

“Minutes are not official until approved by their respective board.”

TOWN OF FALLSBURG PLANNING BOARD MEETING

November 12, 2020

In Attendance: Chairman Arthur Rosenshein, Balsey Loucks, Gary Tavormina, Irv Newmark, Cody Vegliante, Paul Lucyk, Planning Board Members. Mollie Messenger, Code Enforcement, Ken Ellsworth Town Engineer, Helen Budrock Town Planner, Paula Kay Lawyer for the Town

Arthur Rosenshein called the meeting to order at 7PM.

Arthur Rosenshein: Lets start with the minutes of the prior meeting.

Gary Tavormina: I'll make the motion.

Paul Lucyk: Second.

Arthur Rosenshein: Any against? Everybody's for it. Evenings festivities: four public hearings, four items of new business, three items of old business. Well begin with the public hearings. A reminder for people who are speaking we want you to say your name for the minutes. Comment about whatever you want on the project; positive, negative, you don't have to be a neighbor to have an interest in it.

PUBLIC HEARING: 1. STEWART'S SHOPS – SBL# 40-4-1

Marcus Andrews represented.

Marcus Andrews: My name is Marcus Andrews, I'm with Stewarts Shops. We're proposing an addition of the south end of our existing Stewarts Shops located at 5 Brickman Road in the Town of Fallsburg. It is a 17 square foot addition, 17 x 50 square foot, so a total of 850 square foot addition off of the south end of the building off the west end of that addition we'd look to do an 8 x 20 foot attached storage shed. It would strictly be accessed from the back of the building just to store totes and stuff that delivery drivers would pick up on a weekly basis just to keep them inside an actual storage shed. We're also proposing an overhang over the back delivery door as well as it would extend to that storage shed for protection during deliveries. Another thing we'd be looking to do is all the soffit lights in the building, as well as the canopy lights, we'd be looking to replace them with recessed LED lighting. They'd be recessed into the actual soffit canopy, so there's no side-glare, everything is down-lit and they are LED lights. We'd also be looking, the building itself, we would do a stone veneer, like a faux stone along the bottom, approximately 30 inches off the sidewalk, and then the remainder of the building we'd be looking to do a hardy board siding just to dress up the appearance of the existing shop, give it a brighter look from the old-school brick that our stores have been over the years. That's a quick summary of what were looking to do.

Arthur Rosenshein: Does anybody have any questions? Nobody. The public hearing is closed.

PUBLIC HEARING: 2. ROSEMOND SOLAR, LLC – SBL# 30-1-9.4

Walter Gargliano represented.

Walter Gargliano: This proposal is for a two lot subdivision that has been proposed primarily to facilitate the simpler assessment and imposition or application to exemptions to this project. The proposal is for there to be a larger lot in the back which is presently improved or almost completed with a solar ray and that project has been leased to and leased back from the industrial development agency and they will be making payments and tax on that piece but under real property tax law Section 487 it will be exempt, 44+ acres and in the front theres a single family owner-occupied house on parcel 1 which has been proposed for 5.314 acers. The lots did not meet the minimum zoning requirements for frontage. The division of the lots have been made in the location where it makes the most sense and the project received a variance from the Town of Fallsburg ZBA to be subdivided with the frontage that's proposed and shown on the map in front of you.

Arthur Rosenshein: Okay, anybody have any questions? Gary Koutcher?

Gary Koutcher: Is this going to be like 40 acres of a solar array, it's going to be all solar panels, correct?

Walter Gargliano: The application is for a subdivision but there will be and has been approved for the larger lot previously and theres been a building permit issued and theres a solar array now under construction for that lot. It doesn't take up the whole property, theres a buffer all the way around the outside of the solar array?

Gary Koutcher: How many acres is the solar array? Is it half the property?

Walter Gargliano: I don't know.

Paula Kay: Gary, the solar project has been previously approved by the board, all that's being approved tonight is the subdivision. So the merits of the solar project has already been reviewed and public hearings, yeah.

Gary Koutcher: I Just wanted to know what the size was.

Paula Kay: you can check in with the building department tomorrow and ask that.

Walter Gargliano: Or if you wish you can call me, I just didn't bring the site plan file with me, I didn't think there would be need for it.

Arthur Rosenshein: Gary is that curiosity or something –

Gary Koutcher: Curiosity, strictly curiosity.

Arthur Rosenshein: Okay then the public hearing is closed. Up next, Miron Hills, Requests a site plan amendment to increase the number of bedrooms from the approved 3 bedrooms per unit to 4 bedrooms per unit.

PUBLIC HEARING: 3. MIRON HILLS

Jacob Billig Represented.

Jacob Billig: This is a project that was approved by the board of March 2008. Arthur signed the site plan resolution as well as the SEQR. At that time the site plan map was signed. The resolution that approved the project did not have the number of bedrooms in it, nor did the site plan map that was originally signed in 2008, however the resolution and map did say that bedrooms cannot be added without the approval of the planning board. However the number of bedrooms was not set forth at the time the board approved the project. Subsequent there to the applicant has moved forward to start building the project. They've done substantial construction under the law and the building department said that they should clarify what the number of bedrooms are. There was a map submitted back in March 1, 2018, it did have a sketch on it for a three bedroom unit, however the developers intention is to have four bedroom units. The developer has filed an application with the DEC for 30,000 gallons a day which would accommodate at 80% capacity, 4 bedroom units. Roger Haag, who has developed that for the applicant, is here if there any questions. That's it, were really here on a project that was approved many years ago just to finally solidify on the record how many bedrooms there are and thereafter there can't be any increase in the number of bedrooms without planning board approval.

Arthur Rosenshein: Any public? Public hearing is closed. Item 4, Formaggio Cheese would like to make an extension.

PUBLIC HEARING: 4. FORMAGGIO CHEESE

Michael Rielly, Anthony Mongeillo, Chris represented.

Michael Rielly: I'm sure everybody knows where Formaggio is. It's the East side of Hilldale Road just South of 52. Cheese processing, cheese making facility. They've owned the property since 2002, approximately 18 years they've been there, it's approximately 37,000 square foot main building and they're proposing to put a 50x124 foot addition on the southern side. They need more production room and that's the purpose of the addition. No more parking proposed, just going to extend the drive further around the building to accommodate the addition. If anybody has questions I'll be happy to take them.

Arthur Rosenshein: I have a letter if nobody is going to speak from I presume an individual who I presume can't be on tonight. William Nigl. I think I should read it because it's pertinent to what were doing. Its quite long.

Dear Planning Board,
This is my statement regarding the Formagio extension #95452661458

I live at 165 Hilldale Rd just at the other end of Hilldale Pond.
In my first 5 or 6 years I have lived here the only unusual noise I would hear would come on some Sunday mornings when I would hear something that sounded like a slow moving convoy or some thing. It was never an issue.

That all changed on the morning of July 17 2017.
I was awakened before dawn by a humming vibration that sent me looking from basement to attic to see if my boiler or some other appliance had rum amok. No luck.
The hum stopped after an hour or so and I eventually went back to sleep.

After that day the hum would pop up every few days or so and was always at night. The noise would last from 45 minutes to a few hours. Unfortunately, I have never been able to sleep through it. If I could sleep through it I would most likely not be writing this letter to you.

The hum continued to crop up on other days of the week and for longer periods of time. I visited Formagios sometime that Summer but because the hum was limited primarily to night time hours and there was no sound of the sort happening at the time I dismissed them as the source. I checked out the College while the hum was happening one time and heard nothing. There is a NYSEG substation a half mile or so to the south that actually is quite noisy and I called them 2 or 3 times that first year but nothing changed.

