

"Minutes are not official until approved by their respective board."

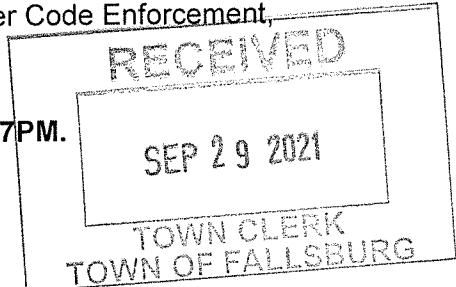
**TOWN OF FALLSBURG PLANNING BOARD MEETING**

September 9, 2021

In Attendance: Chairman Arthur Rosenshein, Gary Tavormina, Paul Lucyk, Irv Newmark, Bucky Louckes, Cody Vegliante, Planning Board Members, Mollie Messenger Code Enforcement, Helen Budrock Town Planner, Hayden Carnell

**Arthur Rosenshein called the meeting to order at 7PM.**

**LUXOR JUNIOR – SBL# 12-1-41.5**  
**Public Hearing**



Arthur Rosenshein: There will be no back and forth tonight, meaning we had conversations going on, and we're not going to have that, because there are other applicants, and they got shorted last time, they have money on the line, Statutory deadlines they have to meet, and it is essential that we don't get to them, we are doing them a disfavor, it's not fair to them. I ask when you speak tonight, we had trouble putting names to our speakers, so we're going to have a sheet over there, so we have a list of the names of people speaking. Simple so we get them correctly in the minutes. The item that you are here for is not on the agenda tonight. The Planning Board will not be hearing anything except the public hearing on Luxor. It isn't on our agenda, maybe next month, I don't know, there's some changes going on, but it's not up for tonight.

Female Audience: Sorry what does that mean?

Arthur Rosenshein: That means when you are done with the Public hearing on Luxor, Luxor will not be heard or spoken to by us. It's just not on the agenda, we won't answer any questions, we won't ask any.

Mollie Messenger: In fact the board has asked, the applicant responds to each and every public hearing comment, so it's going to take the applicant some time to put that together, so it made sense for them to be on the agenda tonight. So we are going to complete the public hearing and close it.

Arthur Rosenshein: You will have the chance to speak tonight, we are not cutting people off, all I was saying is that we are not going to have the engineers or the attorney getting into it back and forth answering questions. It often works well for us, but not on a crowded agenda. And if that's it, if you haven't spoken before, I would like you to be first, and then we will give everybody a chance, as much as we can. When you come up, print your name over there so it

is readable. We received four more letters. I'm not going to read them out, they are well written, their names are on them and I will ask that they be put in the minutes.

Mollie Messenger: And they will be part of the official record.

Arthur Rosenshein: They will be part of the record, I've read them, I hope some of us have read them.

Mollie Messenger: And they will also be responded to by the applicant.

Arthur Rosenshein: Ok the first name will be Mary Adams

Mary Adams: I just wanted to thank you for our last hearing. I really felt like you listened and we were able to bring a lot of points forward. So I really appreciated that, and we have a few more points, but we will keep it very short, promise. One thing that I wanted to let you know about is, our group, the Loch Sheldrake Shores Group, is planning to hire an engineer to review the applicants long EAF, and to test the assumptions and conclusions. And that's really not to say that anything that you are not doing your job, but when I looked at the history, the amazing history that Helen Budrock wrote out. This has been going on, some of it for 20 years, and in truth, the developer really hasn't done anything to address any of the concerns, and they were the same concerns in four Public Hearings. So we just really want to support you in doing the job that you signed up for, which is to be the lead agency. So, that's our plan, and we really look forward to being part of this process. The lawyer that I have been consulting with, he is an environmental lawyer, and he had suggested that I ask you to keep the Public Hearing open, until the EAF is available for us to review. So I put that forward, and realize you just said that you would like to close it. But if you close it, we want to know that we can have a Public Hearing on the EAF when it is submitted. Otherwise we would like you to keep the Public Hearing open. So that is just my request, also this past week, I think this is to you Cody I think, or whoever knows about drainage. I got a New York alert that said there was a sewage discharge into Evans Lake last week after Hurricane Ida, and I just wondered, does that affect Loch Sheldrake Lake, and is that because the sewage plant is overwhelmed? Because I know the drainage goes into the sewage, the storm water goes into the sewage drainage I believe and so I'm just wondering, is the system already overwhelmed? Is that what that means when I get an alert like that?

Helen Budrock: I just wanted to let you know that is Keystone, the Town Engineers responsibility.

Mollie Messenger: I'm sorry we can't go back and forth, we have asked your question

Arthur Rosenshein: It will be addressed. Phil Simpson is on Zoom

Phil Simpson: Members of the Planning Board, my name is Phil Simpson, I'm here to speak as well, on behalf of a group of concerned residents of Loch Sheldrake. I've been a fifteen year resident in Loch Sheldrake, use the lake every summer. Love to use the lake, and from what I

can see this proposed development would inevitably do substantial harm to our lake. Additionally storm water runoff, erosion of soil into the water, washing of untreated materials, such as gasoline refuse, untreated sewage, concrete, etc, whatever runs off, will harm the lake. Additionally suspended solids, modification of water levels, altered water temperatures, PH, nutrient levels, pollutants, all of these have the capacity to kill fish, pollute the lake, and people who live here, and people who come as tourists, love to swim, boat and fish, will no longer be able to enjoy it. These are all questions that need to be addressed thoroughly, in a full environmental impact review. Clear cutting 42 acres of forest with poor soil drainage, another terrible idea for the environment, plants and animals lose their habitat the forest will no longer be there to act as the lungs of our community, and equally importantly as a sink for flood waters, and I have to tell you, if we've learned anything, from the storm of last week, and the damage that it has done 100 miles away in New York City. We've learned that these storms are coming more and more frequently, and with more and more severity. I was here for Irene. I want to remind the Planning Board that Hurricane Irene shut down the 911 system in Sullivan County, so when we think about planning a development such as this, and developing for storm water runoff, it really needs to be done with current predictions in mind. We will wish to review the long form EAF, we're quite sure the project is going to present one or more significant adverse environmental impacts. And so we urge the Planning Board to issue a positive declaration, under SECRA as its declaration of significance. This will make sure that the significant adverse impacts will be thoroughly studied and the changes will be made to the project which will mitigate those impacts as fully as possible as SECRA requires. We are ready to provide you with additional information to help you determine the scope of the Environmental impact statement, in other words, we look forward to a positive declaration and we look forward to taking part in the scoping process, to identify issues that need to be studied, and we hope to provide suggestive guidances to how they should be studied. When you act as the lead agency, under SECRA, the Planning Board is taking on an important responsibility to ensure that SECRA is applied to this project, fully and in good faith. You become the steward for our environment, and need to fulfill that responsibility. We are counting on you to be the stewards of the environment on our behalf, and we thank you for your service in that regard. At the same time, I want to remind you that if the Planning Board makes an improper decision, or allows the project subject a secret to start, and does not undertake a proper review. Then citizens or groups have the ability to go to court under an article 78 of the New York Civil Practice Law and Rules, I personally have been there before. I know the pathway to the Courthouse, we hope very much we do not have to go there, and that instead the Planning Board will undertake both to find a positive declaration and then a thorough Environment review under SECRA. Thank you very much.

Arthur Rosenshein: Thank you very much Sir. We have another Zoom, Gary Koutcher.

