisboro Planning Board meeting for Tuesday, June 15, 2021, at 7:30 pm. This meeting is happening via Zoom, with live streaming to YouTube on the LewisboroTV channel and it's being recorded. The public can view the meeting via Zoom or YouTube, and we have confirmed that the feed is active and working, I think.

Ciorsdan Conran: Almost working on YouTube.

Janet Andersen: Almost up on YouTube. We will check that. In accordance with the governor's executive orders, no one is at our usual meeting location at 79 Bouton. Ciorsdan Conran, our planning board administrator, has confirmed that the meeting has been duly noticed and legal notice requirements have been fulfilled. Joining me on this Zoom conference from the town of Lewisboro are members of the planning board: Charlene Indelicato, Jerome Kerner, Greg La Sorsa, and Maureen Maguire. We do have a quorum and thus we can conduct the business of the board, and we can vote on any matters that come before the board. Also, with us right now is counsel Jud Siebert and we are expecting I don't see yet. Oh, I'll admit them. Joining us right now is Jan Johannessen from our planning and wetlands consultant. Also here is the planning board administrator, Ciorsdan Conran, and I have been told that the our CAC chair cannot be here tonight, but we are expecting one of the CAC members, Mary Shah, to join us shortly.

Okay, the Governor's Executive Order Number 202.1, which has been renewed, enables the planning board to meet remotely and electronically to function on behalf of the town. In accordance with this executive order, we intend to post a recording and a transcript of this meeting to the town website and the Zoom video will also be available on the town's YouTube channel.

We do not have a public hearing scheduled for tonight, therefore, we do not expect to take any public comments on this Zoom meeting. Members of the public can always express their views by mail or email to [planning@lewisborogov.com](mailto:planning@lewisborogov.com). Again, the public can see and hear this meeting via Zoom or live on the LewisboroTV YouTube channel which I see is now streaming actively. We will ask any applicants that are not currently engaging in dialogue to mute their lines. This will help everyone here over the inevitable background noises. And as we go through our matters, to ease the recording of our votes, I will poll board members individually.

## I. CORRESPONDENCE

(2:58 - 6:45)

**Referral from Wilton, CT Inland Wetlands Commission** - Elia Residence, 174 Silver Spring Road, Wilton, CT – Application for the construction of a kitchen addition and deck.

John Doyle, architect, was present on behalf of the applicant.]

Janet Andersen: Okay let's get started. I am going to adjust the order of the meeting. I see that we have the architect from the last thing on our agenda, which is, or almost the last, the referral from Wilton, Connecticut Inland Wetlands Commission on, and I think this is going to be relatively quick, so I want to bring that forward, I asked the board members if they're okay, and I think so. So quite often, what we do is we get a referral from another town, if they are close to our borders, they they are required to refer, and I think John, you could perhaps tell us, this seems to be, it's an applicable so. First of all, I should say this is for the Elia Residence at 174 Silver Spring Road in Wilton, Connecticut. It is the application for the construction of a kitchen, an addition, and deck. And it appears to be a relatively minor change in footprint, so perhaps John, you could just tell us a bit about that.

John Doyle: Okay, you know, for the record I'm John Doyle from Doyle Coffin Architecture. And, on behalf of the Steve and Jennifer Elia who own the property at 174 Silver Spring Road. It is kind of a minor addition. Why don't I I could share the screen and just kind of walk you through it quickly. Let's see here, let me know if everybody can see it.

Janet Andersen: I was gonna say I suspect that our members have looked at it.

John Doyle: Okay.

Janet Andersen: And, unless you feel a need to go through it. Quite often if it's something that is not in our town, we send a letter saying that if we don't have any constructive comment, we say we have a, we want to send a letter of no comment to the to the Inland, in this case, it would be the Inland waters wetlands, excuse me Inland Wetlands Commission in Wilton. So, I would look for, if unless there's any discussion or anyone wants to see more on this, I would look for a motion to that effect.

Charlene Indelicato: I move to send a letter of no comment.

Gregory La Sorsa: I'll second that.

Janet Andersen: That was Greg seconded and Charlene made the motion. Any discussion on this?

Jerome Kerner: Nope.

Janet Andersen: Okay, um John if you could stop screen sharing yes OK, so now, I will poll the board for this, Jerome?

Jerome Kerner: Aye.

Janet Andersen: Maureen?

Maureen Maguire: Aye.

Janet Andersen: Greg?

Greg La Sorsa: Yes.

Janet Andersen: And Charlene?

Charlene Indelicato: Aye.

Janet Andersen: And I also vote in favor of this motion so with that the motion is approved and we will author a letter of no comment to to the Inland Water Wetlands Commission. John is that satisfactory to you?

John Doyle: Yes, thank you very much, I really appreciate it, and thank you for the board to take us earlier here, to go through this really appreciate it, thank you very much.

Janet Andersen: Sure, we thought it would be quick and it turned out to be. Thank you okay.

John Doyle: Great. Okay, thank you very much we'll see you.

Janet Andersen: Sure, so and thank you everyone else for your patience and allowing us to do that. Okay, and I do want to say that we had anticipated the CAC member Mary Shah joining, and she is now on the Zoom with us.

[On a motion made by Ms. Indelicato, seconded by Mr. La Sorsa, the Board authorized the Chair to sign a 'no comment,' letter to the Wilton, CT Inland Wetlands Commission regarding the Elia application at 174 Silver Spring Road, Wilton, CT.

In favor: Ms. Andersen, Ms. Indelicato, Mr. Kerner, Ms. Maguire and Mr. La Sorsa.]

## II. WAIVER OF SITE DEVELOPMENT PLAN PROCEDURE

### **Cal #03-21PB**

(6:45 - 14:58)

**Cameron's Deli Expansion, 890 Route 35, Cross River, NY 10518, Sheet 20, Block 10801, Lot 30 (Central Ave., White Plains, LLC., owner of record) - Application for a change of use.**

Ibrahim Jamal, owner; and Marco Mandra, architect were present.]

Janet Andersen: Okay the first or the next item on our agenda is the waiver of site development plan procedure, this is Cal #03-21PB. It is Cameron's Deli expansion at 890 Route 35, Cross River, New York 10518 and this is an application for change of use in the, in the, on the site that they are, they currently exist in. So, um I think the last time we felt that the major thing we needed was a parking calculation and Jan, I think you told us that you, you think that the parking calculation is adequate.

Jan Johannessen: Did we have a representative?

Marco Mandra: Yes, hi hi hi how is everybody? This is Marco Mandra, I'm the architect representing Ibrahim Jamal for 890 Route 35, Cameron's Deli. Yeah, we after speaking with Jan we have resubmitted with the updated parking calculations and we've also agreed to re-stripe the three ADA parking spots and provide new new signage for those spots, as well as updating the outdoor seating area with some new brick pavers. Currently there is just you know some rocks and it's not really a pleasant outdoor space. We want to want to improve that, but other than that everything else outside is remaining the same. Signage is not changing; the storefronts are remaining the same. And I think that was about it.

Janet Andersen: Okay, so um. So, Jan, you did have a brief memo perhaps you want to, any highlights.

Jan Johannessen: The application is before the board for a change of use permit which triggers the waiver site development plan procedures. The expansion of Cameron's Deli into the adjacent vacant tenant space requires a change to use permit because that vacant space was last utilized by a physical training studio or physical therapist of some sort. So, that that's the reason why the application is before the board. It does require an approval from the Westchester County Health Department for a change of use permit. That is something we're still waiting on. And the installation of the pavers in the front yard, there will require review of the Architecture and Community Appearance Review Council. The Board had I think just delayed or postponed the referral to the Building Inspector at the last meeting because we hadn't had a complete parking analysis done which we have now, so I would recommend that the application be referred to the building department for review. I don't see anything that would be problematic. I believe that the parking calculation for the deli is the same as the prior use so that should be a net wash. However, the applicant's proposing, rightfully so, the re-striping of three accessible parking spaces and the code compliant width of those spaces will likely require some adjustments in the width of the striping of the of the parking lot so you may end up losing one standard parking space, when you go to install the three accessible spaces and their loading zones. I'll ask the Building Inspector to take a look at that, if that loss of parking will result in any sort of zoning nonconformity. I don't suspect so, there's plenty of parking on the site and even if it did there is some provisions in the code that would allow us to utilize the joint use of parking spaces, because we have multiple uses on one lot with varying operation hours so there'd be a mechanism mechanism in the code that the board could use if presented.