Except that the duration of the hum had started to grow longer. Long enough to where, by 2020 It will now run for several days in a row. Which opened up the possibility of searching for the source during daylight hours.

I stopped one day recently to see if maybe it was coming from the pumping station just to the north of Formaggio's factory.

As soon as I stepped out of my car I knew I had found the source.

There were 2 large mobile refrigeration units, their compressors roaring away, backed up to the north side of the building. I had found the culprit!

Unfortunately, my recent attempts to talk to someone there were first rebuffed and then ignored.

I assume the new building will be closer to my property and also closer to the lake. With the way sound travels over water both of these factors scare the heck out of me!

Please, Please, Please, make sure there will be noise abatement for this project. Both for the prior and new construction. Please make sure all compressors, fans, and other noisy equipment is well enclosed within the building and not left running out in the open.

I hope the new portion will be constructed during regular daylight hours and they are not planning on turning this into a 24/7 operation.

I have missed hundreds of hours of sleep. I am 74 and take heart medications.

I have blankets over my bedroom windows (They don't seem to help.)

And have been using a white noise machine. (This does help somewhat on the lower volume nights

but not when it really gets going.)

I have even contemplated moving!

Again. Please try to make sure this project will begin and end quietly.

Thank you very much for your consideration,

William Nigl

Arthur Rosenshein: Anyone else have something to say before we move to the agenda?

Nathan Kroop: Quick question to Mike or Anthony, when do you expect the construction to occur?

Michael Rielly: I know Anthony is looking to do this as soon as possible so as soon as the approvals and everything can be taken care of and permits can be issued that's when he's looking to do it.

Arthur Rosenshein: Stewarts Shops.

NEW BUSINESS: 1. STEWART'S SHOPS – SBL# 40-4-1 – Requests site plan review for an 850 SF addition, 5 x 30 roof overhang, placement of a storage shed. Zone: B. Acres: 2.20. Location: 5 Brickman Rd., Fallsburg. Cross Roads: SR 42.

Marcus Andrews Represented.

Arthur Rosenshein: Does Stewarts own the building?

Mollie Messenger: Yes.

Marcus Andrews: Yes we do own the building.

Arthur Rosenshein: Mollie, does this fit zoning or do they have to go to the ZBA?

Mollie Messenger: They have to go to the ZBA, they don't meet the side yard requirements so they'll have to put in a zoning board application for an area variance.

Marcus Andrews: Our plan is to be in front of the zoning board next week.

Arthur Rosenshein: Its pretty well explained and it's explained on paper. Mollie, anything you want to add right now?

Mollie Messenger: I know the planning board just saw the plan for the first time but you'll need to decide if you want to engage Heather or Ken. It also needs to go to 239 and DOT. I think the 239 was sent through the zoning board but I'm not sure that it will be back because they only have one person reviewing them. It may take a couple of months to move this along depending on when we get things back.

Arthur Rosenshein: I would like Helen and Ken involved for technical reasons and to see what impact it has. The applicant can contact Mollie for who to get a hold of and what information.

Mollie Messenger: One of my notes was they're continuing the same colors except for the fact that it's a commercial building so technically it could go to the ARB if the planning board wanted to shift it there also –

Marcus Andrews: We presented in front of the ARB last week and were approved by the ARB.

Mollie Messenger: Good.

Arthur Rosenshein: Good. Motion by members of the planning board to turn it down because it doesn't meet current zoning requirements.

Bucky Loucks: Motion.

Paul Lucyk: Second.

Arthur Rosenshein: I have motion, I have second. All in favor raise your hands. Any against? The eyes have it, you're turned down, which is what you needed.

Helen Budrock: Mr. Andrews, I don't think the renderings of the building was in my packet, I'm sure you submitted something to the ARB. Do you mind forwarding that for the next appearance when you come back if you come back?

Marcus Andrews: I will. There should've been two pages to the submittal and both pages will be submitted.

Arthur Rosenshein: Okay, Rosemond Solar.

NEW BUSINESS:. 2. ROSEMOND SOLAR , LLC – SBL# 30-1-9.4 – Requests a two lot sub-division. Zone: REC. Acres: 50. Location: 191 Rosemond Rd., Woodridge. Cross Roads: Silver Lake Rd.

Walter Gargliano Represented.

Arthur Rosenshein: With ZBA action it seems pretty straight forward. Mollie, is there anything we need to know?

Mollie Messenger: ZBA approved all the variances already.

Gary Tavormina: I looked at the site, there should be no issues to do what they want to do.

Arthur Rosenshein: A minor subdivision, we can do preliminary and final in one step. SEQA will not be necessary on this one, just type two action?

Walter Gargliano: We would prefer because the lenders on these projects are difficult to deal with, it is the preference of the applicant that you go through a short EAF because they're going to end up asking for it and it's very difficult to explain to them why it's not needed, it's easier to hand it to them. The form was in the application packet.

Helen Budrock: Walter do you want the board to look at the questions?

Arthur Rosenshein: If you've looked it over we can go right to the neg deck assuming it's appropriate.

Walter Gargliano: As long as you put on the record that the answer to each of the questions is 'no or small impact' which we would submit is the obvious answer to all of them then no need to go through them.

Arthur Rosenshein: Motion to become lead agency on this type two action.

Irv Newmark: Motion.

Paul Lucyk: Second.

Arthur Rosenshein: All in favor. Any against? Okay we'll take it to our advisement? Helen, you've been through the form and it's all 'no's'.

Paula Kay: Well theres one which was explained, #13, 'does any portion of this site contain wetlands or other water bodies regulated by federal, state, local agency' and the answer was 'yes'. And then 'will the proposed action physically alter or encroach into any water body' and the answer was 'no'.

Arthur Rosenshein: What water body?

Walter Gargliano: There's a federal, unregulated, unnamed, small pocket wet land on the property and the project was designed to not impact.

Arthur Rosenshein: Okay thank you. Small to moderate impact.

Helen Budrock: Everything in part two would be checked off 'no or small impact'.

Arthur Rosenshein: Since it's negative impact on everything that would've been modified by not building on the area of concern. Motion for a negative deck?

Gary Tavormina: Motion.

Paul Lucyk: Second.

Arthur Rosenshein: Any against? Ayes have it. Motion to approve the subdivision as presented.

Paul Lucyk: Motion.

Cody Vegliante: Second.

Arthur Rosenshein: Any against? Ayes have it. And you're done.

Walter Gargliano: Thank you.

Arthur Rosenshein: Miron Hills. Requests a site plan amendment to increase the number of bedrooms from the approved 3 bedrooms per unit to 4 bedrooms per unit.

NEW BUSINESS: 3. MIRON HILLS – SBL# 60-1-70.1 – Requests a site plan amendment to increase the number of bedrooms from the approved 3 bedrooms per unit to 4 bedrooms per unit. Zone: REC. Acres: 40.44. Location: 113 Thompsonville/Heiden Rd., South Fallsburg. Cross Roads: Kiamesha Lake Rd.

Jacob Billig Represented.

Jacob Billig: The one thing I didn't mention was that with respect to the application that we're making and we hope the board would amend, we will not only have a resolution documented, we will put in an offering plan that these are four bedroom units and you can't build any more than four bedrooms without getting planning board approval so there's full disclosure. Just to repeat the earlier point when the project was approved the initial resolution as well as the map that was signed did not have the number of bedrooms. Some point thereafter, 2018, Mike Reilly submitted the map that had a design for three, so we're here tonight to clarify that we're doing this as a four bedroom project.

Mollie Messenger: Just to add in real quick, the map from 2008 was the one that has the drawing on it with three bedrooms. So three bedrooms was originally on the map.