Gary Koutcher: My name is Dr. Gary Koutcher and I am here to speak on behalf of a group of concerned citizens of Loch Sheldrake, about this project's impact on the town's infrastructure. I want to bring to your attention how much this will tax the town's existing systems. As you know, Luxor Jr. will be using town sewer and water, there are no existing public utilities to the proposed project site, so some questions I have are, how will the town fund water, sewage and

electricity connections to the new development? Are the town's current sewage and water system currently able to handle the strain from the additional units. For example, does the town have data of the water and sewage usage by the existing Luxor development. And you know, it's not just really about Luxor Jr. it's like there's so many developments coming in, so we have to have the big picture, like you can add 100 units but then you want to add another 150 units here and another 500 units here, so the question is, do we have the current sewer and water systems able to handle this? We also need to make sure that the roads are ok, do we the roads, and will traffic be affected as everybody knows the traffic in the summer in Loch Sheldrake is very difficult, so we definitely want to be sure this will not make it worse. Finally, the project lists the Monticello Landfill as the disposal site for construction debris and other wastes. Does the landfill have the capacity for that, and what happens to the landfill when they say no we can't handle it. So Thank you very much.

Helen Budrock: If I might just make a brief comment, the past speakers, although they have vaidle points, both reiterate almost verbatim in what they put in their written comments that Arthur has in his hands, so again just to reiterate, those with comments will be part of the Public record will be addressed, and so if you have anything new to add to that would be great, otherwise it is just repetitive and we do have other business that we need to get to tonight. Thank you.

Arthur Rosenshein: Ok, who's next on the list (Inaudible)

Female audience: Yes, you can skip me, because it's repetitive,

From 19:32 to 23:56 volume not working on video meeting

Male Audience: and make all of those water retention and construction close to our community, we have lots of space on the right side, so we think the buildings and other technical constructions as far as possible from our (inaudible) so that's my only wish.

Arthur Rosenshein: In this case, I'm going to call it closed. Public hearing has ended, you'll have the opportunity and you might have to do it in writing. We'll get someone to examine the environmental. We appreciate that. But there may not be another time to speak. If we go through the secret process, there are times when it is mandated but not, it depends on what level we go to on that. But by all means, the record is opened and we appreciate it. With that we will move to our regular agenda.

### New Business

#### **1. CABANA SANDS – SBL# 20-1-4.1/4.2 – Requests a 6 month extension of a previously approved site plan**

Jay Zieger representing.

Jay Zieger: On behalf of the applicants, the plan was approved a year ago, or last month, it was a year ago. We were here for an extension then, not a whole lot was done within that year, but the issues that we had we are resolving. We are here to ask for an extension, the code that ties two sixth month extensions, we expect to be breaking ground, apparently there are some engineering issues that are still outstanding, and as soon as those are resolved, they are ready to go forward.

Arthur Rosenshein: Ok, does anyone on the board have any comments, questions? Motion to grant a sixth month extension, all in favor? One against. Second one on the agenda is also an extension.

**2. HYCHEL HATORAH – SBL# 12-1-69 – Requests a 6 month extension of a previously approved site plan.**

**Jay Zieger Representing**

Jay Zieger: The property is a summer camp, David is with (Inaudible)

David: Yes we were here, and it's basically the same scenario as the last project that was discussed. We were here in August, a year ago for approval, the applicants have been working on the conditions of the approval and the building plans together, we are requesting an extension so we can continue with the project.

Arthur Rosenshein: Question to anyone on the board.

Gary Tavormina: What are you waiting on approvals on what, the engineer is holding onto it, so what is he waiting on?

David: A couple of engineering issues, the final conditions that were getting addressed.

Gary Tavormina: Ok

Arthur Rosenshein: Care to make a motion

Gary Tavormina: Make a motion

Arthur Rosenshein: Second, Paul's in second, all in favor 1, any opposed, 1 opposed. Ok, you got your last extension. Next on the agenda.

**3. CONGREGATION KOLLEL OF SOUTH FALLSBURG – SBL# 56-1-64.5 - Requests site plan approval for a home based business for a prayer room and 20 x 25 covered deck. Zone: HR. Acres: .35. Location: 187 Lake St., South Fallsburg. Cross Roads: DogPatch Rd.**

Arthur Rosenshein: Is there anybody here representing the applicant?

Mollie Messenger: Rabbi Berries was here,

Female Board: Can we make a motion to take the agenda out of order and move on? This way we can make some progress on the agenda.

Arthur Rosenshein: Ok, we will postpone item number 3 until the end. Does anybody have any objections? Motion to move on approved.

**4 ROCKWELL REALTY GROUP LLC – SBL# 24-1-7 – Requests site plan approval for automobile sales. Zone: B. Acres: .21. Location: 468 SR 52, Woodbourne. Cross Roads: SR 42.**

**Jay Zieger Representing**

Jay Zieger: What we are dealing with is an existing one in Woodbourne, if you are coming from Fallsburg, it's almost across the street from where the synagogue is on the other side. It's an existing building, the building has been unoccupied. There's a residential building on the property and a commercial building which is right in front. The proposal was to lease some of the space in that commercial building to Lapwell as the owner, they are leasing it to a tenant that's going to run an online automobile auction sale business. What I found out, why Woodbourne and what they are looking to do there, is apparently in your licensing, there's a limit to how many automobiles you can buy and sell under any given location, any given license. So by opening up this second location in this case in Woodbourne where they have a license to operate in Woodbourne. They are allowed to buy whatever many cars that they are allowed to buy, and it increases the ability, the number of cars that they can purchase and then sell. All they are doing is running an office here, they have a license to conduct the business here. They will have on a part time periodic basis, one of maybe two, the owner and his assistant may be there on a part time limit basis, to come to the location and check mail and set there and use it, but primarily it's going to be just on a computer, and online auto sales.

Arthur Rosenstein: No cars, no visitors?

Jay Zieger: Nor cars, no visitors.

Gary Tavormina: There is no place to put cars there.

Jay Zieger: There is parking right at the base of the building, and that will be what the owners use.

Arthur Rosenshein: With the structure diagonally, without them backing out on a State Highway which you can't do,

Bucky Louckes: Same person Jay, owns the building above there? What did they make that up there, make it into two apartments, now, so what are they going to do for those peoples parking?

Jay Zieger: You mean the residential? Right now it is vacant, and the discussion I had with them is they are not quite ready to do something when they do something with the building, they said they would probably build a garage for parking.

Mollie Messenger: Where would they build a garage?

Jay Zieger: On the site somewhere, Mollie they're really not doing anything right now with that, they don't have plans for that, they are not asking for that. If you want to make a condition before they go forward with the residential that they have to come here with a more comprehensive site plan, they are okay with that. But right now, we are talking about a virtual nonuse of the building, by a tenant that is licensed to be there and is going to have virtually no impact on anything.

Paul Lucyk: And they have to stop vertical parking, backing out on a State Highway

Arthur Rosenshein: Yeah, parallel parking

Paul Lucyk: They are vertically parking on an angle, where they have to back out on State 42.

Mollie Messenger: Do you have the site plan?

Jay Zieger: That's attached to the applications, that's what's there.

Mollie Messenger: I think what the problem is Jay with this, to Bucky's point is this is a really difficult site on a really difficult road. So we can't go after the fact, when you do have a house on it, and where the rentals are going to be and people are going to be accidentally being in there and approvals, and then the parking is an issue, as far as where are these people going to park. And then the website directs people to go to this location. It's a worry.

Jay Zieger: There's going to be know cars there, nobody is going to be there, I think that's just a website, I asked him what's the purpose of the directions in there, he said none. There's nothing there.

Mollie Messenger: Well maybe one condition is they should change their website, because I have a concern. They can plan as well as we can plan from here, but if there's something completely contrary on the website.

Arthur Rosenshein: Here's the thing, they got a building, it's legal, the use is a legal use, they have a right to get some income out of the building. The thing is we are trying to find a condition where we can do it safer.

Paul Lucyk: That building was used by Mr. Kaplan to show his refrigerator's, his washing machines and dryers and that stuff, many many moons ago. There were no cars parking there, they parked across the street, where the Citgo station is right now, and walked across the street to that building.