The remainder of our comments are really just some notes on the plan, nothing of significance. We had a prior memo which the architect has addressed so it's really referral to the Building Inspector, a referral to ACARC, waiting for the health department approval and the applicant should show the restriping of those parking spaces on the plan. I think they showed five-foot wide access aisles where eight foot's required so there's, we have a comment about that, but other than that, I think the application is in good shape.

Janet Andersen: So, I would look for consensus for referral to the Building Inspector and for ACARC, so I'm guess I'm looking for thumbs up from the board members. Okay, so we've got that. The other thing is, since this does, I know we are waiting for the Westchester County Department of Health approval, but since this appears fairly close, I would suggest that we ask for a resolution to be drafted for July, and if everything comes back as we expect from the Building Inspector and ACARC, we could perhaps move forward, is everyone in agreement with that.

Greg La Sorsa: Yes.

Janet Andersen: Okay, wonderful. All right so um is there anything else, anybody have any other questions on this application or comments that they want to make.

Jerome Kerner: Just a....

Janet Andersen: Yes, Jerome.

Jerome Kerner: It seems to me that the the expansion is really for a back room and cooler. There is no seating, no additional seating. Is that correct?

Marco Mandra: Yep, yes it's just additional for like large refrigerators, walk in coolers.....

Jerome Kerner: So, from that point of view I'm not sure why the health dept. is concerned, there's already a bathroom there, right?

Marco Mandra: There is, we were proposing one new ADA bathroom for for for guests, but that's it.

Jerome Kerner: But you already have to comply with health dept. in terms of public water supply for a commercial space like that. What else are you looking for a Jan that would be.

Jan Johannessen: It's an increase in square footage to the deli use, so the health department will require a review. Because of the increase, I mean a lot of regardless if it's being occupied by by freezers or not, I mean the the interior space's getting larger.

Jerome Kerner: So, it's just a formality then.

Jan Johannessen: Probably, but there's you know there's been there's a septic failure at the property some years ago, the septic system was redesigned and it's it's right to take a close look at it, to make sure that it's not going to impact the system.

Jerome Kerner: Okay, but I think a resolution is in order.

Janet Andersen: Okay, any other comments, questions, concerns. Okay, with that we will look for feedback at the next meeting for from we hope from the Building Inspector and ACARC and see where we go so um anything else from the applicant, are you are you fine with this.

Marco Mandra: Yes, thank you.

Janet Andersen: Okay, good all right so with that thank you.

[The Board reached consensus to refer the matter to the Building Inspector and ACARC.]

### III. SITE DEVELOPMENT PLAN REVIEW

#### **Cal #4-21PB, Cal #42-21WP, Cal #08-21SW**

(14:59 – 48:12)

**397 Smith Ridge Road, South Salem, NY 10590, Sheet 50A, Block 9848, Lot 2 (397 Smith Ridge Road, LLC, owner of record) - Application for an addition to an existing self-storage facility.**

Alan Pilch, PE, was present on behalf of the owner.]

Janet Andersen: We can move on to the next item on our agenda, which is the site development plan review this is Cal #4-21PB, Cal #42-21WP, Cal #08-21SW. This is for 397 Smith Ridge Road, South Salem, New York and it's an application for an addition to an existing self-storage facility at 397 Smith Ridge Road. Okay, and so we could we have on? Okay, Alan and perhaps you'd like to take us through this Alan.

Alan Pilch: Sure. May I share screen?

Janet Andersen: Yes, you may.

Alan Pilch: Hopefully, everybody can see that. Yes, okay good. So good evening, I'm Alan Pilch. Good evening members of the planning board. I'm Alan Pilch from LP Engineering and I'm here representing the owner of the property is 397 Smith Ridge Road LLC. We are applying to expand the existing building and we made applications for a site development plan approval, a wetland permit application, and a stormwater permit application. So, I'll just run through this. The property itself is about 40,000 square

feet in size. It's roughly about 200 feet on the side, it is this property here on the east side of Smith Ridge Road, this is Route 123. And what's currently on the property are two self-storage buildings one L-shaped building, which is frontage along Smith Ridge Road and one sort of interior building, which is called building number two. Those are the two self-storage buildings on the property, and this is the paved access way through the property. I'll just say there is a wetland located to the east of the property, it's completely off site, but it's really located in here. This is freshwater wetland D-45 which, as I say is located to the east of the property. The town-regulated buffer actually covers about, it's about 49% of the property, probably extends through about into here or so within the property.

So, it is proposed, I'll just show you that this was kinda like the final as-built that was prepared back in 2015, I believe, which shows the L-shaped building the in shade is the access the paved access and there's the single one-story storage building. And off-site over here, is where the freshwater wetland is located. So, what's being proposed on this property is: a 500 square foot addition to off the existing L-shaped building; a 1,500 square foot new building to be located, this is the edge of the pavement currently there- so that's a new building, which would be placed here. That's, by the way the town's 100 that's the 100-foot buffer off of the State wetland that's the 150-foot buffer that the town regulates and a third, building on the property that would be proposed building number four which is 1,350 square feet we'll say. So, that all three buildings, together would total 3,350 square feet and with that there'll be a total of 10,062.5 square feet of one-story buildings on the property. I will say that the construction of these two new buildings and the addition to the existing building would result in a building coverage of 24.76% so and since the in the GB district zone, that general business district zone, the maximum coverage is limited to 20% of the property, so we would be requesting a variance from the Zoning Board of Appeals.

I'll just say the access to the property won't change, it will continue to be from the existing driveway and there are no changes proposed to the existing driveway at all. With regard to the wetland, just say, with regard to the wetland buffer we did propose flipping pages sorry. We did propose I'll just say that within the 150-foot buffer. So, this is the new building of the addition, the new building and the two new buildings would be within the town's wetland buffer and we would also be expanding the existing stormwater management facility within the buffer which would continue to provide up to, stormwater management up to the 25-years storm. We are proposing mitigation within the wetland buffer. This would consist of we, this would essentially consist of additional onsite planted mitigation, the former mitigation area's here, this would be the new planting area that we propose, and we also have an agreement with the property to the south, 401 Storage Corporation to, essentially, have an agreement to plant another 20 foot deep portion of that property, which is obviously very close to the wetland, the wetland line is not really any for building use to 401 Storage Corporation, but essentially an easement to promote permit us to plant within this area that additional 4,000 square feet would provide a total of 14,733 square feet of wetland buffer enhancement, which would exceed the total disturbance in the town's buffer of 14,705 square feet. And that's essentially what the proposal involved. So, with that we obviously did receive the comments from Kellard [Sessions'] office and they all seem fairly straightforward for us to address, but I'll let you and discuss it with Mr. Johannessen.

Janet Andersen: Okay, so that's a good lead in that perhaps Jan you would like to hit some of the highlights of your memo.

Jan Johannessen: Sure, Alan just a question before I jump in. Is there a retaining wall proposed on the backside of the buildings?

Alan Pilch: There, what will happen is that I'll say will be there will be a retaining wall, but it'll be integral with the building itself. So, like essentially the foundation will serve as a retaining wall.

Jan Johannessen: Okay, but I was just how tall would that be from the adjacent grade below?

Alan Pilch: I see the adjacent grade below goes from let's say 110 to about 116 with a finished floor of 119, so between let's say nine feet to, there grade's around 121 so, say nine, seven to nine feet and maybe six feet.

Jan Johannessen: Okay, that's what I thought. I was just curious what the purpose of the gates would be between the buildings. It seems like you would open up those gates and there would be a drop.

Jerome Kerner: Yes, that was my comment.

Alan Pilch: Well, actually um. Yeah, I see what you're saying there.

Jerome Kerner: And it's not shown on the elevations, by the way, there's no staircase going down.

Alan Pilch: Okay, something we'll address that's what I'll say. We'll we'll address that issue.

Jan Johannessen: What was the purpose of the gates just to get access to the....

Alan Pilch: To the right to the planting area, the mitigation area so it's something we'll address.

Jan Johannessen: Let's see.

Janet Andersen: Yeah, I was wondering if perhaps....

Alan Pilch: At this end, it is pretty close.

Janet Andersen: .... this was to put to allow you to push snow out the back onto the plantings. I didn't, so I think helping us understand those gates would be helpful.

Alan Pilch: Sure.