Jacob Billig: The map I saw that Denise was nice enough to send was stamped '2017' which is why I used that date but if you say 2018 I take your word for it. They've been moving ahead with instruction and the floor plans that was submitted to the building department a few weeks ago shows all four bedrooms on the first floor. Their intention and the record here can reflect there will be nothing done elsewhere in

the house however I think there are three units in front of Mollie that triggered this and how Mollie wants to handle that with the developer is up to the building department.

Arthur Rosenshein: You're on your own sewer and water systems?

Jacob Billig: Yeah, they're building a private system. Roger is here, he's submitted the plans for that. Its for 30,000 gallons which can accommodate not problem 4 bedrooms. It actually can accommodate 5 bedrooms. 4 bedrooms uses 23,775 gallons, which is 80% of the design capacity of 30,000 gallons. 5 bedrooms would use 29,255 gallons, that would go above the 80% capacity so that's why we were saying it should be 4 bedrooms. But it's a private plant to answer your question.

Ken Ellsworth: The numbers are a little different from what I initially did but they're in the ballpark. The DEC controls this design which Roger is very well capable of designing the treatment plant to meet their approval. The initial design was 3-sub surface septic beds, so it's deviating from the bedrooms as well as the approved sewage disposal system, which again I'm for. I don't think it's a good idea to do the sewage treatment beds sub service.

Jacob Billig: So this is an improvement.

Ken Ellsworth: I would call it an improvement, yes.

Arthur Rosenshein: Why did I see a drawing of the basement with bedrooms in it?

Mollie Messenger: That's what Jacob was referring to earlier. There's three homes there that already tried to build in the basements. They're putting more bedrooms into the basements and that's one of the things Jacob said that got triggered was they can't add more than three bedrooms and they were proposing three and four bedroom first-floor homes and in addition proposing bedrooms downstairs.

Jacob Billig: That enforcement triggered us coming here to make a clear record and to make it clear they can't go over four. Four bedrooms upstairs, no bedrooms downstairs. But look, just as an aside, if you're saying four bedrooms it's allowed in the unit but the design that they've submitted to the town is for the first floor.

Paula Kay: Well, we need to see the design for the basement as well.

Jacob Billig: The design for the basements has been submitted and they're open basement, unfinished. That's how the developer is selling the homes.

Mollie Messenger: The homeowners that are buying the homes are trying to put bedrooms in the basements. That's what the problem is. So either the planning board has to decide that they will be forever unfinished basements, which I don't know how you do that, but it's definitely an issue. I've talked to Jacob at length and the developer at length about designing a system that would actually accommodate what they're trying to build over there. But Jacob says we can't force them to build a bigger system but we all know what's going to happen in the end. I requested to know whether or not the HOA knew that they were venturing into this limitation but they are not the applicant on this project so –

Jacob Billig: The legal standing here is the developer. They're still building the units. The HOA I don't think has been officially formed yet. You've got a few, three houses, that are started and I think in all fairness to Mollie the "enforcement" hat that she wears has triggered the planning board action. They're

separate. Under the law, under the code, they're allowed to do the four bedrooms and they're designing their plant pursuant to that. If the subsequent homeowners that buy it, we can't do anticipatory enforcement –

Paula Kay: The issue is, were not talking about anticipatory enforcement by any means. Were talking about informing potential buyers that 'this is the potential limit on your house' so we need some sort of mechanism whether it's on the plans, in the minutes, in the resolution, but –

Jacob Billig: I think paula is 100% correct. It will be in the resolution, it should be on the plans, clearly it's in the minutes, and lastly we'll make the representation, well disclose it in the HOA documents. I'm not the HOA lawyer but the developer will have to in bold letters put this down. Resolution, map, HOA documents in terms of disclosure of this rule.

Gary Tavormina: Are they already building four bedrooms?

Jacob Billig: That's why they're here, because Mollie's records indicate it's a three-bedroom project. They started construction and she said what are you doing so were here to clarify it's a four-bedroom project.

Gary Tavormina: No my question: are they already building four bedrooms?

Mollie Messenger: Most of the units are three-bedroom units currently. They proposed a four bedroom home recently but I don't think they've built a four-bedroom home. The problem is they've been requested by other homeowners to finish their basements. That's where were at now. So whether they've proposed a three or four-bedroom home on the first floor, they're still trying to finish the basement and they're already doing that. There's a hiccup with the HOA that they're trying to expand. If Jacobs developer only wants to put in a four-bedroom house then they can't finish the basement.

Jacob Billig: They've built three-bedroom homes, one of the three bedrooms is proposing to do a fourth. That triggered mollie's enforcement which is why were here.

Mollie Messenger: No, the basement plan that they provided was two additional rooms. So they're planning on 5 and 6 bedroom homes. That was provided to the building department.

Jacob Billig: Right. Our position is that were allowed four bedrooms, that's what the record will reflect, and there can't be five and 6.

Paul Lucyk: But how can we enforce that?

Arthur Rosenshein: Presumably they come back for a building permit and they get turned down. What they do in the middle of the night is what they do. Then you're taxing the sewer system with six bedrooms and I'm not happy. There has to be that after the house is finished you're only allowed to have three or four bedrooms and somehow it has to be on paper that the homeowner is going to follow the rules. If he doesn't follow the rules then I don't know what to say.

Jacob Billig: So the answer to Paul's issue is when they get the HOA document they sign for it. So they are signing a document and it will be written that the resolution, the map and the document all discloses that it's a four bedroom unit. There's nothing in the code or the constitution of the United States, if people are going to speed you can't put governors on their engines in advance. And the best that we can do to paper the file is as Paula's outlined and the HOAs will sign the HOA document, they have to sign that.

Paul Lucyk: And can you put into the document that once a year theres a yearly inspection of the units?

Jacob Billig: Have you done that for other projects in the town?

Mollie Messenger: Its in the duplex law that we can go into the other buildings for an inspection.

Jacob Billig: Its not in the code for these units. Ultimately Paul your point is still an enforcement point. Youre allowed from the enforcement standpoint to inspect any given point really.

Paul Lucyk: the main thing is going from 3 or 4 to 6 is taxing water and sewer. And the design criteria, to allow for 4 or allow for 3 but design for double for your waste water.

Jacob Billig: The DEC requires only 80% so they've done 30,000 for the 4 bedrooms which requires 24,000 gallons.

Paul Lucyk: I think you know they way I feel.

Arthur Rosenshein: Problem is we can rule everything we want, write down and have them put on the map 4 bedrooms but the enforcement is not in our purview. Paula, we don't have the right to tell them they can't finish a basement without bedrooms do we?

Paula Kay: No. if the applicant agreed to put on note that the basement is to remain unfinished then –

Jacob Billig: Unfinished, they're not allowed to make it a playroom?

Arthur Rosenshein: I don't think it's fair. Youre not advocating it you're simply giving us the law. We can dictate no bedrooms down there.

Paula Kay: Right. I do think we have a duty to the current home owners and the homeowners that will be buying to disclose and what Jacob has presented is really everything we can do which gives the homeowner who should be doing due-diligence when they buy; the opportunity to review the HOA documents, review the approvals, all the minutes from your meetings, look at the map, note on the map, and in that way you've done your job and protected the homeowners. I agree with Mollie, I wish they would change the plans and say yes there's going to be 6 or 7 bedrooms and upgrade but we can't force them to do that and they have the right not to do that so the next best thing is to do the notice and that's what Jacob has agreed to do.

Bucky Loucks: Are you also going to put in that home owner thing that the sewer capacity there cannot afford anymore rooms.

Jacob Billig: Yes we can reference that.