Bucky Loucks: If he's having no traffic, I don't see a problem with it. I mean that's my opinion, I mean, the guy does pay taxes to the town, and if he wants to make money on the building,

Arthur Rosenshein: And they can't be using it as an online office, you can't have less

Mollie Messenger: Talking about the building for a second, it does need work. Something needs to be put up.

Jay Zieger: There's an existing sign (shows picture) this is the sign that is there.

Mollie Messenger: Did they approve it

Jay Zieger: I don't know what my client is, he owns lots of property, if I tell him he needs approval, he comes for approval, he didn't think he needed anything for this use, he never even asked me.

Mollie Messenger: So here's my worry: it has to do with putting that sign up, is it going to draw people, you got to figure out if you want to draw people or not (Inaudible) that's what I'm trying to figure out.

Helen Budrock: So it'd be better not to have the sign.

Mollie Messenger: That's what they should think about, you have out in the front auto sales

Jay Zieger: But there hasn't been anyone coming in, it's been operating.

Paul Lucky: You see a sign, you go over and want to see what's going on and you're drawing people.

Helen Budrock: I mean first of all, a banner is not a sign, right, you're not supposed to have temporary signs.

Gary Travormina: There's a sign in the window saying what it is.

Helen Budrock: But if you did have a permanent sign indicating that it was online auto sales only, somebody driving by wouldn't get the impression that they could knock on the door.

Paul Lucky: Where is the main business?

Jay Zieger: I think they have more than one location,

Hayden Carnell: It looks like there's quite a few, easy choice of other's, looks like they may have one in Manhattan, Queens.

Paul Lucky: I don't understand how this works, you're going to have to explain it to me, nobody can go in the building but you have the computer setup, is that correct?

Jay Zieger: You can do online purchases and sales, somebody can't come in and buy a car, the only way they can buy a car from this company is online.

Arthur Rosenshein: Just to give them a physical address, they can refer to if they need. I don't see any harm in this, I do agree with the sign you have to get it approved, a sign that says what the business is, and no sales on premises would be enough.

Cody Vegliante: But you can't have a sign that's going to make people pull over

Arthur Rosenshein: One that says no sales on premises.

Irv Newmark: Just no sales on site, just the location, it doesn't even have to be that big frankly.

Arthur Rosenshein: Because it is deceiving, but I think that would do it. Plus the requirement that the lines be painted out. The diagonal stripes there.

Irv Newmark: It has a NY State Inspection sign on it.

Helen Budrock: It says registered State of NY motor vehicle retailer

Irv Newmark: That's the legal sign that they have to have to do business. The state says they have to

Arthur Rosenshein: With the subject that says there is nothing here, somewhere it says that there is no business taking place there.

Mollie Messenger: They are a retail dealer whether they are online or not. But my concern is they are already on the website.

Irv Newman: Do it for a year, if there are any problems.

Helen Budrock: An easy fix to the website, because it has a location, it looks like a word press template, instead of location, put the mailing address, or something like that. It's actually in Spanish and you have to hit translate, so maybe that's why it didn't come up.

Arthur Rosenshein: We need a sign that says that there are no sales on the premises. Or something like that, we need the stripes that indicate diagonal parking taken out, there's only parallel parking and we'll give it one year, and then we will review it at the end of the year. Can anyone think of any other conditions?

Mollie Messenger: We don't have a site plan at this time, what are you signing?

Paul Lucyk: If you have a building, even though you have somebody that's going inside, and it's not up to acceptable standards, then it needs to be addressed.

Arthur Rosenshein: That's Code Enforcement.

Paul Lucyk: Well then Code enforcement should look at everything before we proceed.

Irv Newman: Or you can make that a condition that they have to meet whatever code that they need to meet. What does everybody think of that?

Gary Tavormina: It's a dangerous situation there, 42/52 is the main highway, that your going to back out on,

Arthur Rosenshein: We are not going to have anyone backing out. You and I will be looking at it, and if we see anyone doing it, they will not get renewed. That's it, that's the penalty. If we see it happening, then they will have to come back. As far as the site plan is concerned, they have to submit something,

Jay Zieger: We have the map of what's there.

Mollie Messenger: It's a survey, I'm sorry, you are going to have to submit something on the survey that shows where the parallel parking that you want. And the notes on it that you just talked about.

Jay Zieger: Mollie, I think this is so unnecessary,

Mollie Messenger: Jay you are not listening, take the survey, do a sketch of the parallel parking, only going to take you four minutes, put the notes on it for the condition, so that Arthur can sign it. It needs to have parallel parking, the website changed to online, the sign in front changed to online only, building department review of the building, so they can have their year round approval and inspection, and it will be a one year approval and you will have to come back next year.

Arthur Rosenshein: And with that, motion

Gary Tavormina: Motion

Paul Lucyk: Second

Arthur Rosenshein: All in favor(all say I) any against (no response) and that's done.

**5 LAUREL OF FALLSBURG – SBL# 48-3-2.1 – Requests site plan review for multi-family housing development. Zone: R. Acres: 21.80. Location: off Laurel Ave., South Fallsburg. Cross Roads: Elm Dr. & Park Place.**

Jay Zieger and Zack Peters representing

Jay Zieger: The applicant, it's like you said Arthur, it's a project that has started building, there's two buildings that have been completed and a third building that is partially completed. Correct?

Zack Peters: Yes, my understanding the project consists, this is the entire project site, these buildings, this portion of it has been completed. They started on this building but construction kind of tapered off. I think this building and possibly this building are under construction now, so we are looking at this portion of the site.

Jay Zieger: The project was approved with 11 buildings, each building with 24 apartments, with a total of 268 apartments. The buildout was 2 buildings at 24 each so that's 48. One of the partially built, the building with the foundation, the plan is to complete that one exactly as approved. So we would end up with 3 buildings at 24 apartments as approved. The remaining 8 are going to be located on the same footprint or virtually the same footprint Zach can show you those plans. And instead of housing 24 they are going to house 14, so we're going from 8 times 24, to 8 times 14 which is 112 on the new ones.

Irv Newman: Is this the end of Park Avenue? The ones that sit there now?

Zack Peters: Yes, this is Laurel Ave, right here and our place is right here. So this is the intersection of Laurel and Park, I think answers your question.

Irv Newman: Is the one, it's on Park Ave.

Zack Peters: Yes, Park and this is Elm, these are the original, Park, this is the one that is under construction.

Paul Lucyk: Are there any violations on this before we go any further?

Mollie Messenger: The first one has been under construction for quite some time,

Paul Lucyk: Any violations on it?

Mollie Messenger: As far as it's an opened building, and should have been boarded up, and the grass isn't maintained.

Paul Lucyk: So what's going on that it starts and then it shuts down?

Mollie Messenger: They'll have to speak to them what the hold was, but now they are changing the plan around

Bucky Loucks: So why are we even talking about this, let them take care of the violations first.

Jay Zieger: There's no violation, other than that they started a building and stopped. They are going to finish the building and the one building that they started and stopped they want to finish, and then they are going to build

Arthur Rosenshein: It's my understanding, this is a site plan from 2006, by having them build something there, they've invested, so they have the right, if I am correct, to go in and finish the plan as designed, without coming to us. What they are doing, is they are looking to make it the same footprint and change the interior, to have less units, so less units the larger presumably the same impact. So what they are really asking for, they have the right to build it, they are just asking to change that one aspect.

Zack Peters: (Inaudible) we did submit an overview of the building on the approved site, hopefully you all should have seen, the red that's on here is a footprint for the new building that they are proposing, they are technically different but they are essentially the same, I believe with the dimensions and stuff, 130 feet by I believe 70 feet

Arthur Rosenshein: So the interior of the building is the only thing that is going to change?