Jan Johannessen: Just in terms of SEQRA, I viewed this as a Type 2 Action given the fact that there is less than 4,000 feet of commercial space proposed. Although, I'll defer to Jud for comment on that. Approvals before the planning board are amended site development plan approval, stormwater permit and a wetland activity permit; a public hearing is required. As Alan mentioned it would require a building coverage variance from the ZBA, referral to ACARC, and because of proximity on the State Road referral to the Westchester County Planning Board. We did recommend that the application be referred to the building department for zoning review, as well as the Vista Fire Department. I had a couple comments on the bulk zoning table and zoning parameters.

The wetland mitigation plan looked, you know, obviously it is conceptual in nature, but it looks like it would achieve with the off-site mitigation a one-to-one mitigation ratio. I'd asked Jud to take a look at the the easement that was submitted, the agreement with the neighbor but if the board was comfortable with the off-site mitigation, I think that the mitigation plan and concept looked okay to us. Obviously, we'll look for a full planting plan. The prior approval prior approval for Kaplan Self Storage required a, I believe it was either a three- or five-year wetland maintenance reporting period, which is consistent with many of the board's larger project approvals and requires the applicant to submit reports on a yearly basis, identifying the status and viability of the wetland mitigation. That is a condition that was not complied with, we never received no reports. So, we would ask that Alan, or someone of his caliber, evaluate the existing, previously approved mitigation to see how it's kind of stood the test of time and if it's viable, what's what's the quantity of the plants, the condition of the plants, if any of that needs to be supplemented in order to achieve kind of the intent of the prior plan. There was that. The wetland in the

back as Alan alluded to also regulated by the New York State DEC. I believe that delineation was conducted more than 10 years ago, so should be reconfirmed by DEC. There's no physical land disturbance activities or permanent disturbances to the DEC buffer, but there is plantings proposed in the DEC buffer so I've seen DEC permit that in the past and I've seen them just kind of agreed to it in the past, so if that, Alan could have a conversation with them, just to see how they want to handle the [static] of the plant material in the buffer, if there's any sort of permitting required.

A lighting plan should be submitted with the Step 2 application and some, you know, basic construction details. The stormwater pollution prevention plan that was submitted, we would review the Step 2 application and we'd ask the applicant, Alan to contact our office to schedule testing for expansion of that system. That's kind of the highlights of it, you know, I note that there is there does appear to be limited, no storage area where the building is being proposed was kind of the area that was intended to be used for snow storage and the dumpster enclosure is you know, there's a very small refuse enclosure proposed I think in front of that last building there you know, understanding a little bit from the applicant or the owner kind of the needs of the refuse enclosure would be helpful, you know, I've had conversations with him before he has indicated it's got a pretty small need there, but we need to understand that a little bit more to make sure that a larger enclosure isn't necessary.

Alan Pilch: Okay.

Judson Siebert: Jerome before I just Jan and board members, very quickly, just to follow up on some of Jan's comments. Yeah, I do concur from a SEQRA perspective that this is a Type 2 action. As Alan mentioned, there has been a building coverage exceedance that will have to be addressed by the ZBA, and in order to get that going they're going to need a determination from the Building Inspector, so I would recommend that we make that referral to the Building Inspector tonight, so that that process can get going. With regard to the mitigation plan, look the overall sufficiency of that plan and the use of an off-site area that's a call for the board to make; code permits it and we've we've permitted off-site mitigation before and here you have properties that are literally side by side. I've looked at these you know preliminary it looks it looks good, I may have some modest comments, but it looks like it's in pretty good shape. So the the one takeaway I want to say one from a SEQRA perspective I think we're we're in the clear, and this could really be moved along by the Building Inspector referral tonight.

Janet Andersen: Okay, I do have I think another question, well actually so one is, in addition to getting the reports on the condition of the wetland mitigation that's you know the plantings from the last time through, I would really like to see a photo of the level spreader that it seems like this property is going to be very densely paved and populated with buildings, and I'd really like, we're very dependent upon the water quality treatment and I like to make sure that the level spreader has been maintained, or it's being maintained. I I would also ask whether there's been any thought given to perhaps some permeable pavement back you know between the buildings or someplace where there's apt to be snow storage or less access or but, but just trying to recognize that the coverage on the site is, I know that you that you're looking for a variance on building coverage, but the even including the asphalt there's an awful lot of site coverage, ground coverage here. Yeah the the other thing and I know this isn't, this might not be possible, but I think on this plan, as we look at it, at the very front on the side next to 401 it looks like there's some, three trees that are being cut down or gone or something, I'm, that might be right on the property line but the rest of the property is sort of nicely landscaped and then that area looks a little shaggy. I don't I don't know whether there's anything that could be done just to make that look a little nicer, but it is, it appears to be right on the property line and I don't know whether that is something you could do or not it.

Alan Pilch: You're referring to this area, right here this.

Janet Andersen: I am.

Alan Pilch: We'll take a look at that absolutely. Just say this is. That being said, I was there in February.

Janet Andersen: That side is not the bad side, it's is not so nicely, that looks really nice and then right at the edge isn't quite as attractive.

Alan Pilch: We'll take a look.

Janet Andersen: but are there any other comments from...Jerome?

Jerome Kerner: Yeah, back to the plan. In regard to that level spreader that you mentioned I'm not sure that's the existing location. Is that right Alan, or is it ...

Alan Pilch: No, actually it's being moved, the level spreader.

Jerome Kerner: Okay.

Alan Pilch: ....because of the building expansion.

Jerome Kerner: So, so it could be enlarged as or improved on, as Janet is suggesting, but my concern was if you look at the detail for that it calls for maximum 2:1 slope between the building and level spreader in the cross section and what you've got there, I think, is going to be about 0.5:1. In other words, yeah yeah if you look at the distance between the back of the addition to to the L-shaped building it's about six to eight feet, perhaps, and the drop there is about 12 about at least 10 feet.

Alan Pilch: I think what we can do is draw a section across here, I think.

Jerome Kerner: Yeah well, the section you have does not jibe with this plan so check that.

Alan Pilch: Okay, we'll check that.

Jerome Kerner: What I was wondering though was, if those two if the two alleyways leading nowhere to to a great drop are not necessary for the egress or any other purpose, why not fill them in. Get rid of the small spaces that are in the middle alleyway and put them in the in the end building to the north and you know and that way you might be able to pull that building back a little bit the addition and get it away from level spreader or give you some more flexibility, but I think those spaces are more trouble and they are worth.

Alan Pilch: You mean to enlarge the space here.

Jerome Kerner: Fill that in, make that a larger storage bin and then take the the L-shaped addition and make that smaller spaces that you have off that anyway.

Alan Pilch: Okay.

Jerome Kerner: The architect can straighten that out, but I think the limiting those might be more vantage and perhaps pulling that end building, you know in little bit so give the level spreader some more distance.

Alan Pilch: Right, I understand. Give a little more space around the perimeter of this to potentially like filling the space and remove some of this so that there is more open area here, understood. Thank you it's a good comment.

Janet Andersen: Though Jerome, just so you know I think those are lots of little storage units right along those alleyways.

Jerome Kerner: Yeah, I know that could be replicated in the end building with just the hallway and small storage space anyway, let them work it out, but yeah.

Alan Pilch: There's there's access in through here, and you got storage space storage space.

Jerome Kerner: The openings are more trouble than they're worth.

Alan Pilch: Understood. I'll speak with Stephen Kaplan who is the architect. But that's a good point.

Janet Andersen: So, I think we are looking for.

Maureen Macguire: I have a couple comments.

Janet Andersen: I'm sure, yes, sorry.

Maureen Maguire: Well, that's OK um so just to just to recap and more for my edification, this is about 3,000 square foot square feet of new building all within the town wetland buffer very close to the State wetland buffer. I would, I would assume, but would love to hear it from an expert that the requirements for a commercial building, I guess, this would be warehouse, are are different than, say, a retail building certainly different than residential building, but I I'd also like to understand when, in the past, if if another application like this has come up in front of us, where there has been 3,000 square feet of new building completely within the town wetland buffer. So, Jan I don't know if, how good your memory is.

Jan Johannessen: Yeah, I don't want to speak without knowing the answer, so I will I could certainly look into that to see kind of similar applications. But I don't I don't have that for you tonight

Maureen Maguire: Okay.

Janet Andersen: If you're, I think your point that you're getting to the Maureen, is it is a precedent that we might be setting that gives an extreme amount of coverage of I mean sort of a large large 3,000 square foot of of building of any sort on in within a wetland buffer.

Maureen Maguire: Right, and you know I know that it's very different from a residential unit with with septic and wells, and things like that, and even retail, but I just don't know, I don't have anything in front of me that I can refer to, where we've where we've where we've opined on this type of application. I'm completely open to hearing what others think about this. I would like to hear.