Bucky Loucks They should know that because that way when they come back to the planning board and they get denied because they don't have the right sewer they'll know why they got denied.

Jacob Billig: That's correct. We can disclose that. Its part of the record. I don't have a problem with that I think it's a good idea.

Arthur Rosenshein: so they know why the limitation has been put on.

Jacob Billig: I'll draft what were discussing so that it meets disclosure that you want. I'll write up everything that were discussing here tonight so it's full disclosure, including buckys last point.

Arthur Rosenshein: I think it's a good point. The issue of four-bedrooms since they have capacity for it I don't see any reason to deny it. We get notice and we get limitation that they're aware of it so we do gain something on it. As far as basements concern I can't see putting limitations on it. They have four bedrooms wherever they put them. I certainly don't think we should try to mandate they can't finish a basement.

Mollie Messenger: Arthur, I think to stop this irresponsible building that we have on this site that when you put a limit on the number of bedrooms you can't allow them to build two stories and have unfinished basements. If there was three stories that was allowed on the original approval in 2008 there should've been a single storied home that had a floor plan that went with that. The problem was the developers overbuilding, building beyond what the sewer plant is eventually going to be able to handle. We can't do anything about that now but we should look in the future that this is completely irresponsible and we should amend it on the next application.

Arthur Rosenshein: I agree but that doesn't affect them.

Mollie Messenger: We haven't seen anything from Roger, we haven't seen anything from the developer on the Waste Water Treatment Plant. I don't know that you can approve this without Ken even seeing any information. We need to think about that a little bit. We've been asking for the Waste Water Treatment design for the past two months and we haven't gotten anything.

Jacob Billig: Let me ask them Mollie to follow up. What have you seen Ken in terms of Rogers work product at this point.

Ken Ellsworth: Rogers work product is good. I think Mollie's point she's trying to make is we haven't seen anything on what he's going to do, what type of plant, and how he's going to do it. I'm 100% confident he's going to do what he has to do, but Roger what happens if they overbuild and there's more flow into the treatment plant? Will they meet affluent limits? They're going to kind of get themselves in trouble with the DEC and the plan operator aren't they?

Roger Haag: The treatment plan SPDS permit, they had a SPDS permit that expired, they never used it. So the new ones going in for the 4 bedrooms at the 80% design is 30,000 gallons a day. It can't exceed 30,000 gallons a day. They need to have a certified operator there at least two hours a week and another operator there as DEC rules. They can't exceed 30,000 gallons a day. You can have ten bedrooms in there, if they didn't exceed 30,000 gallons a day then they'd be okay. At 30,000 gallons a day the plant will need very stringent affluent records. It's got tertiary sand filters at the end of it and the plan is to actually be designed for 2.5 times at 75,000 for peak flow but you can't discharge that because you can only discharge 30,000 gallons per day. That's all there is to it. The certified operator has to record the daily influent and affluent flow, therefore he has to record what the actual flow is. If it goes over 30,000 gallons a day he has no record it and submit it to the state in his DMR's. and if that happens, if they have continuous affluent and don't meet the affluent limits, the owner of the plants going to get a notice of violations and we all know that DEC violations in Sullivan County are \$37,500/day of occurrence so I don't think they'll exceed the limit and it's 30,000 gallons a day, I don't know what else more I can say about that.

Ken Ellsworth: That's the suspender on this approval. They can out the verbiage in whatever they want to put it in but in the end result for the plant the suspender for the second catch is going to be in the

flow. They overbuild and Mollie doesn't catch them they're going to have problems with DEC in the other end.

Roger Haag: They will have problems with the DEC because the operator will have to record it. Hes a certified operator, if he doesn't record it right and DEC catches him at it he'll lose his license and I don't think theres an operator in the state of New York that will let that happen.

Paul Lucyk: Is it bonded? Is there money being held back in case theres a problem with this?

Ken Ellsworth: IT will be bonded. We hold bond until it's complete and approved.

Paul Lucyk: I was just wondering if theres an agency that checks the first couple years that the flows are well within what they're supposed to be.

Arthur Rosenshein: Apparently we just heard him say that the operator checks periodically –

Roger Haag: Record the flow on a daily basis.

Arthur Rosenshein: So there is an effort to keep track on what's going on. And they have to record it so theres mechanism.

Jacob Billig: And that's for the life of the plant, right Roger?

Roger Haag: Right, it will be build. If it's build 30,000 gallons a day they have to build it the way it's submittal to the DEC is and I need to sign off that it's been completed as designed and according to the specifiations I do on it and I wont sign off on it until it's done, the DEC approves it, then I'll sign off on it.

Bucky Loucks: Before you sign off on it are they able to open and run the place?

Roger Haag: That'll be done ahead of time. Build a plant according to the plans specifications and then I'll sign off on it.

Jacob Billig: And Mollie doesn't give CO's until everything's buttoned down.

RH: Until the plants up and operating, yeah.

Jacob Billig: Which means it's been signed off by DEC.

Bucky Loucks: So there wont be no CO's on the place.

Jacob Billig: Yeah, that's standard operating procedure.

Bucky Loucks: So there wont be no CO's issued until the plan is fully operated.

Jacob Billig: Correct because they can't flush. Its not a municipal system, the private systems got to be up and running, that's correct.

Arthur Rosenshein: Alright so were really just looking at a motion to approve the change bedroom count from three units to four with the proper notice as outlined by Paula earlier, the three different ways and subject to Kens sign off.

Mollie Messenger: Arthur if we could please. Can we not issue any more building permits until we get the wording and the new maps and all of the stuff that we need. Somethings got to be a hitch here, I

can't wait a long time for all of the information that we need. We need a bond, the wording, map, all the stuff.

Arthur Rosenshein: Well include Mollie's list in the resolution. That there will be no more building permits until such paper work comes in.

Bucky Loucks: Mollie are they building now?

Paula Kay: Yes.

Bucky Loucks: So why don't we stop the building until they do what they got to do.

Mollie Messenger: I don't know that we can stop all of it Bucky, that might not be fair. And to be honest with you I don't know how many more building permits that they need or they can get but we do need to solidify this issue because they are in the middle of building.

Arthur Rosenshein: So in the resolution will be 'no more building until they catch up with all their paper work'.

Jacob Billig: Mollie send us the list so we can work on getting that done.

Helen Budrock: This is a minor point but I know it was said before that the language would reflect that they are four bedroom units, but I think that they should be more specific in that 'the maximum number of bedrooms allowable if four'.

Arthur Rosenshein: Should say the words 'Maximum'.

Gary Tavormina: Why can't Mollie stop production until all the necessary paperwork is handed to her.

Arthur Rosenshein: There will be no more building permits until such time the paperwork is done. I agree with Mollie, it's really not fair to stop them.

Helen Budrock: Those units that already have building permits issued can continue.

Gary Tavormina: Why put the burden on Mollie, we can stop it I believe it as a board and stipulate. No more building until you get all your necessary paperwork done. Period.

Arthur Rosenshein: Essentially that's what we were saying Gary, but I don't believe in stopping something that has a building permit already.

Paula Kay: And those are owned by individual home owners as opposed to the developer.

Mollie Messenger: Gary to be fair there are three or four units that tried to get building permits for the basement. Those permits will have to be all modified to meet this new requirement also.

Gary Tavormina: I'm just trying to make your life easier.

Bucky Loucks: You're saying home owners are asking for building permits, how can they be home owners yet because there's no sewer treatment plant that's done.

Mollie Messenger: Well the people who are buying the individual units.

Bucky Loucks: But how could they be applying because they don't own them yet.

Mollie Messenger: That's why, we normally do not finish basements until the projects are turned over to the Homeowners Association. These basements are started without permits so that's why there's three basements that have issues.