Zack Peters: Correct, the new building, I think these buildings are two stories, the original were three stories, they had an unfinished basement on the whole thing. So that's going away, it's a reduction in the number of units, a reduction in the total number of the bedrooms, and there's just some minor changes to the height of the building and obviously access. These units are two stories inside, the original building had interior access hallways, two separate floors of just one floor units.

Arthur Rosenshein: So basically there is no difference on the impact on the sewer or water parking remains the same,

Gary Tavormina: A decrease in them

Zack Peters: Technically there will be a decrease in sewer and water and parking but we're proposing to make the changes to the building, everything else will be consistent with what was previously approved.

Arthur Rosenshein: We don't have to look at the SECRA because that was done, and there's no change from that? They are not looking to officially change anything.

Hayden Carnell: How many years ago was this?

Arthur Rosenshein: 2006, but if we find anything we can't do anything, they have an approved site plan.

Hayden Carnell: But conditions have changed around it, I would refer to Helen on this if there are certain areas that she thinks might need updated.

Helen Budrock: My opinion from the beginning was that any of the impacts that were identified in the prior SECRA review, any of those impacts are going to be less, because of the reduction in the density, so in my opinion I don't think you need to repeat SECRA. I think it's a matter of whether the board thinks they should go forward with it.

Paul Lucyk: Here you have a building that was partially built in 2006, it's 2021, has the building been compromised due to weather, or anything, the roof as it is, is probably half gone, if you know what I mean, 15 years already on it, and what about the condition of the building, and also the energy codes, if you took a project and started it in 2006 and now you have to bring it up to the new codes, is there anything that needs to be changed or brought up there?

Jay Zieger: For the one building that they want to finish as is, they are going to have to do whatever it is the Building Department requires them to do, to make sure the building is sound, and structurally capable, and meets the current code.

Mollie Messenger: So is the building that is built there now, is it going to remain 3 stories, like the other footprints or are you doing the interior of it.

Jay Zieger: What I understood, and I don't know if you spoke to Aaron, he was supposed to be here, but my understanding is the partially built building is going to be completed as the 2 that are already built.

Mollie Messenger: To Paul's point, you have to file new building permits, because they expired anyway. So to renew, you are going to have to bring them up to new codes. Also, the foundation, the rear of the building was not built correctly. Not done well, so it might be something that you have to take down completely.

Jay Zieger: Aaron how close are you (Aaron on phone 10 minutes) we are in the middle of discussing your project. The one question Aaron is (I can't hear you) I'll call you back.

Mollie Messenger: You'll need new building permits for these, make sure the foundation is correct, the one thing that I wanted to bring up, I think on the old plan with the old conditions, not sure if you remember, but there was a sewer and water line that ran through the middle of the project, it needs to have (Inaudible) and all kinds of things, wondering if that ever got done, do you remember what happened with that?

Zach Peters: I think this right here is what you're talking about, it runs throw this portion of the property, I don't know

Gary Tavormina: Is that a municipal line or a private line?

Mollie Messenger: It's a municipal line

Gary Tavormina: Then there has to be a right of way on that, and did they get easements to do that years ago?

Mollie Messenger: Right, that's what I'm saying, I don't know if any of that was ever filed, I don't know if it that was completed, to the point of the originals.

Jay Zieger: We will have to address it and make it a condition.

Arthur Rosenshein: The thing is, there's very little for us to do on this, because it's already there. If they want to build it tomorrow with the code enforcement office, they can do it.

Paul Lucky: So what do they need to be here for?

Arthur Rosenshein: Because they want to change it from three story to two stories, change the apartment, we can put a condition on it that no building take place until the full arrangement is taken care of, but I think other then that, we looked into the date, and researched the fact that they have the right to build it. For whatever reason there's no extinguishing to fight that.

Mollie Messenger: Do you know Jay, if the NOI is still current

Zach Peters: You gave us a file, it shouldn't expire, just goes on until

Mollie Messenger: You have to renew it every year.

Zach Peters: No once you file it, it's permit is active, they get an invoice every year.

Mollie Messenger: It didn't invoice every year, what did you just say?

Zach Peters: The DEC issue, once you file the NOI and obtain coverage under permit that's just opened until the notice of termination is filed, the DEC sends an invoice to the applicant every year, but that's just automatic.

Jay Zieger: Mollie the answer to your question is we will make sure that the NOI is current before any work is done

Mollie Messenger: Well you're going to have to have a new structure meeting, a SWIFT meeting and all of that.

Jay Zieger: Ok

Arthur Rosenshein: That's the only thing I think to do on it

Hayden Carnell: And Paul said the construction is the integrity of the building, and that's really the applicant's risk at this point.

Arthur Rosenshein: Alright, so we are really looking at a Site Plan that ended, and the building remains, so we will be voting on a new site plan and then bring them into two stories buildings, etc. The condition is that the site plan amendment doesn't get (Inaudible) until the sewer arrangement is taken care of one way or another

Mollie Messenger: I'd like an engineering review just to make sure everything was sized correctly the first time, years ago and so Ken will sign off

Arthur Rosenshein: Ken will sign off

Gary Tavormina: Do we have any elevations of what the village is going to look like?

Helen Budrock: I was going to say another condition should be even though it's going to be two stories rather than three, it should be architecturally consistent with the renderings that were provided, it's actually, it's a nice (show photo)

Zach Peters: They did provide a sample, it's a little bit different, there's a couple of things that aren't correct there. It's generally consisted

Helen Budrock: In the spirit of what the original design was.

Mollie Messenger: I underlined all of the existing (Inaudible) all of the lines that were put in, all of the lines that were proposed. Easing suggestions, I don't know what lines were put in, I don't remember, (inaudible)

Arthur Rosenshein: We actually put into motion that the design of the building be in the spirit

Cody Vegliante: That's one of the things that has to be corrected,

Helen Budrock: One conversation at a time.

Arthur Rosenshein: I just want to get this down, I'm trying to think how to word it so we add it to, how, who would look at it to know that the buildings be spirit of the rendering as presented

Helen Budrock: Architecturally consistent

Arthur Rosenshein: I'm sorry Paul, I cut you off, anything you want to add?

Paul Lucyk: How do we get this building boarded up that's been setting up there for the past years, that I'm sure kids have.

Arthur Rosenshein: Is it a violation?

Paul Lucyk: It is a violation, so maybe before they can go forward, they have to get this building closed up and safe.

Arthur Rosenshein: We can add to the list, any current violations be taken care of

Mollie Messenger: I don't think they are going to board it up, I think they

(inaudible)

Mollie Messenger: That would make sense, that building first.

Hayden Carnell: And that this building would be the first to be under construction.

Jay Zieger: (inaudible) agree to that, I will agree that before they can get any permits for any additional buildings, that this building has to either, whatever issues exist with the building have to be corrected.

Mollie Messenger: No, either has to be that you are going to board it and work on something else or you have to work on that building first.

Jay Zieger: Yes, I agree. When you say board it, you're limiting it to board it, as a home, more than anything else besides boarding it they got to do it as well.

Mollie Messenger: They can't go do anything else on that site until that house

Hayden Carnell: Board it or build it.

Arthur Rosenshein: That comes under the violations, they have to do that to clear up the violations (Inaudible)

Paul Lucyk: It's a two story building, correct?

Jay Zieger: Yes

Paul Lucyk: So it's not a three story where you are going to have a problem with fire access. Is it possible with the changes just to make sure with the fire department that everything is in order, to put out a building if it caught fire.

Gary Tavormina: It needs to be,

Arthur Rosenshein: Inspected, I don't know, they are going to build it to code, and that should take care of that issue.

Helen Budrock: Nothing has changed in terms of the layout of the building, and the circulation around it.

Mollie Messenger: They can look up the pressure in the street, because if something changed, they would look at that. So we can look at the fire flow.