Janet Andersen: I think when we when we looked at the first when this was first designed and put in, we were pretty careful to try to keep things away from, as you can see there's only minimal intrusion into the into the Lewisboro wetland buffer, at one end of the L and we had most of the activity pulled pretty far back right. Any other comments from...?

Gregory La Sorsa: Jud? Come in Jud.

Judson Siebert: I'm here.

Gregory La Sorsa: Okay. Is there a rule regarding us following precedent, or more specifically not being obligated to follow precedent I seem to remember something along those lines?

Judson Siebert: Well, look precedent is always kind of a tricky issue, because every application kind of stands or falls on its own, each has its own unique facts, and each application really has to be gaged by placing the proposed activity against the standards, against the proposed mitigation and, you know, you know I would say, unlike other determinations that might be rendered in sort of the zoning and planning area, for example, you know variants determinations or determinations by a ZBA you know planning decisions like this one are really guided by each particular application so.

Gregory La Sorsa: That that's what I I I remember that historically being something that's guided us. I didn't know if that was actually something that that's been either you know codified or judicially mentioned, but I do remember that we've always been guided by that.

Judson Siebert: Right and and and look I look I'd be and just Maureen has raised the issue with Jan. Let me, we'll take a look to see what you know what has or hasn't been approved in the past. But there look there are, this is a, this is its own application, this is its own kind of specific use you know that may may have may or may not have you know kind of a more pronounced impact on on on the you know the wetland and and it's and you know its location in the buffer area but we'll look at what we've done in the past, but no I to answer your question is there a strict precedential rule, no.

Charlene Indelicato: May I?

Jerome Kerner: Go ahead Charlene.

Charlene Indelicato: Okay, I think that um how large is the mitigation area for the easement?

Alan Pilch: For the easement itself? It's about 4,000 square feet, it is 200 feet long by 20 foot wide, that's the easement area that's outside; the total mitigation is about 14,700 square feet.

Charlene Indelicato: Right, but in the easement it's larger than the proposed building.

Alan Pilch: Correct.

Charlene Indelicato: Right um Maureen though you bring up a good good issue, because not only is it all in the wetlands area, it's also requiring a zoning board variance in order to do so, so it's like to sort of a double whammy there. However, I think that there is the mitigation area with the easement that I'm more than the area that they're taking itself, I don't know. I think that we really should look at what has happened before, I certainly don't know.

Gregory La Sorsa: What why don't we get the referrals done and then see what they say and then we can start being more specific at that point.

Judson Siebert: Yeah, yeah I think that's a good point Greg.

Jerome Kerner: But the only the only thing I would add, is it's it's a very clean use and if those alleyways are eliminated is no access to that area and that speaks in its favor you know.

Gregory La Sorsa: And we might be in a position to be able to limit what goes in those in those particular storage bins or whatever they're called units whatever I mean if that's really a concern.

Jerome Kerner: That's a point.

Janet Andersen: I do remember that when this was up for approval, and I think you're right, it was back 2015-ish that there was concern about some of the uses to which these storage units might be put. Or you know I'm I'm not sure I really remember all of the concerns and Alan I guess I'd ask whether you know whether there's been any kind of complaints by from the neighbors, disturbance reports to the police anything that might have, you know, been some of the concerns that were were raised, well before I was on the board, I think.

Alan Pilch: And I can certainly find out. I don't know of any. I haven't heard of any but that's that's fine I will surely, look into that.

Janet Andersen: I think it's been it's been you know I haven't heard of anything or seen anything in the police reports, and I think it's been in nice condition. I think there was some concern that was because this was a new use we didn't have many storage buildings in the town.

Alan Pilch: Right, I remember there was concern that you know kids would hang out here, but it's a gated entry, you know it's it's it's more challenging.

Maureen Maguire: Yeah, my my my number one concern is to treat everyone fairly and to make sure that we are treating homeowners and commercial real estate owners in a in a in the fairest way possible. So let me, let me be clear on on you know kind of what my what my thoughts are there, and why why I raised the question in the first place.

Janet Andersen: Okay, Jerome did I see you had a comment before?

Jerome Kerner: No, I spoke before.

Janet Andersen: Okay. So, I would look for consensus to refer this to I think the Building Inspector, Vista Fire Department, ACARC and Westchester County Planning Board, I think, are the ones that are up and unfortunately, I can't see everybody right now so maybe I will.

Gregory La Sorsa: Take down the screen, maybe.

Alan Pilch: I'll be more that happy to. Done.

Gregory La Sorsa: We're back.

Janet Andersen: Okay, so now I can look for consensus by I guess I'll ask for a thumbs up from everyone. All right, so we can consider this referred to those four authorities.

Jan Johannessen: Vista Fire Department, the building department.

Janet Andersen: Building Inspector, Vista Fire Department, ACARC and Westchester County Planning Board. I think were the four okay um. And we have given a few assignments to Alan in terms of wetland mitigation and looking at some other things, explanation of the dumpster, snow storage so um. Is there anything else that we want to discuss on this before we before we move on. Okay, hearing no comments, I guess, I will say thank you Alan and if you can resubmit for next month, we will see you then.

Alan Pilch: I really appreciate the time everyone's taken some very good comments really appreciate it very much.

Janet Andersen: Okay, great.

Alan Pilch: Thank you so much.

Janet Andersen: Thank you.

[The Board reached consensus to refer the matter to the Building Inspector, ACARC, the Vista Fire Dept. and the Westchester County Planning Board.]

#### **IV. SUBDIVISION**

##### **Cal #05-21PB**

(48:13 – 1:08:31)

**Truesdale Lake Property Owners Association, Hoyt Street paper road, South Salem, NY 10590, located between: Sheet 36A, Block 11172, Lot 34 and Sheet 36A, Block 10810, Lot 62 (Truesdale Lake Property Owners Association, Inc., owner of record) – Application for a lot-line change.**

[Eric and Nancy Gural, owners; and Nicholas Fiegoli, Truesdale Lake Property Owners Association, president.]

Janet Andersen: Okay, I think the next item on our agenda is a subdivision, this is the Truesdale Lake Property Owners Association, Hoyt Street paper road, South Salem, New York 10590. And it's an application for a lot line change but this is a little bit more a little bit of a discussion to clarify really what approvals might be needed and what steps we want to take to get there. So, maybe Jan I'm going to ask you to, to kind of review, because this is a little different review where we stand on this and why it's in front of us. And we should say I think the people here on this are Nick Fiegoli I might not say that right.

Nicholas Fiegoli: Fiegoli, close enough.

Janet Andersen: Close enough for government work here we are, and I see Nancy Gural, and I assume a husband is there too.

Nancy Gural: Yeah, Eric. Hi.

Janet Andersen: So yeah, and with that.

Jan Johannessen: Sure, first the Gurals have had applications before the board in the past. I've worked with Nancy a few times with administrative wetland permits so I'm pretty familiar with the property, some of the board members might be when they renovated their home some years ago, but Nancy and her husband have been looking to find a place for a dock on their property for for a while now. We've gone over over the years, different ideas and this one involves the purchasing of land from the Truesdale Lake Property [Owners] Associat[ion] to combine with the Gural property in order to place a dock on I'll call it like a watercourse that that's conveyed into Truesdale Lake. The dock is kind of unique because it's a waterway, the dock is actually going to be cantilevered over the water, so it doesn't become an obstruction or collect debris, if any, coming from the waterway. And when I met with Nancy, I told her that, you know, it's not as simple as just a dock wetland permit application, that there's a land conveyance here that would likely necessitate a lot line change and a subdivision approval from the planning board and I described kind of what that process usually involves and the need for surveys of both properties and such. And she said, and probably rightfully so, you know I don't want to go through that process and the, you know, expensive, the survey work and go into the subdivision process if I don't know that you know the dock is something that the planning board will ultimately you know consider favorably. So, I said why don't you come in to the board with a very conceptual plan of kind of what you want to do, discuss that location and going to have a dock would be constructed, get some feedback from the board, and if the board seems amenable to the project, maybe you take the next step and figure out how the land conveyance would take place: so that's kind of why we're here. I did not prepare a memo, the information that's been provided today is conceptual nature, but it's enough to have a discussion. So you know, I think, from my perspective it would be important to, for the board to opine on the dock application and if that is seen favorably, then I think the applicant would know that it could take the necessary steps to kind of prepare the next set of documents for the subdivision.