Jacob Billig: That's why we're here.

Paul Lucyk: Can somehow we put in that if approved with the four bedroom units with the max that at this point they can finish what they're building, but to get the infrastructure set up before anything else is done with the infrastructure, with the sewer system, to make sure there's enough parking because now you're going from three to four you might have more cars. I really haven't looked at the parking but the concern is to make sure that they have enough parking to keep the fire lanes open if there is a fire.

Arthur Rosenshein: They have the amount of parking that they asked for four to begin with, they have the parking for that already. We're not approving new apartments, one would assume these bedrooms are for children. If we were approving more bedrooms for more apartments that would be different.

Paul Lucyk: So let's put in something about having the infrastructure, water and sewer done before they can add more units.

Mollie Messenger: They don't even have a design yet for the plan. Roger hasn't submitted a design for it.

Jacob Billig: Ken, normally while they're applying to DEC to get the plan approved, is it normal that there's construction that there's construction on the units simultaneously?

Ken Ellsworth: I'll answer a different way; it's abnormal to construct all the infrastructure and then wait for the units to be constructed.

Jacob Billig: So what Paul is saying is abnormal, correct?

Ken Ellsworth: Correct.

Joel Kohn: We're just looking to do what's normal, what other projects have done and be treated the same way so that's appreciated.

Gary Tavormina: Jacob would you buy a house with no water no sewer? And I agree with Paul. You put the water and sewer in then you do your building.

Jacob Billig: That's not what the town engineer is saying.

Ken Ellsworth: Being honest that's not what's happening now. It's not how the developments are going together now.

Jacob Billig: They can't get a CO until everything is done but it's normal and customary to get a building permit, they're different.

Mollie Messenger: I think what Jacob and Ken are saying is right and that's been the norm, that the sewer treatment plant is actually last in what gets constructed for whatever reason. However in other developments, you keep saying you want to be treated the same. The other developments are building for the amount of bedrooms that it can be in the home where your development is not. I think that's

where everybody has kind of an issue with that. That being said I think we resolved everything. You have the conditions.

Arthur Rosenshein: I'd like to go to the motion if we can. There's only so much we can do under the laws and fairness issues. The notations about the maximum number of bedrooms should be listed on the map, that takes care of what you wanted Helen. That no building permits will be issued further until we cleared the paperwork with Mollie, until she gets everything she needs.

Mollie Messenger: Engineering review.

Arthur Rosenshein: And engineering report signed off by Ken.

Bucky Loucks: And HOA that there's no law for building onto the basements because the sewer capacity's not there.

Ken Ellsworth: A bond for the plant.

Jacob Billig: Right a bond for the plant. To Bucky's point, are you saying there can't be three bedrooms upstairs and one downstairs for a maximum of four?

Bucky Loucks: On no they put three upstairs they can put one downstairs.

Helen Budrock: Maximum of four.

Jacob Billig: Maximum of four, that's the language we're going to use.

Bucky Loucks: Maximum of four that the homeowners should know because the builder made it that way, not the town.

Jacob Billig: Correct, we agree.

Paula Kay: It's in the minutes, it's in the site plan, it's in the offering plan and it's on the map. And the resolution.

Jacob Billig: I'm going to circulate a draft.

Paula Kay: And if you can have your engineer send out the revised site plan with a note on it so we can approve the note on the map.

Jacob Billig: What I'm going to do Paula, draft the note, send it to you Ken and Mollie to approve before we put it on the plan.

Arthur Rosenshein: Can we ask that the people building also get a copy so everybody's caught up. Future owners and present.

Jacob Billig: Yes.

Arthur Rosenshein: With those stipulations can I have a motion.

Bucky Loucks: Motion.

Irv Newmark: Second.

Arthur Rosenshein: All in favor raise your hands. Anybody against? Motion is passed with the conditions. Formaggio Cheese.

NEW BUSINESS: 4. FORMAGGIO CHEESE – SBL# 11-1-22 - Requests site plan review for a 50' x 124' addition to the existing building. Zone: I. Acres: 5.8. Location: 250 Hilldale Rd., Loch Sheldrake. Cross Roads: SR 52.

Michael Reilly, Chris Loke, Anthony Mongiello Represented.

Arthur Rosenshein: I assume this is the initial application. There are a number of things to be done. Do we want Ken involved, do we want Helen involved on this one. There will need to be a 239 review. And we need to look into the noise issue, I don't know what to do about it but it's not fair to somebody living near by. There should be something that can be done about it, noise shielding or something.

Gary Tavormina: You can't penalize the business owner because the tractor trailers are bringing in stuff that has to be refrigerated.

Arthur Rosenshein: The question are what are the compressors? Can we allow Mr. Mongiello to speak?

Gary Tavormina: Refrigerated trailers what are you going to do?

Helen Budrock: I believe they are permanent.

*Anthony Mongiello were having technical errors – couldn't get microphone to work *

Paula Kay: One other issue too would be did the home owner move in after the plant was up and running or was the home owner there prior to the plant? My guess is the first version, not to say that it's okay.

Arthur Rosenshein: But he indicated the problem didn't start until years after. We have to explore and see what's happening.

Michael Rielly: As soon as I got this letter today I looked up where he lives, and he lives 2,000 feet to the south. Its quite a ways away.

Helen Budrock: I Was also confused about the email because he talks about the "pumping station" to the North or Formaggio.

Michael Rielly: He's referring to the towns well.

Helen Budrock: Towns well. So it may not be an issue at all with Formaggio it may be something he's sensitive to with the town well.

Irv Newmark: He said he found out it was the refrigeration units that were making the noise.

Ken Ellsworth: We're not pumping the well.

Irv Newmark: All they have to do is screen those refrigeration units so they don't send the noise his way. Shouldn't be a big issue.

Arthur Rosenshein: What should we do to expose it? *Applicant still didn't connect to speak*

Mollie Messenger: Arthur to answer your question we did have other development projects do noise studies where you just have to see the decimal range is at the property line during operation. Its relatively simple.

Arthur Rosenshein: I still want to hear him speak first. Theres still a lot to be done before we come to any decisions.

Chris Loke: What I wanted to say was this noise started in 2017, these trailers that hes talking about we just got on our property two weeks ago. A storage trailer we use temporarily for busier times. Theres another trailer that we have that's our own trailer for refrigeration but that we go all summer and never use it. We only use these trailers in the winter when it's really busy. This all just came about Monday and in the letter he said that nobody responded, I spoke with him on ten minutes on Monday and I haven't had a chance to call back yet but he was supposed to come back on Tuesday and didn't. as far as the noise coming from those trailers it's impossible. This is the first time we had to get extra trailers is this year. And like I said we only had them two weeks now and the other trailer we don't run for 90% of the summer.

Arthur Rosenshein: Do you have any idea what he can be hearing?

Chris Loke: No I don't, and these don't hum, they're diesel motors. Its not a humming. He says he called NYSEG twice, I'm thinking it's the substation that's probably closer to him than we are. He said he called NYSEG, not that they did anything. And any other refrigeration we have runs 24/7, it never stops, obviously we can't.

Helen Budrock: I think Mollies suggestion was to actually test the sound and as long as it doesn't exceed any thresholds then it's a moot point.

Mollie Messenger: Yeah it's a relatively simple thing, Mike can tell you. We've done studies with Mike before, we just have to figure out what the decimal range is.

Michael Rielly: That's something we can certainly do. Like I said hes a long ways away, hes 2,000 feet away.

Arthur Rosenshein: Well most we can ask your client is to test it. He says now it's going on 24/7 so you can test it several times. You find nothing, theres nothing.