Arthur Rosenshein: I'm going to propose a motion, because I think we are at that stage, with all that has been said, I'm not going to try and repeat it, with all of those conditions. Councillor any issues?

Jay Zieger: No

Arthur Rosenshein: Anybody have anything further to say before we make a motion for an amendment to the site plan. Nobody, someone want to make a motion. We have a second, all in favor, one extension. Moving on

**6 EMPIRE HOLDINGS OF NY - SBL# 18-3-8.1 – Requests site plan review for parking for multi family housing. Zone: B. Acres: 1.355. Location: Old Factory Road, Loch Sheldrake.**

**Cross Roads: SR 52**

Jay Zieger Representing

Arthur Rosenshein: There was an agreement with the ZBA on this project, was there not?

Jay Zieger: There was no agreement with the ZBA there was an interpretation with the ZBA

Arthur Rosenshein: Under the interpretation there were certain things they were supposed to do, have they been done?

Jay Zieger: I don't know the answer to the question, because I don't know what the ZBA, the ZBA was whether, this is a nonconforming use, it was our position that it was preexisting

nonconforming use. The question if you have any preexisting nonconforming use, and you discontinue the use in a period of two years or more, then you know longer can continue that use. The ZBA's interpretation was that the nonconforming use had not been abandoned and therefore the nonconforming use can continue. The items that the ZBA wanted done, which was done before the ZBA made their final interpretation, and that was cleanup and stuff. But we are here now, in the furtherness of the preexisting nonconforming use for approval to go forward and fix up the property in accordance with the same plan that we proposed. In between the ZBA ruling interpretation and today, one of the buildings was damaged by a (inaudible) and it has to be repaired as well.

Arthur Rosenshein: Have you heard of a building (inaudible) or if you could give us a status of the building.

Helen Budrock: I don't have the status report, I have the same questions that Mollie had in terms of the status of the cleanup and the property and an update on where we stand.

Jay Zieger: My understanding is cleanup and there's not a lot that needs approval here

Helen Budrock: So it's a chicken and an egg kind of situation

Mollie Messenger: Well not necessarily, this project was at the Zoning Board and the whole premise of the argument was that they were going to get a loan and put an essential amount of money into these buildings. That never happened and consequently one of the buildings caught on fire and caused more damage to the buildings. It took a very long time for this application to come to the board in order to get the parking situated, and then they came to the board and had (inaudible) to work it all and has since revised the plan but this has gone on for over a year.

Jay Zieger: And this is costing them money and they are not renting it.

Mollie Messenger: We would like it to end, so this client doesn't pay (Inaudible) at what point does something happen.

Jay Zieger: He's going to have to once he gets approval.

Mollie Messenger: The other buildings that are there, he could have been putting money into them, so where's this loan.

Jay Zieger: I don't know where the loan stands, I don't know what's currently, I think he's going to need approval as soon as the lender title company (inaudible) he can't get any.

Mollie Messenger: Why can't he get a municipal report

Jay Zieger: He can get a municipal report but what the report is going to say, he's not going to get a loan.

Mollie Messenger: What's the report going to say? But yet he's not putting any money into it, so when is he going to start fixing up the building, it's always going to have a violation

Jay Zieger: No, I think his obvious plan is to get this approved, and ultimately rent, because the building is still a tax and

Helen Budrock: So Jay, which is the building that was damaged in the fire? The one up in the back is the two story dwelling.

Jay Zieger: I don't know which one you are looking

Bucky Louckes: This is up on Old Factory Road, why are they having parking issues, there's a lot of parking up in the back.

Helen Budrock: So Mollie, what were your concerns over the parking

Mollie Messenger: (Inaudible)

Helen Budrock: My first thought is that, I don't see anything necessarily wrong with the layout, up against the road I think he would want some trees and landscaping, but then again it's in the back of the property, so nobody is going to see it. So one of my recommendations to move it along is, is the chicken with the nest, don't necessarily think he's going to make some improvements on the building without site line approval, and the board doesn't want to grant site line approval until he demonstrates that he is actually going to do something with the buildings, that Arthur's suggestion earlier with the car sales, is to have a conceptual preliminary approval for the parking, but that it have a one year exploration, so if he doesn't make substantial progress, improving those buildings and cleaning up the site, then it would essentially expire, and then he would have to come back.

Mollie Messenger: Can't expire on that one because it is a rental and you can't kick people out of their home. This particular individual likes to rent (Inaudible)

Paul Lucky: Let's just say, that after all of these years, nothing was done, we give them another year to do nothing

Hayden Carnell: October of 2019 it was at the Zoning Board.

Arthur Rosenshein: Yes or No there are violations now occurring

Mollie Messenger: There's always violations

Arthur Rosenshein: If there are violations we don't approve

Mollie Messenger: This board is approving the parking, this site plan has to do with the parking it has zero to do with the actual buildings, which is my point to Jay because the buildings could have been worked on for the past two years, so I'm unclear as to why the buildings haven't been worked on, if you guys like the parking plan you could have approved the site plan, it had zero bearing on what

Arthur Rosenshein: If it gives you leverage we'll give it to you that way, if you don't need the leverage or don't want the leverage,

Mollie Messenger: It should be that they can't rent any of the homes until the parking is done perhaps, maybe something of that nature. Wait for approval

Paul Lucyk: So the Planning Board requested photos of the buildings, elevations, did we ever get them?

Mollie Messenger: I don't think they've submitted anything other than this revised parking plan.

Gary Tavormina: It just goes to show you, that they are not concerned for what we asked them to do

Jay Zieger: Gary the buildings are there, they're not building new buildings.

Gary Tavormina: I didn't say that Jay, we requested pictures of the buildings and so on, what did we get, zero

Jay Zieger: You want pictures of the buildings

Gary Tavormina: We requested them last month.

Arthur Rosenshein: In the interest of getting this done, I'm going to drop it on Helen's lap, we have a lot of cross currents it's no big deal to do the parking, but there are other things going on, so we'll take your suggestions

Helen Budrock: What is it exactly that you want me to

Arthur Rosenshein: Tell us what's going on

Hayden Cantrell: Sounds like (inaudible) has also done

Cody Vegliante: We've reviewed those site plans and had those lists of comments. So

Arthur Rosenshein: On the parking?

Cody Vegliante: Yes, there's (Inaudible) for site distance, disturbance area for a SWIFT if needed, accessibility spaces, there's no details on the parking, we have a list.

Jay Zieger: Can you send us a list and I'll speak to the applicant, I don't know if the applicant understood that he couldn't begin working on the buildings, I thought he was waiting for this to be resolved. So I think he'll be happy to hear, that he has permission to go on and work on the buildings

Mollie Messenger: (Inaudible) He needs to file the correct building permits and needs to go and workout the buildings

Jay Zieger: Of course

Helen Budrock: Is it possible to just put that in writing so it can be part of the record, it's part of the minutes,

Jay Zieger: I understand you want the rental to come and addressings the parking issues,

Helen Cantrall: I have a question about the rental, because when they applied at the Zoning Board they determined that three out of four of the units were pre-rented in 2019, three out of four were occupied in 2019. So there was a fire in one building, so the others are still occupied?

Jay Zieger: I thought they were not occupied,

Mollie Messenger: They shouldn't be anybody in

Helen Cantrell: Can we just (inaudible) is it a different owner perhaps?

Mollie Messenger: No

Jay Zieger: Anything else

Arthur Rosenshein: No, we can move on.