Nicholas Fiegoli: Right um if it's okay with you, all I can give like a two-minute macro summary on that area of our lake, a quick little back history and kind of the TLPOA association's thoughts on this, but I'll obviously wait....

Janet Andersen: Sure, go ahead Nick.

Nicholas Fiegoli: Great, would you all mind hardly, if I share my screen real quick?

Janet Andersen: Go ahead.

Jerome Kerner: Not at all.

Nicholas Fiegoli: So, okay. Share. Does everyone see the municipal tax parcel viewer?

Various voices: We do.

Nicholas Fiegoli: Okay, so this is our beautiful lake. The area in question, as you could see is the inlet stream coming in, which is actually the main inlet stream, which we actually was the river that was dammed to cause our lake back in 1929. One thing of interest is you can see Nancy and Eric own the actual largest property on the lake or near the lake of any property within any of the association boundaries. They have as as Jan mentioned a couple of times in the past, tried to figure out a way to get a access to the waterway from their property. So, now I'm going to quickly switch to, this is the subdivision back in 1980 that TLPOA sold to Jeffrey Vreeland to create what I guess was supposed to be called the Lakeview Close association, it's never actually been run as an association, kind of almost like a articles of confederation type situation they have over there, but this is.....

Jan Johannessen: Nick, we still see the tax parcel map.

Judson Siebert: The plan's not up.

Nicholas Fiegoli: Really, oh let's see. Yeah, me and the Zoom thing do not get along well. Let me go back to.....

Mary Shah: If you pause your sharing and then....

Nicholas Fiegoli: And then redo it.

Mary Shah: Yes, that might make it easier.

Nicholas Fiegoli: Okay um you are screen sharing, stop share. Okay, so I stopped share, now let's reshare. Oh, I see okay I didn't realize that that um. Share. Oh, I see every different window I have up. Okay, so do you all now see the subdivision of the Lakeview Close?

Various voices: Yes.

Nicholas Fiegoli: So, everything you see within this boundary was sold to Jeffrey Vreeland back in 1980 to create each of these individual parcels you all see on here. On the bottom part, where it says Hoyt Street, this was supposed to be a street that crossed the inlet and then cross over to what's now Truesdale Estates Association that probably for economic reasons not to create a bridge never was built. You might see this little kind of semi-circle that's where Hoyt Street now ends and the town has ownership of the black top. TLPOA still owns the paper roads, and we still have you know maintenance costs and whatnot. So, I'm probably going to have to do this, stop share again well actually wait, let me try this. Do you all see now the childlike coloring on the screen?

Gregory La Sorsa: No, there's nothing on the screen now.

Nicholas Fiegoli: Okay, so I gotta stop and restart.

Janet Andersen: You did stop it, yes, I think.

Nicholas Fiegoli: Yeah, I gotta do that again. Childlike coloring. There it is. Okay. So, this is my very professional rendering of the area close up. The purple is the paper street, the yellow triangle is the continuance of the paper street across the inlet stream. The blue stripe line is the land Nancy and Eric own, the red stripe land is the folks the Polakow property, as you can see those properties actually own the base of the inlet stream, they so Nancy and Eric already own a piece of the waterway already. In the idea that by purchasing the orange or excuse me yellow piece of the stream, the purple piece has rights of way for us to access the green, which is one of our boat launches so and there's you know many, many different rights of ways, with the purple aspect of it, but they all go up to the water's edge and then the the yellow has no rights of way or no, you know no real if anyone had a chance to look at what Nancy had submitted you'll see that the yellow really is a continuance of her property. There's no benefit to our association, there's no, you know, we've had maintenance costs a tree came down that cost our association, the thousand dollars to clean up, there's no benefit. So, when our board and our association was considering that their request to us, to remove a piece of property that just has no benefit, a cost association with us, to add to their property, which really is kind of a part of their property already and give them access to the water seemed like a reasonable request. We did put a number of restrictions which is part of our agreement if the sale were to go through, such as we did not want a structure resting on the water because of the spring thaw with the inlet flow, which is pretty significant through that so we didn't want anything touching the water we didn't want anything bolted to the water, so a cantilever seemed to be the most logical and reasonable which float which stands above the water will never touch and they still will be able to put be able to put a boat in step into it. We also said no permanent structure could be put onto the property, the land side of the property. Nancy could probably mention a couple other stipulations that we made and came to an agreement on to make this work for everybody. So, in the end, from our perspective, this is something that has no tangible benefit, there's no negative repercussions, to the waterway to the environment and and that's kind of the logic of why we think this seems to make sense and and obviously wanted to reach out to you all figure out what else we could do, or you all need to make this work.

Janet Andersen: Okay, thank you Nick.

Nicholas Fiegoli: I'll stop sharing screen so. Stop share okay.

Janet Andersen: Does anyone want to, go ahead Jerome.

Jerome Kerner: Yeah, I have no no problem at all with the land transfer, it seems like a natural thing, it said paper street and the bulk of it is already the Gural's land, an extension of their property and the key issue has been taken care of by the Truesdale Lake Association, in terms of protecting the inlet from any debris and so forth, and which is causing a fairly costly construction in a cantilevered dock so I have no trouble with the whole package and can see it going administrative right off the bat. I do have a question regarding Hoyt Street, is that does the town pave that street or is it a private street?

Nicholas Fiegoli: Oh fun story, so Truesdale Lake paved all the streets back in the 1960s. The we were paying full taxes to the town, which therefore took up all of the pay.. and then the town wouldn't plow or maintain our streets, even though we were paying a full levy to the town. So in 1974, an agreement was reached between TLPOA and the town that the town would take ownership of the streets, they plow it they maintain it but interestingly enough it's only the blacktop, we still own below the blacktop. Yeah. Oh, it is I've read the agreement it's it's it's hysterical. If something falls on the street, a tree, for example, Mr. Ripperger will cut away up to the edge of the blacktop and then say the rest is yours, have at it. Oh, it's it's it's a hoot, so it's the most bizarre agreement between a an association a town you've ever read it's it's yeah it's bad. So, yeah in the end, the town maintains the streets, plows them, but once the pavement ends that it's all us.

Jerome Kerner: Yeah. So, my recommendation still stands, I would make a motion that we allow this to go administrative.

Gregory La Sorsa: And we can we do this now?

Judson Siebert: No, no that the issue, the issue is that, I mean if this were simply the dock and a wetland permit yeah, but there's a there's a proposed transfer of property, and a lot line change and there's been some question raised that by way of the of the transfer being made by way of a quitclaim deed would that still trigger the need for a lot line change. My read is, ultimately that's the Building Inspector's call, but my read is that it does it is a transfer of of, you know, it is a conveyance.

Nicholas Fiegoli: Yes, so Judson you're 100% right that that misconception is completely my fault. Our lawyer Sue Simon said subdivision versus lot line change and I got the two completely. Yes, so you're 100% right.

Judson Siebert: I mean lot line change is a form of subdivision technically but we're just talking about it we're talking about a very simple, you know single-step process to affect that lot line change.

Janet Andersen: But but, as Jud has indicated it does it does come with some costs to the new owners who have to do surveying and such, so I think what we want to do or let me look for any other comments from anybody else on the board. I think, as Jud has indicated, the next step might be to to send this to the Building Inspector and to get his view as to the next steps that would be inherent in this, assuming we want to go forward so but. I guess pretty much confirm. Go ahead Jud.

Judson Siebert: We can yeah I think that steps need needs to be taken, I think we can anticipate a, fairly anticipate a call by the Building Inspector that under the subdivision regs that an application is going to have to be made, so if this is something that the Association and the property owners want to pursue, I would just proceed as if that's going to happen if you know you've heard the board that there's receptivity to the dock. As Jan said we just wanted, don't want to dive into this and say just file the application if at the end of the day, there was going to be some, you know, practical concern with with regard to the way the dock is going to be installed.

Nicholas Fiegoli: Yeah, and Nancy and Eric and I will follow up with Jan to make sure on the dock side of it, because obviously they have no interest in the property if a dock is not going to be okayed, which I completely understand.

Janet Andersen: Right, Nick before you go further, let me just because I I heard Jerome saying let's move it administratively, which we now understand the limits to that, but I haven't really looked to the other board members to make sure that they are all in okay with this before we get ahead of ourselves. So, you know, I know Jerome thinks this is fine. I'm looking for any comments or I guess it's more in the terms of concerns from anyone else about having them go forward, because when this comes back it may be something we would then have have to look at and and say yay or nay so Maureen, I see you unmuted.