Helen Budrock: Exactly and at least you responded to his concerns.

Bucky Loucks: How many tractor trailers do you have there at a time? At night say you got a delivery coming in and they get there at 3AM and you don't open until 7AM and he starts unloading himself.

Chris Loke: Its very rare that we have those. Once in a while.

Bucky Loucks: Maybe that's the noise that he gets is the trailers that are parking but theres nothing you can do about that because they have to make their deliveries.

Chris Loke: He's saying it's happening now all the time and when I come in that's maybe once every month that a trailer would come in. we don't have many that do that

Helen Budrock: Would your expansion eliminate the need for those mobile refrigeration units or they will stay regardless?

Chris Loke: were looking to put extra refrigeration in too. We would get rid of those trailers.

Helen Budrock: If that's the issue the expansion may eliminate it anyway.

Arthur Rosenshein: At this point Ken and Helen will get involved. 239 you'll work on Mollie with that one. Merely a technical issue as far as were concerned. Do the sound test just to say no or yes as it turns out. put it on the record. It's a minor thing and lets go forward with the research on this one.

Michael Rielly: I will share screen because it's close to the property line. Left side is the overall of the site, Hilldale Pond and everything else. To the right is a ball park. The blow up shows the addition here. 50x124 feet. You'll see this bold line is actually the property line. Theres a significant county highway taking along this property so the actual line is very close to the building. So my question is whether or not we need to get referred to the Zoning Board for this addition because it's bot going to conform with the required setbacks. Its only 6.5 feet off the line. The current building the closest corner is actually up top by one of the entrances and that's 11.8 feet, I was looking for input on that, whether we need to go for the variance.

Helen Budrock: I would say yes. Paula?

Paula Kay: Yes. I would say yes but before you get on the agenda just do the measurements so they have exactly what they need to do a determination. To determine what the area variance is.

Helen Budrock: Essentially it's a preexisting non-conforming use and you just want to add on to it.

Paula Kay: But we want to know what those dimensions are.

Michael Rielly: Yeah it's 6.5 feet is now going to be the dimensions to the property instead of 14.1. so do I need to get rejected so I can go to the Zoning board?

Arthur Rosenshein: Motion to reject it because it doesn't meet the local zoning requirement?

Bucky Loucks: Motion.

Cody Vegliante: Second.

Arthur Rosenshein: Any against? Its been turned down, you can go to the ZBA now.

Mollie Messenger: Mike is that an electric line by NYSEG or is that a private electric line that runs?

Michael Rielly: I think it's private. I can check when I open the drawing.

Mollie Messenger: No problem.

Arthur Rosenshein: Theres a substation nearby you say?

Michael Rielly: Theres a substation further south, actually on the other side of the neighbor that has the complaint, closer to the college. Probably if I had to guess 4,000 feet down from here.

Bucky Loucks: Probably more. Goes up in woods too.

Arthur Rosenshein: That hum could be quite loud. Alright thank you for coming in. Center for Discovery.

OLD BUSINESS: 1. THE CENTER FOR DISCOVERY – SBL# 34-9-12- Requests 3 lot sub-division on a previously approved site plan application for a commercial building. Zone: MX. Acres: 1.07. Location: 234 Main St., Hurleyville. Cross Roads: Railroad Ave.

David Fanslau represented.

Arthur Rosenshein: Requests 3 lot sub-division on a previously approved site plan application for a commercial building. It went to the ZBA earlier this evening and the ZBA approved it. There's an updated map. They've included a parking area that will be included in the lot in the rear and the easement drive to the parking area. So there's been some change. David, I have a question. What is that, it looks like a pad-mounted transformer towards the front of the lot. Is that in the new lot or would that be cut out?

David Fanslau: I believe that would be cut out and would go with the lot that's the new building and the parking lot, the parcel that's in yellow I believe. Trying to see it.

Mollie Messenger: I don't see it on the drawing, David, I think it's missing from.

Arthur Rosenshein: You can see how narrow the lot is, this is the new building and the green transformer. That's not going to be on the property?

David Fanslau: The green transformer will be on the new property with the new building. On the colored map that Glenn provided you it would be on the parcel that is to remain in yellow.

Arthur Rosenshein: Where will those parking spots be based on that photo?

David Fanslau: Basically it would be to the right side, north of the fence in that photo.

Arthur Rosenshein: Behind that brown brush.

David Fanslau: Yes, it would come down, you see some parking spots that would connect to the rail trail connection. There's some spots there then you start them over. I believe not directly behind the yellow building, over some, that would be on the Centers property.

Arthur Rosenshein: Right of the yellow building, hidden by the brush.

David Fanslau: Yes.

Arthur Rosenshein: Questions, board members?

Mollie Messenger: We need to actually amend the map according to what you guys have. The two spots that are shown on the CFD brown parcel are actually going to be part of the green parcel now so we are going to try to amend the map so that house actually has its own parking. Then there will be easements along the orange lots to get to the green lot just so everyone understands that.

Arthur Rosenshein: So if you see where it says Winicki house in green, just below it says 10 and another 10. Those are the two parking spots that will be added and the right of the easement will be to the left of those spots out to the street.

Paula Kay: Should we address the 239 response a little bit? There's some comments from the county that they highlighted from us. These are from the review from 10/15/20. Several comments: Plan does not show the current conditions relative to curving and sidewalks. New curving and bump outs were

installed over the past few years, these will need to be added to the plans. Site distances should be shown for the new driveway across access along Main Street. Parking will need to be restricted on either side of the new access on Main Street so as not to block sight distance. Details will be needed on the new curve cut on Main Street. Changes to sidewalk and curving will also be required because of removal of the access to the existing gravel lot adjacent to Wild Turkey Market. It appears that the current provided site plan does not address all of these comments other than a note at the proposed access that reads "Sullivan County DPW drive entrance permit required". In November 2019 SCDPW received another version of this plan attached relative to a permit application. The comments and notes relative to a permit application, the comments and notes relative to striping, site distance, curving still apply and need to be addressed during the permit phase of this application moves forward.

That's from Sullivan County DPW. Those comments were Thursday, October 15 which were part of the email from November 9 and forwarded to the Town.

Helen Budrock: But it sounds like they were a reiteration of previous comments during the site-plan review.

Paula Kay: Exactly.

Arthur Rosenshein: So they haven't been taking care of yet.

David Fanslau: I believe that Glen is incorporating those comments onto the plans that would be filed with the Town and County. I know that Glenn has had a conversation with the Planning commissioner and talked with the planning department staff so there's no issues with the recommendations made in the 239 review.

Arthur Rosenshein: Okay. What I've been concerned about with is it wouldn't be a viable lot with the addition with the two parking spots and the easements it's now viable if odd. I don't see any reason not to approve it, the ZBA did approve it.

Mollie Messenger: What is the shed used for, who's responsibility is that?

David Fanslau: I don't really know what we use that shed for off hand. It would maybe be used for storage, green house plantings or something of that nature. But it would stay in ownership of the Center in either lots.

Mollie Messenger: You're moving right along with the big building which is great. When is the construction of the parking lot going to start, you need that to open the building.

David Fanslau: Yeah I would think the parking lot would be constructed in the first part of the spring. The asphalt plants are only open a few more weeks. We understand the parking lot would need to be done prior to the building opening. We have had some discussions with the town about making this a municipal parking lot in supported by the Hurleyville parking district, which essentially is all Center property. Then that will be a parking lot that would be able to be connected. As far as additional spaces that would support the other two municipal parking lots that are on either end, the West and East end of the rail trail.