Lost volume 1:18:02 into the meeting came back on during applicant already in progress: sound back 121:48

**OLD BUSINESS:**

**HAMLET AT LOCH SHELDRAKE – SBL# 18-2-12.1 – Continued review for a townhouse development. Zone: MX/B. Location: SR 52, Loch Sheldrake.**

Zack: This project was before the board last month I believe for a Public Hearing, I don't believe we made it back on for discussion at that meeting. I did bring with me after the hearing we

prepared a written response to the comments that were raised by the public. We did submit that I believe by email, I also brought hard copies of that, as well as updated plans if the Board wants to have them for tonight. We address the comments from Keystone which were mostly technical, different notations, and things noted on the Plan, but I don't know to my knowledge that there were any substantial outstanding issues. The biggest concern was with the entrance, which is under review by the DOT, they issued a consensual approval and now the applicant is in the process of obtaining the highway work permit for that, it has not been issued yet, but they are working on that.

Helen Budrock: I have a couple of comments if I might, Arthur I didn't mean to cut you off. So since the last submission, I think you added landscaping. I did have some comments on the landscaping but before that, I just want to back up. I think during the work session, I don't know if I put it in writing, but there was a comment I made about extending the sidewalk the length of the property. And I see that you have a skinny little sidewalk, is that true North?

Zach: Yes

Helen Budrock: Assuming it's true North, the Western side of the building, you have that skinny little portion of a sidewalk and it comes out to the wide portion which was existing. So my previous comment was to extend that wide portion of the sidewalk all the way to the property boundary. And basically there is an existing fire hydrant there, so I don't want to think you want to encourage people to parking in that spot on the shoulder, so if that's possible, I think it will make the site plan work a little bit better, and what I'm hoping is, I know there are some utilities in that area, but rather then put some bushes in the back parking lot, on the lake, unless your in a rowboat, you know your really not shielding or beautifying anything from the back of the building. I would love to see some street trees, in tree pits if there's room. I know it's a really tight site, but even in the area between the front porches, if there's a little landscaping area, where we just have a little bit of landscaping. And then also, that little bump out where the driveway entrance is, if there's any flexibility to do any small plantings there, I think it would just kinda of soften it up and really enhance the site, if you could take another look at the landscaping from that perceptive, again I know it's a very tight site, but if you could shoehorn some plants in there, I think it would make it better.

Zach: Ok, I don't think there's an issue, I will have to confirm all of this with the applicants, but extending the sidewalk down, basically do the same thing just down here on the property lines.

Helen Budrock: Exactly, like the full length, and the full width of the existing sidewalk.

Zach: And then like you said, it is very tight on the front, we might be able to do something, sort of inline with the entry steps, anything else is, everything out here to the road is all in the right of way, because the right of way is so wide there. But we definitely will be doing something up against the building,

Helen Budrock: And there's an existing tree there, on the Western part, that will remain, I want. Because that is the last piece of greenery that is kind of in that stretch, yup right there in the corner. Thank you Art, that's all I have.

Arthur Rosenshein: Now it seems to me, there were some comments and concerns about when it rains on the parking lot in the back, the oils are being kept away, to protect the lake.

Zach: The site, I should have brought the water picture, the site was previously developed, with what we are proposing, we are actually pulling not substantially, but what we are pulling this back to the property line (inaudible) to the lake was previously, so what he has a slightly larger green space back here, but what goes down to the lake is really just limited to the access driving and the parking spaces in the rear there. We are showing, that there is a dry route here, which is going to take some of the runoff from the roof and give that a chance to infiltrate back into the ground if any

Arthur Rosenshein: So it's back from the lake now

Zach: Everything sets back from the lake, so that's going to continue consistent to the previous development at the site.

Helen Budrock: The landscaping in there on the back there on the lake, are they basically just grassy areas and then the shrubs where the shrubs are shown

Zach: Yes

Helen Budrock: Is there any way to look at whether or not you can put in a small bios well or use the landscaping as another way to absorb the storm water.

Zach: We can look into that, I think the biggest potential I'd say issue with that would just be outletting

Helen Budrock: Right

Zach: You're not going to be able to outlet some sort of under drain, I don't know the condition of the soil there, it would just be something, we can look into it, if that's a

Helen Budrock: Just something to look into, I mean again, just something other than the bushes you are proposing, maybe it can be a different variety of plants that are better at absorbing water through their roots, anything will certainly help.

Arthur Rosenshein: So what stands between this and approval then?

Cody Vegliante: We have a list still from the review standpoint. A couple of items that have not been addressed yet,

Zach: I think as far as I'm aware we just want in the letter we just submitted from August 12th, if that's the most recent review, we at least responded to those I understand. You probably haven't had the chance to review them, but

Mollie Messenger: You have to formally answer all of the Public Hearing comments.

Zach: That makes sense as well

Hayden Carnell: So we have that, you submitted that, the board needs to review that and make sure you are comfortable that he addressed everything. And that was sent on, what's the date on this, September 3, we got it.

Zach: I have our copies, like I said, I understand nobody has had a chance to review that, at this point.

Arthur Rosenshein: So we got a email on the 3rd you said

Hayden Carnell: Yes

Mollie Messenger: Well Zach brought the information for you, so you have it in hard copies

Gary Tavormina: I tried to open it, but I couldn't get it.

Mollie Messenger: Yeah, that's fine, it was understood that you weren't going to be able to review that for this meeting.

Zach: I can leave the recent ones, or whatever

Mollie Messenger: You can go ahead and hand them out, so that way they can take them.

Arthur Rosenshein: I think this is the same plan,

Zach: Essentially we did respond to the technical comments on there, it is a little bit different.

Helen Budrock: So 239 comments came back from the Public Hearing, it's up to you guys if you want me to start drafting, a conditional resolution or do you want some time to absorb

Arthur Rosenshein: I think I looked at these, what was number 239 (Inaudible Papers shuffling) any suggestions?

Helen Budrock: Obviously coordination, there are DOT permits and everything that is required, and there's a local determination, let me go back and check.

Arthur Rosenshein: Need time to read this over

Mollie Messenger: I think you did all the renderings, all of that you went through all that with the ARB, all that happened right?

Zach: I believe so there was always one minor change that was progressive towards the architect's plans, that he's still finalizing it, I apologize I don't know what it was.

Arthur Rosenshein: I presume my wish to make them out of glass isn't going to work?

Zach: Probably not

Arthur Rosenshein: Would have been nice to have that view.

Mollie Messenger: You might see things you don't want to see Art

Helen Budrock: Arthur as 239 there were comments from the DOT which obviously to be addressed, back and forth on the highway permit and what's required there. But other than that, it just says at this time the work actually will not adversely impact the community character of traffic patterns we find this in the matter of local determination. Pretty standard

Arthur Rosenshein: And you'll get the final from the state?

Zach: Yup

Arthur Rosenshein: Yeah, that was one of the big Public Hearing, the driveway and the lighting, but the state experts say it's ok, it's not for us to challenge. Alright that's about it, Thank you Council

Zach: I still have 6 copies of the Plan if anybody wants them. Should we make a formal resubmission to come back next month, or is that a

Mollie Messenger: Yes, you have to ask to be on every time you want to be here and I didn't hear the insurance are you (inaudible) to be discussed or no

Helen Budrock: Do you want me to start

Arthur Rosenshein: Might as well, because we're going to have to hear the end, once the engineering is over

Helen Budrock: And if you do make any changes to the landscaping and the sidewalks layout, let me know. That will be a change for the next submission.

Zach: Yes, we will end up submitting something.

Arthur Rosenshein: Up next Murray's Chicken

**Murray Bresky "Murray's Chicken" SBL: 52-7-8/21 - Requests Continued Review of site plan for Trailer Storage in the parking area. Zone: B. Acres:1.85. Location: 4 Trolley Rd**

Will: So I think basically, I'm thinking everything was resolved on a technical level, and I think the Public Hearing was very favorable for what we are doing. The issues for the applicants cost, what we planned on wasn't white board as expensive as they weren't planning on spending on, COVID has not been kind to them.

Arthur Rosenshein: What are you trying to tell us?