Maureen Maguire: Yeah, I have no concerns, thanks.

Janet Andersen: Okay, Charlene?

Charlene Indelicato: Neither do I.

Janet Andersen: Okay, Greg?

Gregory La Sorsa: Okay, so just so that I'm clear. We cannot make a recommendation or a suggestion about doing this administratively right now so we're talking about having the procedure run out with

respect to the lot line transfer and if it comes back to us, would we be considering an administrative referral, is that what what's basically we're talking about.

Judson Siebert: Yeah, I mean that really is the call on that yeah because if again if it goes administrative the board is basically saying we're okay with it put it in Jan's hands so.

Gregory La Sorsa: Yes, all right so absolutely. I agree.

Janet Andersen: Okay, I just wanted to make sure there weren't any concerns before we get any further down the line there and that that we really were doing the right thing, the other thing....

Nicholas Fiegoli: I truly appreciate it. You know the the Nancy and Eric and I and our board, you know, want to be right by the lake and want to make sure that it's appropriate, that it's reasonable. They've actually gone from a if you look at the plans that they submitted to you all, in anticipation it's smaller than the minimum allowable for a lot of that size. Yeah, I think they've done the right thing in terms of being very good lake residents and in terms of what they've already done to their home, improving the lake community, I really appreciate you all kind of seem to feel the same way.

Janet Andersen: So Nick, I do have one one thing, that in some of the paperwork that I think we saw there was a comment from the Assessor. This is the town assessor, Lise Robertson, that that the that there might have been some limit as to the number of docks that could be on some property. I I saw a note, I just want to make sure that and we don't need to to answer it now but that you guys have looked at it and are comfortable with it before.

Nicholas Fiegoli: Yes, and I can actually answer the question right now. The dock limitation was a specific to lot number 33, which is one of our boat launches and that we could not put multiple boat launches on that property it had nothing no consideration within the paper road.

Janet Andersen: Great. Okay, I just didn't want anybody going further and then finding this later so that's great okay any other comments, questions, concerns. Did we did we agree to, I think, did we agree to refer this to the Building Inspector?

Charlene Indelicato: I think so.

Janet Andersen: Okay let's.

Judson Siebert: Yeah right yeah.

Gregory La Sorsa: But we can do that?

Janet Andersen: You're muted Jud.

Judson Siebert: It again that's simply for the Building Inspector to concur that they need a lot line change which I expect will happen.

Gregory La Sorsa: So that's what we're doing.

Janet Andersen: Okay.

Gregory La Sorsa: I concur.

Janet Andersen: Great. Okay, have we anything else on this?

Nicholas Fiegoli: Thanks.

Janet Andersen: Thank you everyone.

Nancy Gural: Thank you.

[The Board reached consensus to refer the matter to the Building Inspector.]

## V. WETLAND PERMIT REVIEW

### **Cal #41-21WP**

(1:08:32 – 1:11:12)

**Hardart Dock, 12 Gilbert Street, South Salem, NY 10590, Sheet 36F, Block 10806, Lot 32 (Frank Hardart III, owner of record)** – Application for a floating dock.

Janet Andersen: OK. The next item on our agenda is a wetland permit review Cal #41-21WP, the Hardart dock, 12 Gilbert Street, South Salem, New York 10590 and it's an application for a floating dock and I see that Frank is on the call with us.

Frank Hardart: Hello.

Janet Andersen: Hi Frank. So, I think we're one of the items that we had been concerned about was association approval and plot plan, and I believe that you have submitted both of those to us.

Frank Hardart: Yeah, yes.

Janet Andersen: So, rather than go through a lot, I mean I'm I would look for a motion to make this an administrative approval, as we have talked about previously.

Jerome Kerner: So moved.

Janet Andersen: All right, thank you Jerome. Do we have a second?

Gregory La Sorsa: I'll second.

Janet Andersen: Thank you Greg. Any discussions, questions, anything for Mr. Hardart? Okay, then I will poll the board, Jerome?

Jerome Kerner: Yes.

Janet Andersen: Maureen?

Maureen Maguire: Aye.

Janet Andersen: Charlene? You're muted.

Charlene Indelicato: Aye.

Janet Andersen: Greg?

Gregory La Sorsa: Yes.

Janet Andersen: And me too so so we as the motion to make this an administrative wetland permit has been approved and we leave this in Jan's good hands.

Jerome Kerner: I have one question one question. Mr. Hardart, are you related to Mr. Horn?

Frank Hardart: I saw that coming. That was in fact my great grandfather, who was his partner so yup.

Jerome Kerner: Wonderful.

Charlene Indelicato: I miss 'em.

Jerome Kerner: One of my favorite cafeterias. I used to go to 3<sup>rd</sup> Avenue in 42 [Street].

Gregory La Sorsa: I remember that one.

Frank Hardart: I was the last that was the last one standing actually.

Jerome Kerner: That's right.

Gregory La Sorsa: I was, I was a little boy. I did go there.

Jerome Kerner: Yeah, cheesecake for a nickel, who could beat that?

Frank Hardart: Yeah.

Jerome Kerner: Whatever, a dime maybe.

Janet Andersen: Okay, so good memories all around and so we thank you and you will you will be able to get in touch with Jan and get this moving forward.

[On a motion made by Mr. Kerner, seconded by Mr. La Sorsa, the Board determined that the review of the installation of the Hardart dock at 12 Gilbert Street, South Salem will be handled administratively a permit issued by the Wetlands Inspector. In favor: Ms. Andersen, Ms. Indelicato, Mr. Kerner, Mr. La Sorsa and Ms. Maguire.]

## **VI. DISCUSSION OF TOWN BOARD PROPOSAL TO AMEND LEWISBORO TOWN CODE**

(1:11:15 – 1:38:25)

**Town Board to amend §220-43.7** – Amending the Town Code to provide Special Use permit provisions for gasoline service stations.

Janet Andersen: The next thing on our agenda is a discussion of the town board proposal to amend Lewisboro Town Code. Town Board to amend §220-43.7 to provide a special use permit provisions for gasoline service stations. So, this has been distributed, and you all have seen this and we are required, or to respond to the town board it's part of our our job as a planning board to respond when things are referred to us, whether or not there is an application in front of us, as I understand, Jud you might want to make sure I'm saying the right thing.

Judson Siebert: That that's correct, that the zoning code requires that any proposed amendment to the Code, the passed by the town board to the planning board for review and and recommendation or comment. And that holds no matter what may have made the before, not before the board and anytime.

Janet Andersen: And could you also comment. I asked you this question earlier about should this law pass or should any law pass before we finalize, if we even if we have an application in front of us, but before we finalize it, does the new law apply?

Judson Siebert: New York New York is what's known as a time of decision jurisdiction, meaning that the board would be obligated to apply the zoning code that is in effect at the time it acts on a particular application. I mean there are some very limited exceptions that are, there's a very well, there are a couple

of limited exceptions to that requirement, but the the standing rule is that you know if the law changes in the in the course of an application whatever was at the time of decision has to be applied.

Janet Andersen: Okay, so I think that sort of sets the framework for our discussion here tonight and it certainly answered a couple of my questions about how we how we deal with this with it with an application in front of us. So, I don't know if anyone wants to kick off the discussion of this.

Gregory La Sorsa: So, whose application is in front of us is that still the one from like two years ago?

Jerome Kerner: No, no it's a Vista Market. Just came before us last month.

Gregory La Sorsa: Okay, I remember, two years ago we had this law, and there was an application and then everything kind of got pushed to the side.

Judson Siebert: Yeah, there was....

Jerome Kerner: There was a 7/11.

Gregory La Sorsa: 7/11 right.

Judson Siebert: In Cross River. Right.

Janet Andersen: Yeah, I think what happened was they withdrew.

Gregory La Sorsa: Yeah, yeah.

Jerome Kerner: I would start, I have feelings about, I would like to hear what everybody else has to say, but having you know, been involved with planning and zoning for the last so since the mid 60s, I have always been under the impression that one of the things that we can't interfere with is free enterprise, private free enterprise, the other term for would be what whatever the term is that we can't determine how many of any one particular use there should be within the town. That's that's not within our my understanding and I'd like Jud to correct me if I'm wrong, that's not within our purview so that's which seems to me to be the driving force here was the comments that were in the newspaper, comments by the supervisor saying well he's already two gas stations in Vista, why do we need another one. That's not our that's not our job that's a business decision as far as I'm concerned.