Arthur Rosenshein: Are you ready for motion of disapproval? We don't need to do SEQA on it, we will motion that the 239 item should be reflected on site plan and a motion for subdivision approval with 239 comments on it.

Cody Vegliante: Per Paula's recommendation I abstain from voting on this.

Mollie Messenger: And amendment to the subdivision on the map.

Paula Kay: You're approving the amended subdivision map as amended with the parking spaces.

Arthur Rosenshein: Sounds good. In that case, motion?

Gary Tavormina: Motion.

Irv Newmark: Second.

Arthur Rosenshein: Thank you, any against? The 'ayes' have it.

OLD BUSINESS: 2. CHESNUT COURT TOWNHOUSES – SBL# 39-1-94/95 – Requests site plan and Subdivision approval. Zone: Acres: 9. Location: 176 Laurel Ave., South Fallsburg. Cross roads: Derech Hatov Ln.

Jay Zeiger and Mike Reilly represented.

Helen Budrock: I sent around some draft resolutions. I don't know, I didn't get any feedback from Paula or Jay so we can go through them tonight if you want. Were at a point where we can issue approvals. I don't believe there were any responses to the lead agency designation opposing the town assuming lead agency status so I have a neg deck resolution. I prepared parts 2 and 3 of the PAF to support that. And then we have a separate subdivision and site plan resolution for consideration with some conditions.

Paula Kay: I Read through everything this week. I think we should start with the neg deck unless there are questions.

Helen Budrock: The planning boards finds the project will not have significant impact on the environment and negative deck is hereby adopted. These are standard, the planning board will cause notification of the resolution according to part 6.17 of SEQR, and the resolution will take effect immediately.

Arthur Rosenshein: Does anyone care to make a motion?

Bucky Loucks: Motion.

Cody Vegliante: Second.

Arthur Rosenshein: All in favor. Any against? The 'ayes' have it. Lets move on.

Helen Budrock: Subdivision for site plan and special permits. We don't do a lot of sub divisions in fallsburg so if there are comments on the language, starting with standard conditions, it's similar to site plan resolution, it adheres to requests to changes, implementation to any mitigation measures referred

to in EAF, payment of all fees, posting of the bond for all required public improvements and offer of dedication for town or land of easements for roads, utilities, etc. Questions?

Site specific conditions, we have three of them. First is parcel 36 shall contain all of the common open space and recreational amenities included but not limited to the single family care takers residence, the community center and associated parking, swimming pool, sports courts, playgrounds, roads and stormwater management areas. Two, all common open space and recreational amenities shall be owned and maintained by a home owners association and no building permit shall be issued until the applicant provides the town attorney with a copy of the HOA declaration. Number three, maintenance of all parking areas, sidewalks, and pedestrian pathways shall be the responsibility of the HOA regardless of whether such sidewalks are located on parcel 36. And that's just to make sure that all common areas are understood that they are the responsibility of the home owners association and not the individual lot owners although technically it's going to be all one-in-the same. Right jay?

Jay Zeiger: Correct.

Mollie Messenger: Does that actually work? I thought the parent parcel went away.

Jay Zeiger: No for an HOA the parent parcel is a separate parcel and would have it's own tax map number. On a condominium it goes away.

Helen Budrock: Any issues or questions?

Arthur Rosenshein: This is labeled preliminary subdivision. Can we combine the two?

Helen Budrock: I wasn't sure whether or not it could be considered final or if it has to be the two step process.

Arthur Rosenshein: In general we combine them.

Paula Kay: I don't see a reason why we can't for this one.

Helen Budrock: Your subdivision law, unless I'm missing something, doesn't differentiate between a major and minor subdivision so it's more of the policy of the board. I took the conservative route of assuming it was a two step process.

Jay Zeiger: Over here the sub division is really insular to the rest of the project so it should be combined.

Helen Budrock: So if I change the wording to 'final' that will take care of it.

Paula Kay: Yes.

Helen Budrock: I will make that change before I send the resolution for signatures.

Arthur Rosenshein: Motion for preliminary and final sub division approval on Chestnut Court Townhouse project.

Bucky Loucks: Motion.

Cody Vegliante: Second.

Arthur Rosenshein: All in favor. Any against? Ayes have it.

Helen Budrock: Third resolution that we have is a combined site plan and special permit conditional approval resolution. In addition to the standard conditions there are 5 site specific conditions, very similar to the other conditions. All common open space and recreational amenities shall be owned and maintained by a HOA and no building permit shall be issued until the applicant provides the town attorney with a copy of the HOA declaration. 2, no site disturbance construction shall take place until a SPEDES general permit for construction activity is issued by the DEC. 3, a minimum of 101 parking spaces shall be provided –

Jay Zeiger: Mike, is the 101 spaces correct?

Michael Rielly: Let me check my site plans.

Paula Kay: On the HOA document, I think we need to say a proposed or a draft because we don't want them to submit it to the state.

Helen Budrock: Copy of a draft declaration.

Jay Zeiger: I sent that to you last month. I'll resend it.

Michael Rielly: Yes it is 101.

Paula Kay: Mollie had brought up the driveway encroachment issue.

Michael Rielly: Eli Braizel was supposed to work something out with them. I think he was trying to buy the whole property.

Jay Zeiger: Eli said he had been speaking to the owner, I don't know what happened. If I remember, it's the other driveway encroaching on us?

Michael Rielly: Correct, a small triangle of driveway is on our property.

Helen Budrock: How would you like me to word that?

Mollie Messenger: Are we giving an easement?

Paula Kay: I don't know until someone does a search on it. That resolved to the satisfaction to code enforcement and the town attorney.

Jay Zeiger: That's a little hard on us because that gives control to a neighbor. Its their encroachment on us and were not objecting to it.

Paula Kay: this was brought up in September and the PB asked you guys to look into it, so if the answer is the neighbor is encroaching on your property and you don't object to it I want to have that reflected so that there isn't an issue. Were looking at this from the perspective of the residents of the community ten years from now, we don't want them to have an issue. Maybe we just need to have that reflected on your HOA, that there's an encroachment.

Helen Budrock: That might be the easier way because then it doesn't make it a condition of their approval because it wasn't something they caused.

Paula Kay: Right, again, the board asked them to look into it. The answer is it's there, the developer doesn't care about it, but lets make sure people buying property are aware that it exists.

Mollie Messenger: Can we put on the map that they're acknowledging the encroachment? The map is the only thing people ever look at.

Michael Rielly: I can put a note on the map.

Jay Zeiger: I can add that to the declaration.

Helen Budrock: There were two other conditions. After the parking spaces it was, the applicant shall provide dedicated easement along Laurel avenue as necessary to accommodate the construction of future sidewalks if and when they be determined by the town to be necessary for the protection public safety. The boundary of the easement and the engineered design of the sidewalk shall be included in the approved drawing set. Finally, all existing buildings located on the site shall be removed at the owner's expense before any building permits are issued, the foundation for the caretakers unit shall remain.

Jay Zeiger: I think all of the buildings are gone.

Helen Budrock: Do you want me to leave that in or take it out?

Jay Zeiger: Doesn't matter.

Helen Budrock: Doesn't make a difference, it's been done. Mollie, I know you had a question about site utilities and whether and any improvements were necessary from a water sewer perspective that should somehow be reflected?

Mollie Messenger: Yeah we talked about it at the last meeting, too. If there was anything that was on the town line that had to be upgraded. I don't know ken if you had a chance to look into any of that.

Ken Ellsworth: Yeah I looked into it a little bit and I don't think there's anything we need to update from this development. Eventually we've got some updates we have to consider but it's not affecting this one.

Bucky Loucks: The driveway that's encroaching the property, couldn't they just give them a right-of-way there so that takes care of the problem and you wont have to worry about it down the road?