Will: Well they are looking at another option for the building,

Helen Budrock: Don't tell us your changing things on us, we were so close

Will: Quite frankly, we're still trying to get the cost data on this, and we have some cost for the building

(Inaudible)

Paul Lucky: How far is the building from the road?

Will: That doesn't change with either building, so essentially, you see this property line, this is the end of the road. Basically what we did is we created enough room between the building, the property line and the road to add a new swale to the side of the road, to promote drainage, it never had good drainage along that road. So Murray's has said ok, they are willing to slide things back a little bit and will enable this swale to be put in under here, so the town can have good drainage there. And the distance from the curb line to the building is what, is roughly

Paul Lucyk: What I'm trying to get out is you have two feet of snow on these roads, and everything slides off, is there room for that?

Will: Yes there is

Paul Lucyk: Ok, that's what I was just checking, otherwise, you have the snow, and you have a pile here

Irv Newman: What are you going to do in the Summer months when you need ventilation? Are you going to take care of this with that spark hole again?

Will: The front opening is large

Irv Newman: I know the front opening is large, but this is a lot of air

Will: Right now they run fans in the Summer time to keep the chickens cool, and so they might have to end up keeping doing that. They'd like not to, but they can't, it all depends on

Irv Newman: Saying, how are you going to get ventilation on the sides, so it comes all the way down?

Will: Yeah, I have talked to the supplier on that and asked if they could make it (Inaudible) they said yes, so we can get air down there.

Irv Newman: Cause if not

Arthur Rosenshein: It's not fair, you wowed us with this building and show us this Quonset hut

Bucky Louckes: It's plastic. It's a salt shed, the life expectancy in this plastic is about 10 years, if that. Then it's got to be changed, a frame would be there, but

Melissa Messenger: Wes, I'm sorry, were you also making the building smaller

Will: We did make the building smaller then what we started with initially, we cut the building down to 6 vehicle storage instead of 8. So we did cut the size of the building down, it gave us more space on the site plan, and it reduced the cost.

Mollie Messenger: So the trailers that are going to be in this building are going to be the live chickens

Will: That's correct

Mollie Messenger: So you are also going to have refrigeration trailers around it?

Will: Yeah, they deliver chickens with the refrigeration trucks, ok, that's not the chicken they deliver, finished product with the refrigerated trailers, and those refrigerated trailers, the bulk of them are on the road, most of the time. They do need service pretty often, they come in refrigeration units that need service or the tires or emergency brakes.

Mollie Messenger: Do you have the cycle on hand, that you can put up again, I was wondering about the circulation and how you are going to move all of those trucks around, because it looks to me, the last time I looked at it, you had trucks just kind of, your going to be jockeying trucks around quite a bit

Will: Essentially yes

Mollie Messenger: Is that happening now?

Will: They do that right now, you see this area of blue right here, it's a bunch of trucks, trailers parked here, and there's some over here, they do that right now, but the fact I was showing a bunch here, typically there's maybe a third of that number. I'm just showing that, because it's possible that they could have them all home at once, but normally the bulk of these are on the road, delivering product, so yeah, they can jockey them around and park them in there, but since they started this whole effort, they started out with an acre and a building, then they realized that they could cut that down, now we're down to six, and monitoring. Now how many people do we really have at one time, then we realized that six were plenty

Mollie Messenger: To Paul's point, he was talking about the snow not being able to be up on the roof in this new building. How do they plow it, so the trailers can get in, where does the snow go to another area someplace?

Will: To the parking lot

Mollie Messenger: You just keep pushing it and pushing it to the back

Gary Tavormina: The only thing I would recommend with these Quonset Hut designs is that you have something on the first two and a half 30 inches, so that you don't have the fabric right down to the ground, like a concrete wall coming up the side, so it can rest on it, so you're not going to get the ice and have it slide, and have it in place, so the material isn't coming down.

Will: The steel building, the side wall doesn't start until about 4 or 5 feet off from the ground, and we want the same thing with the tin building

Gary Tavormina: That makes sense, other jobs I was on they made that mistake and there's nothing left

Arthur Rosenshein: What about the code

Will: I can find out, I don't know, what matters

Arthur Rosenshein: Well it matters, we don't want it to stick out, we're disappointed enough to see this thing, without having it glaring white and everybody sees it.

Will: Well, I don't know

Helen Budrock: Do you guys feel that that is an acceptable solution?

Arthur Rosenshein: No

Helen Budrock: Well, don't lead them down a path that you think it's ok

Arthur Rosenshein: I'm not sure what our authority is here, that's the problem. If we could say we want the building, I would propose that, but I'm not sure, Paul

Paul Lucyk: I can't see how we can make someone spend a million dollars versus a quarter. If you were a businessman, what would you say?

Helen Budrock: From my perspective it's not just the aesthetics it's the functionality, maybe you can address, I was just asking Hayden it's not my area of expertise, but the original structure had a pitch roof and gutters and downspouts, and everything to direct rainwater, how does that affect what you are trying to do, which is to prevent the pollution and address a regulatory compliances

Will: As far as the lake folks are concerned, it does exactly the same thing, it covers the area where the vehicles are parked, and that whole concrete floor slopes, it protects that whole area from rainfall.

Helen Budrock: So nothing has changed in terms of the foundation underneath, that's just the shelter part.

Will: That is correct

Hayden Cantrell: I have a different issue, my issue is, we had a Public Hearing, and this is what was presented, and we have completed the Public Hearing and now we have this. So from a code perspective, Mollie, is what they are presenting, is that considered a building or is that considered a temporary structure?

Mollie Messenger: No it's still a building

Will: Can I just say something, point it out, if they are opened on the bottom of each building, for four feet, there is going to be nothing there, and you know what is going to happen when all of the snow falls off? It's going to be ended up in the building

Paul Lucky: Well, actually that is not correct, because the building, it's tent goes past

Will: If the snow piles up, or we get a big storm, it's going to go right inside the building.

Paul Lucky: There's a two foot high concrete wall there, I don't think that is going to happen.

Will: You said where there's a four foot opening for air, you have two feet of concrete and then four feet of opening,

Paul Lucky: Where are you going to get your air on the wall

Will: So this is wrong, draw a line right across here, but the concrete is right in here, right across the whole bottom and it goes all the way back and two feet inside. So what I'm saying is, you have the wall on the inside, because we have to keep that area dry

Arthur Rosenshein: So, wait a minute, our attorney noted that it's not what was seen by the Public at the Public Hearing, we may have to do that again, is that your opinion?

Hayden Cantrell: Well, my opinion is, it puts you at risk, it puts you and the board at risk that we've had a Public Hearing, there was a presentation as to what was being proposed on the site, and then the very next meeting we have a

Will: Well, we did present this at the last meeting, actually, we talked about this at the last meeting, I'm sorry, I didn't get on at the last months

Mollie Messenger: We've only had the Public Hearing

Hayden Cantrell: You know, it's more your risk and their risk, rather than the Board's risk, but I will tell you that I do have a concern that it's a switch, and I think the Board is somewhat uncomfortably, and I think it would be helpful to go through the process again, you don't have to but it may be helpful, because there is such a difference in what is being proposed.

Will: So let me ask a couple of questions, so the risk is something that will come along in article 78, the approval, and the approval can get overturned and they would have to start over again, is that the risk?

Hayden Cantrell: Sure

Will: Ok, at the Public Hearing, not one person showed up at the Public Hearing protesting or trying to stop this from going forward, they only supported us, that's the only voice you heard, was in support of what we are doing, they just wanted that area covered. Correct, so it's hard to believe that there's much risk, from Article 78, nobody in the Public came out

Mollie Messenger: The only one that spoke from the Public is the one (inaudible)

Will: Yeah, in support of us

Mollie Messenger: I don't know and Dean knows that they are not in 100% in support like you think they are, there is risk

Will: They want this area covered.