Secondly, concerns about spillage, and there were also comments in the paper about well electric cars are on the way therefore there's going to be decreased need to gas, again not our decision.

Thirdly, there was a comment about people using bicycles more well that's great I think it's great for health and I don't think that should influence whether or not there should be another gas station in that community. The other thing that disturbed me when I read the newspaper article was well there is potential leakage and it's in a wetland area, well, we know that and, in fact the danger is not the new gas station, but the existing ones that perhaps don't have the same standard of construction concern when they will put in. A new gas station that we if we would approve it would have many belt and suspenders protection for leakage, etc. So, I think it's a time to satisfy a constituency within that feels like they don't want a gasoline alley quote unquote. Neither do I, but I just feel that there are other ways to to protect that both with aesthetics, and with the landscaping and that we could be criticized or even have a lawsuit with this kind of a zoning change. That's all.

Janet Andersen: Thank you, Jerome. Anyone else want to comment?

Charlene Indelicato: Um, I have a question for Jud. Since it's a special use permit rather than just zoning regulation would that quell the concern about limit a limitation of businesses because because it's a special use permit, and not just zoning regulations.

Judson Siebert: No, as a special use permit, you know the use can be placed as proposed, but it has to meet each of the specified standards. A dimensional standard like this one is subject to a variance application before the ZBA but a threshold call is for it to exist, and for it to be established and maintained. Does it does it meet this dimensional requirement, so it this, this is a requirement that has real teeth in terms of where where these types of users could be placed.

Charlene Indelicato: Yeah, I figured avoid some of the issues that if it were just like zoning regulation in general like a you know in a certain district. This is special use and I think there is more control over it but once they meet the all the qualifications then you sort of have to give it to them.

Judson Siebert: Right right, but the question here is is this particular qualification, one that you know being placed at a mile is it one that you know is rationally related to you know, an objective in furtherance of the public, you know, health, safety and welfare. Is it really consistent with a with a you know kind of a comprehensive zoning scheme and the comprehensive plan? Those are the kinds of questions the Board has to look at, you know, is is a mile, does it make sense?

Jerome Kerner: Yeah.

Charlene Indelicato: Yeah, I think that's something that I would pose to the board to other than you know that it might be some spillage, or there might whatever too many on on one on one road, and those are the questions as to what is the rationalization, the legal rationalization for this particular one-mile restriction.

Jerome Kerner: Yeah, I see your point.

Janet Andersen: Anybody else have.....

Gregory La Sorsa: Well, I remember about I think it was 2019 when this came it was some time into or maybe was late 2018 or 2019 and there was another application and we just mentioned the 7/11 application, so I'm definitely concerned that we're talking about laws that are concurrent with applications, which you know, are designed to maybe in some way or another, impede or block these applications. I agree with everything that Jerome said I've always I am always have I always in in my tenure on the planning board have difficulty with the zoning changes that have come up, and I would say, in the last five years or so relating to what appears to be spot changes. And I realized that this is kind of worded a little bit differently, but nonetheless I have my concerns about it and I'm really not a ....., you know, I have concerns about this and I'm not really in favor of this. I don't think it's any different than the law that that they put forth about two years ago I don't see them any major differences.

Janet Andersen: I think the major difference, the only difference is adding instead of a 200-foot criteria it's a mile criteria. Maureen, anything that you want to say.

Maureen Maguire: Yeah, I don't particularly like the optics of it. I I I tend to agree that if someone has the wherewithal to think that they want to put up some type of franchise or or owned retail establishment, because they think that there's demand that they could fulfill okay what's the worst thing that could happen? They're wrong, they go out of business. And and that's that. What was the best thing that could happen? There's competition brought in to the marketplace and that could be good for all of us. So, I tend to agree with what Jerome said at the outset and I'm I'm kind of wary of this arbitrary dimension.

Janet Andersen: So that's so I'll now say my piece and I think the word arbitrary is exactly it. So, I do strongly disagree with the one-mile criteria. In our current master plan, we have commercial activity

centralized in hamlets and in the hamlets we have multiple vendors have certain activities restaurants, delis you know there's there's more than one one activity often some kind of food purveyor in a in a given hamlet and I think if we were to start establishing something like one vendor per mile of a certain type we would defeat the hamlet concept and it would also give them monopoly to the first vendor that happens to be there. So, if you look at if you look at Goldens Bridge, where I think there was some mention well, maybe we need a gas station in Goldens Bridge, you know if we had this kind of one-mile limitation, the first person in would de facto have a monopoly and and I'm not sure I really am comfortable with that and, finally, if you, and this is something that Jan mentioned to me if, if you had a one-mile guideline established and some of the existing non-conforming they would they would turn into non-conforming vendors so non-conforming gas station if they wanted to upgrade what would we have to do, what would they be limited by this I I'm it's just a concern.

So, then sort of I think this is something both Jerome and Greg mentioned, you know in 2019 we established a 200-foot criteria and we haven't seen any problem with that law and the 200 feet is distance from a number of things, it's other gas stations and recreational areas and churches and so forth. I so so changing this without a without any kind of rationale changing the distance seems to echo Maureen's word but I don't have a better one it's just seems arbitrary.

And finally, if we had a one-mile criteria, I think it would tend to push commercial activities potentially into residential areas which I'm not sure we want to do so it's not only anti hamlets but it's kind of commercial and residential.

I saw your hands, I'm just going to finish a couple other things. I think that if we want to I do support concerns with the wetlands and with the aquifers, but I think it's a different solution. I think we should address the concerns directly rather than trying to say let's spread out contamination and a whole lot of places I think we could talk about required containment devices or modern treatments or monitoring underground storage tanks or any number of things. I think in 2019 we looked at them, the North Salem code and they require insurance for remediation or if gas station goes out of business and is abandoned. They have a requirement that there's some monetary way to get the gas tanks out of the ground or to get the gas out and fill up the gas tanks or whatever. So, I think those are our things that could address the concerns about wetlands and aquifers and and I'm also told that a big problem is that drivers drive away with the gas hose in the tank well, maybe there's some I don't know technology or big signage or something that could be done to stop the spillage if you're really worried about that. I think if you're going to look at the gas law, I would use the opportunity to update the lot to address some other needs that have come out that we've looked at. When we've had some of these extended power outages and there's gas in the ground the few gas stations that seemed to be operated with generators seem to really have a benefit a public benefit so maybe we say that if you have a gas station, you have to have a way to get a generator or some other way to power the tanks for a certain period of time.

We could require improved landscaping or appearance requirements, there are model ordinances that say you know, there ought to be pedestrian crosswalks crosswalks and walkways that are in a different color or different you know Belgian block inserts or something so if we want to address some of the issues that I think were brought up there are different ways to do it, than by saying we're going to put a mile between gas stations. So, I would like to propose that we write a letter to the Town Board that kind of encapsulates some of those bullet points that I just went through. No, and so I'd like your views on that and I see it, Greg saying no so maybe I'll ask you first.

Gregory La Sorsa: All right. You know we've gone down this road, before I don't think that's our, within our auspices to do that. That's for the town board and I don't think we should be suggesting it, I don't think we should be making these suggestions. I don't think we should be, you know, arguing for one point

or another, with respect to these things, I mean it's not what we were asked a specific question, and I think we reached a consensus that the one-mile distance issue is arbitrary and, if you want to write a letter using that word I think at least three three people would agree with with that word if not four and I'm not trying to I don't know if we have a consensus just didn't really get Charlene's input on that, but I know, everybody else felt that way. I don't think we have a requirement to do anything else, I mean I'm not going to say that we should be you know, putting different walkways on or some of the some of the other bullet points that you mentioned, I think that's our responsibility. I just don't. I mean I think we're walking a tightrope with that and we've done this before you know we've got into this before. And I think it's always dangerous when we get one of these laws coming down from the town board, you know. And I think you know it's it's kind of it's kind of a thorny a thorny issue for us.

Janet Andersen: So, just to be clear you're not objecting to saying we don't like the one-mile criteria.

Gregory La Sorsa: Right. I'm not objecting to that I'm objecting to to making our own suggestions to the town board that you know, I think would be what would require a another discussion that I'm not prepared for with respect to what we think if, in fact, we were entitled to think that are entitled to give our opinion on that, you know, and in my history has been when we do to try to go outside the bounds and make some suggestions the town board they are you know soundly rejected. So, I mean you know I'm not sure that that's something that we should be getting into.

Janet Andersen: Okay, Charlene.