Jay Zeiger: If we can work it out with them we will but I don't want to agree to it because they may say to me 'I'll take the easement but I also want \$20K, \$50K', I don't know what they want.

Bucky Loucks: But they're going on your property. Why would you have to give them money?

Jay Zeiger: Because if you make it a condition then they're going to hold up the project until we satisfy the condition. Weve agreed that they can stay and we'll give them an easement if they want it but not as a condition of our approval.

Bucky Loucks: I'm not saying as an approval but if you're doing a sub division you have to go through the county anyway, why can't you just put a right of way in there?

Jay Zeiger: They have to sign off on it.

Arthur Rosenshein: Why would the developer have to give something for nothing? I think the proposal that we put a note on the map so people buying into the development know the encroachment is there is enough.

Bucky Loucks: Okay.

Arthur Rosenshein: Motion is for the site plan approval and special permit with the addition of the note about the driveway. Do I hear a motion?

Irv Newmark: Motion.

Paul Lucyk: Second.

Arthur Rosenshein: All in favor raise your hand. Everybody said yes, anybody against? Unanimous.

OLD BUSINESS: 3. MOUNTAINDALE HEIGHTS – SBL# 42-1-19.2 – Requests a 9 lot sub-division. Zone: R. Acres: 6.70. Location: Mountaindale Rd. & Old Turnpike Rd. Cross Roads: Silver Lake Rd.

Joel Kohn and Mike Rielly represented.

Joel Kohn: Good evening presenting applicant with this along with Mike Rielly the engineer for this project. Mountain Dale Heights is a proposed 9 lot subdivision at the intersection of Mountain Dale Road and Old Turnpike Road. It's a 7.25 acre property in the R zoning with public water and sewer. It had been in front of the board 11 or 12 years ago as a 12 lot subdivision, it had since been reduced to a 9 lot subdivision. They had a public hearing in December of 2019. The owner has switched engineers to Mike Rielly who is now the engineer for the project and we are back in front of the board until we get final approval for the subdivision. We did have a work session with Ken and Mollie to go over some utility questions and the sub division plan and site plan has been designed in accordance to that meeting we had and we are ready to go for final approval on this.

See my screen now. This is the proposed 9 lots. This is Mountain Dale Road and this is Old Turnpike Road. We did have a 239 review about a year ago and they found it to be local determination but they and the county DPW did have some comments. One was eliminate access points to county roads so we have combined some driveways together to minimize access to county roads.

Arthur Rosenshein: Which is why they have the shared driveways at the top?

Joel Kohn: Correct. Its was originally four separate driveways but because of the county DPW comments it was combined to be just two driveways for the homes.

Mollie Messenger: We talked with Joel and Mike and Ken about this project for a little while now. Mike had some work to do as far as making the water and sewer work. The question at hand is whether the Town would take over the water and sewer in that shown easement there. It's a town board decision so at some point you'll have to go to the town board and talk to them about that. I would not think they want to take it over but they may, you'll have to talk to them about that.

Ken Ellsworth: And I'll have some technical questions but nothing that Mike can't resolve.

Arthur Rosenshein: If we approve it it's subject to your review?

Ken Ellsworth: Yeah.

Michael Rielly: The county was concerned about the site distance for the driveways. We checked that on both the county driveways and the town driveways and were good on both of them.

Arthur Rosenshein: Has SEQR been done on this? It's a type two action we need to acknowledge that, that's all we have to do. Questions?

Irv Newmark: Its in my neighborhood and I think it's an improvement of the last plan. There's good site distance on Old Turnpike Road because it's a straight road and you can't go fast at that particular part of the road and there's houses across the street. As long as the headlights of people coming out on Old Turnpike don't shine on the houses across the street.

Arthur Rosenshein: I can't tell on the map where the houses are.

Irv Newmark: You can't. There's not too many, there's maybe four across the street. It would be good if you came out of the driveway you didn't shine your headlights on the other peoples houses.

Michael Rielly: I know they are pretty set back off the road.

Arthur Rosenshein: It's a good point. How do we incorporate in the process at this stage.

Ken Ellsworth: It will be part of the technical comments, Chairman.

Michael Rielly: If I had to shift, like he said site distance is good, if I had to shift a driveway 20 feet one way or another to miss shining someone's house I can certainly do that.

Ken Ellsworth: I'll out it down as a note.

Gary Tavormina: Do we have any rendition on what these houses are going to look like?

Joel Kohn: It's a simple subdivision.

Bucky Loucks: How many acres is this all together?

Joel Kohn: 7.25.

Bucky Loucks: Town water and sewer?

Joel Kohn: There is town water and sewer.

Bucky Loucks: So why did Mollie say you have to go to the Town Board?

Joel Kohn: Mollie was referring to the proposed easements because theres going to be man holes and sewer mains behind the lots. So were talking these sewer mains will be taken over by the town or will be privately owned.

Bucky Loucks: That's all I had.

Arthur Rosenshein: This is preliminary and final, simple subdivision.

Mollie Messenger: Cant do the approval tonight, Arthur. We need to figure out who's going to own the sewer lines.

Arthur Rosenshein: Doesn't it default to them owning it, their problem?

Mollie Messenger: I don't have any idea, theres not been a conclusion.

Joel Kohn: We can still get approval and figure that out with the town board afterword.

Mollie Messenger: I wouldn't advise that but it's up to the board.

Arthur Rosenshein: Ken?

Ken Ellsworth: If the town board doesn't give them that easement then the design is irrelevant, it'll be a moot point. They need this easement because they don't have a HOA to maintain the lines so this design requires the town to take over the easement and the line.

Mollie Messenger: What generally happens with a lot of the different applications is that the minutes don't reflect what's actually happening on the site plan, and then five years later I need to figure out what was said. I would really appreciate if these sub divisions, all these plans, actually moved further and it was on the record, in the resolution, part of the approval, something, because it gets way too confusing.

Arthur Rosenshein: So you want to work the language out and come back next month?

Mollie Messenger: Its very difficult for the building department to continually work out what is going on.

Arthur Rosenshein: I agree with your issue there.

Joel Kohn: What I'm saying is the design wont change, if the town is not going to take it over then well have to do an easement and warn the home owners. Design will still remain the same.

Ken Ellsworth: You'll have to do a HOA, is that what you're saying?

Joel Kohn: Home owners association or a shared sewer main agreement.

Paula Kay: Lets work out these items and come back.

Joel Kohn: Okay.

Helen Budrock: Mollie if those were memorialized in the actual resolution that would help you from the record keeping perspective?

Ken Ellsworth: Should be on the map too.

Mollie Messenger: We need it written somewhere. That's what happens. We have multiple sewer lines and nobody knows who owns them in town.

Arthur Rosenshein: You have a month to figure it out.

Paul Lucyk: Did they do any soil testing on this site if these houses are warranted for foundations?

Michael Rielly: NO we haven't done any deep test pits on the site.

Paul Lucyk: It might be advisable, Mike.

Michael Rielly: For depth of rock you're concerned about?

Irv Newmark: Theres was houses dumped there many years ago, from the Woodridge Herb Renewal project off of Old Turnpike Road.

Paul Lucyk: A lot. Half of Woodridge is buried there. You can call me we'll discuss everything with you.

Planning Board Minutes 11/12/2020

Michael Rielly: Well look into that. Sounds like a potential problem.

Irv Newmark: Need to see if there's anything under foundations will be.

Paul Lucyk: Lots of clay in that area.

Arthur Rosenshein: Got to have everything on the site plan. Got to do some deep test pits. You have a bunch of things to do. Lets call the meeting to an end.