Charlene Indelicato: Ah, I agree that it's arbitrary, but I don't think and maybe we shouldn't go into because it hasn't been successful, and since I've been on the board, our suggestions have not been incorporated, but I do think, because if it is arbitrary, there should be some rationalization to what they're doing and I as Jerome said, many of the statements that have been made um about it really does not take away the arbitrariness of the of the law. Um, so I would ask that, if we could include in the letter some statement of a rationalization why they're doing it because what doesn't really give that and and I think that there are a lot of legal ramifications to that that's it doesn't seem to be and I turn to Jud, because it has its issues.

Judson Siebert: Yeah I, it seems to me the common theme I'm hearing, obviously, is there's first of all, the board the board wants to express the fact that it doesn't support the change, it's concerned that that the standard is one that has been arbitrarily drawn, that the stated rationale in the local law with regard to protection of the aquifer and you know the the fact that there could be a kind of a proliferation of these types of stations. And you know the the increase in pedestrian and bicycle traffic do not do not in the planning board's opinion do not justify the one-mile limitation there are other ways to achieve those objectives without saying what they are.

Gregory La Sorsa: That's basically the letter.

Judson Siebert: That's the letter right? Yeah.

Gregory La Sorsa: I'm not sure I put in that last thing about other ways to achieve the objective.

Judson Siebert: Yeah, yeah.

Gregory La Sorsa: I mean unless everybody else feels differently than that's fine.

Judson Siebert: Greg, in other words, we feel that we feel the stated rationale doesn't support the one-mile limitation.

Gregory La Sorsa: And just to adjust Charlene's point, I mean I hear what you're saying but I don't think they're going to come back and tell us what the rationalization is and I don't think they're going to do that. I think they'll take our position, and then you know....

Charlene Indelicato: At least, we're on the record Greg.

Gregory La Sorsa: Well, no, I mean you want to ask them for it?

Charlene Indelicato: Yeah, that you know it's a responsibility, I think that that we have in reviewing it.

Gregory La Sorsa: Okay.

Janet Andersen: Anyone else? Okay I'm going to try again and sort of say what I heard, or what I read was these comments about wetland protection, aquifer protection, bikes and pedestrians and and electric cars were what they thought was a rationale and and I I take to heart, your comments that we should not maybe suggest new laws that monitor that, but I think we should say that the I think we could say that there are direct ways to address the concerns stated in the preamble and that we feel that the one-mile criteria or establishing a one-mile criteria is not does not address the stated of the stated purposes of this change.

Gregory La Sorsa: I agree with that, but I don't agree that you know, we should be....

Janet Andersen: I heard you.

Gregory La Sorsa: ...toying with the idea of other suggestions, that's a nuance to what you're talking about.

Janet Andersen: Yeah, I mean, I think. The the preamble isn't addressed by the one-mile criteria and....

Gregory La Sorsa: Right. I, I think we all agree on that.

Janet Andersen: Good. All right, so what I'd look for and I think I need a motion is to have I think Jud has taken good notes about what we've come up with as a as a letter to the town board so I'd look for a motion, to incorporate those comments into a letter and your authorization for me to sign it, and send it to the town board.

Gregory La Sorsa: I'll make that motion. Oh, I'm sorry.

Maureen Maguire: That's okay. Is that is that an implication that Janet we won't get to review the letter before you sign it and send it.

Janet Andersen: Well um. I think that. I think we could send distributed by email.

Judson Siebert: I'd distribute it by email.

Janet Andersen: The concern is that we, I think the town board is looking to take action within the next month before we meet again so we would not be able to discuss this in in a group setting and we have generally avoided doing email discussions of these kind of letters so. You tell me what.

Jerome Kerner: I have a friendly amendment to the....

Janet Andersen: Yes.

Jerome Kerner: I'd like to request a return receipt signature.

Janet Andersen: I'm sorry, so when we send it to the town board, we know they got it.

Various voices laughing.

Jerome Kerner: Yes.

Gregory La Sorsa: Why don't we send it by courier. Well, I mean look in terms of in terms of, you know, our review of it, I think we basically heard an outline of what it's going to be said yeah and I think that if Jud pretty much said what wrote pretty much what he said tonight I don't think that it sounds like we might all be in favor of that.

Jerome Kerner: Yeah, I agree.

Maureen Maguire: I agree, I just would. I don't think that we should go outside of our bounds. I think more to what Greg was saying, you know that the Town Board has asked us to opine. We opine, we can opine strongly. But I don't think that we want to I would not necessarily be in favor of more suggestions or any suggestions, really.

Judson Siebert: What I what I'm hearing is really to tailor this to the board's arbitrary is the key word the board's concern that there's a stated rationale that rationale on the board's opinion does not justify mile imitation and and the board's view that you know that that makes the the one-mile limitation period again just an arbitrary standard and very simple.

Janet Andersen: We oppose that. So, therefore we oppose it.

Jerome Kerner: You know if the rationale weren't part of the resolution, then maybe it would be improper to even mention it, but it is right so it's right there right there and that's the basis for there and it just doesn't make sense.

Janet Andersen: Right.

Charlene Indelicato: Yeah, and we have we can opine like if we're giving an opinion, then we can say what the basis of our opinion is, basically our opinion is is that it is arbitrary.

Judson Siebert: Right.

Janet Andersen: I lost track of where we were. We had a motion from Greg I don't think was had a second.

Jerome Kerner: Second.

Janet Andersen: From Jerome. Any further discussion? So, I'm going to poll the board, Jerome?

Jerome Kerner: Sure.

Janet Andersen: Maureen? You're muted.

Maureen Maguire: Aye.

Janet Andersen: Okay, two thumbs up so that's an aye. All right, Charlene?

Charlene Indelicato: Aye.

Janet Andersen: Greg?

Gregory La Sorsa: Yes.

Janet Andersen: And I also say yes, so we. Jerome, oh sorry Jud I think you have, and you have a pretty good, I think. It sounds like you've basically written it and all we need to do is get it typed. Thank you okay um.

[On a motion made by Mr. La Sorsa, seconded by Mr. Kerner, the Board authorized the Chair to sign a letter to the Town Board stating that after its review the Planning Board finds the proposed changes to §220-43.7 of the Town Code to be arbitrary. In favor: Ms. Andersen, Ms. Indelicato, Mr. Kerner, Mr. La Sorsa and Ms. Maguire.]

## **VII. MINUTES OF May 18, 2021.**

(1:38:26 – 1:38:54)

Janet Andersen: We have also, the next item on the agenda is that are the minutes of May 18, 2021.

Jerome Kerner: I move we approve them as corrected.

Charlene Indelicato: Second.

Janet Andersen: Okay so Jerome moved, Charlene seconded. Any further discussion? Hearing none, I'm going to poll the board. Jerome?

Jerome Kerner: Sure.

Janet Andersen: Maureen?

Maureen Maguire: Aye.

Janet Andersen: Charlene?

Charlene Indelicato: Aye.

Janet Andersen: Greg?

Gregory La Sorsa: Yes.

Janet Andersen: And I also approve the minutes as updated.

[On a motion made by Mr. Kerner, seconded by Ms. Indelicato, the Board approved the minutes of July 20, 2021 as submitted. In favor: Ms. Andersen, Ms. Indelicato, Mr. Kerner, Mr. La Sorsa and Ms. Maguire.]

## **VIII. ADJOURNMENT**

(1: 38:55 – 1:39:38)

Janet Andersen: Okay, our next meeting date is July 20, 2021. And with that I'd look, oh we're just a little late Jerome. I'd look for a motion to close.

Jerome Kerner: So moved.

Gregory La Sorsa: Second.

Janet Andersen: Move by Jerome, seconded by Greg, polling the board, Jerome?

Jerome Kerner: Yes.

Janet Andersen: Maureen?

Maureen Maguire: Aye.

Janet Andersen: Charlene?

Charlene Indelicato: Aye.

Janet Andersen: Greg?

Gregory La Sorsa: Yes.

Janet Andersen: And me too so, thank you. Enjoy the official turnover into summer and we'll see you all in a month.

Maureen Maguire: Thank you.

Various voices: Goodnight.

[On a motion made by Mr. Kerner, seconded by Mr. La Sorsa, the meeting was adjourned at 9:09 p.m. In favor: Ms. Andersen, Ms. Indelicato, Mr. Kerner, Mr. La Sorsa and Ms. Maguire.]

Respectfully Submitted,

A handwritten signature in cursive script that reads "Ciorsdan Conran".

Ciorsdan Conran  
Planning Board Administrator