Hayden Cantrell: I don't want to have a legal discussion about the possibilities of article 78 in the middle of the meeting, I'm just saying that is something that you and your client need to consider. The Board needs to consider.

Arthur Rosenshein: Because of the change, I would like to see a rendering of what looks like it will be, this is not what we are going to get, and I would like to see a proposal on color, not quite a glare like this

Dean (inaudible): I'm the Chief Operating Officer at Murray's, like you, our preference is the metal building, we are in the process, as many of you know, the [rice of steel has been all over the place, particularly upward, so the quote we had originally gotten back in January is antiquated to say the least, so we are in the process of feeling out what the options are. To the extent that I was mentioning this to Will outside, the pricing is within 15 to 20%. The metal building is still our preferred option, both from an aesthetic standpoint but more importantly, the longevity standpoint. As well as the way that building is designed to have some gap in the roof, hopefully to have some additional ventilation in the Summertime. So I'm not certain what needs to happen here and now from a legal standpoint, or as far as your approval, I'm just letting you know that the metal building is the direction that we are hoping to get to once we get these final quotes up

Irv Newman: Dean, by reducing the number of vehicles parked underneath it, can you decrease the span

Arthur Rosenshein: Decrease the span

Paul Lucyk: Also, consider, what's the replacement cost of that

Dean: No, point well taken

Paul Lucyk: I see town's with salt sheds, they last about 8 to 10 years, and they are smaller than this, and then you have to redo it, or it's no good.

Dean: Agreed

Will: And we've been struggling to get the numbers in, and come to a decision. I apologize for not having those numbers for you tonight, but we've just had contracts for bids on stuff, but it's just been hard to get numbers with everything going on.

Helen Budrock: Does the DEC have any say or what sort of colors you use

Dean: They just want to make sure that any fecal was collected and not going in a different direction.

Helen Budrock: And again, it doesn't change the functionality of the

Dean: I'm looking at the email again tomorrow.

Arthur Rosenshein: So you can't move ahead with it anyway, you don't know which one you are going to use.

Will: We're hoping to get closer on the price here in the next few days,

Arthur Rosenshein: I like to have something in hand, in order to do this building, that looks like what we are going to get.

Helen Budrock: On the site

Arthur Rosenshein: Right, color and size, because everything else is ready to go.

Will: Ok, let me ask a stupid question, can we get approval, a two part approval, what'd you want to call it, they get approval for the steel building and go, but if they find out that other building is a lot cheaper, they come back next month and

Arthur Rosenshein: Yes, we are ready

Cody Vegliante: The building originally supposed to have a floor drain that connects to the sewer,

Will: Yes a plastic

Cody Vegliante: Even just one or two holes, that is the drain water going into the sewer, there is no way to stop that. Are you going to replace the entire thing if you get a hole, who's going to monitor that infiltration or flow, whatever you want to call it?

Will: It's a small area compared to the, who knows how much would flow in, it's one of these numbers.

Cody Vegliante: Same thing with the snow, what if it gets into the building and melts,

Arthur Rosenshein: Not that I'm being a pain, the metal building, and if you can't get the metal building, then you have to come back, because that's what we approved

Hayden Cantrell: That makes sense

Helen Budrock: And there has to be some conditions on that building, that address the concerns this strong order meeting (inaudible)

Mollie Messenger: Have you been buying all of the parcels yet, to put the pieces together?

Will: We have to follow the County

Mollie Messenger: It's not the County, it's the assessor,

Dean: With the Town we need to do it?

Will: No with the County

Mollie Messenger: No with the Town

Will: Oh, the Town you have to do that, I'm sorry, I'm telling him to go to the County

Mollie Messenger: The assessors office, it's one page, tell them you want to combined those parcels together, because you have to complete that whole area

Dean: My other concern, needless to say, this process is taking a while, and as we approach winter, our

Will: Window is closing

Mollie Messenger: Is the intention to start construction soon?

Will: Yes, basically it's going to take six weeks, if we go with the steel building, from the date we got approval it's going to be six weeks, if we turn them on tomorrow, for example, it will take six weeks, which it won't be, because we don't have any information yet. If we turn them on tomorrow, it's going to take six weeks to have design done, then once the design is completed, I've got the information I need to design the footings the vertical loads and moments of everything else, for the footing, and I can design the footings, that won't take me that long, as soon as those are in, it will take me about a week, I can give those drawings to them, they can pull a permit and they can actually construct the footings, and the hope is, what we can do, is get those footings in before the snow flies. Once the footings are done, we can do the steel building in the wintertime and the concrete work in the Spring

Mollie Messenger: (inaudible) to move forward, did you bring things. Do you think you can do all of the things on the site plan that we requested, as far as the road, moving the fence, putting in the drain, pulling out all of the shrubbery, can we do all of that now, so that we can be ready for the winter

Will: I'll have to think about that, we have to look at that and think about it from the Project manager, I don't know the answer to that off the top of my head.

Mollie Messenger: Well doesn't affect your project at all, but it affects the road

Will: I know, I understand

Mollie Messenger: I think what the Town would like is that the surrounding area on the site plan needs to be addressed, if we can get that taken care of, that should be done now.

Helen Budrock: On a parallel track while you are waiting you six weeks, if there any of that site work that can reasonably be done,

Mollie Messenger: You got to move all of those shrubs, you have to dig a ditch, that area has a lot of work

Will: I think once we have that approval, I think that Murray's will go ahead and do all of that stuff. And put together a project to get all of this stuff done.

Hayden Cantrell: I think that what we are saying is the board is ready to approve this with conditions tonight

Will: Ok, so is this a special use permit

Paul Lucyk: You want approval for this building, and if you change your mind, you said that you would come back next month, and we approved it that way

Will: But I didn't know that this special use permit that it was allowed to use on those conditions on this approval

Hayden Cantrell: It's a Site Plan,

Helen Budrock: it's an accessory building

Will: Just wanted to make clarification with that, ok, because I love special use permits because you get to invoke all kinds of things, but that's not the case here.

(Inaudible)

Arthur Rosenshein: Can we put that in as a condition to as oversee it all

Mollie Messenger: No, if they are going to get approval tonight, I would like that done, immediately if not sooner. That all things that don't have site with anything on this building along with the interior, any of that, but it helps the town out, moving that fence and moving all of those trees, and putting that (inaudible)

Arthur Rosenshein: So how would you like to

Mollie Messenger: That's what I'm saying, if you going to give conditional approval one of the conditions need to be, is that they start to work on the other elements on the site plan

Hayden Cantrell: Before pulling the permit for this building

Mollie Messenger: You can talk to Keystone about actually the connection because you are going to run into (inaudible) then you are going to want to use the building and then you are not going to have the right connections.

Will: That connection is not going to happen until Spring

Mollie Messenger: So you are going to have to think about all of these different things, because I don't want to wait until Spring to get the road fixed and the side of the road done and the drainage and all of that, doesn't make any sense to do that

Will: We have to do the foundation first, before we do the concrete slabbing,

Mollie Messenger: (inaudible)

Will: No that's right, we have to do the footings first, because those go underneath the slab

Mollie Messenger: They don't go outside of the fence or in the ditch

Will: No they don't

Mollie Messenger: We are talking about the outside area

Will: What you're asking us to do is put together a project plan and prioritize the efforts in the project and take care of that ditch first.

Hayden Cantrell: The site conditions that need to be addressed, that can be addressed now, while you are waiting to start your construction, because the building is not going to come in for a while, you can get this started, so that when the building is ready to go, you have already done all of the other work

Will: Ok, we've been waiting to get the sewer hooked up this fall, I don't think we can do it

Hayden Cantrell: I don't think we can do it

Helen Budrock: I don't think Mollie is saying that, the site plan Will

Will: I understand

Helen Budrock: To the extent that the site work can happen immediately, that it happens now.

Will: Before the winter

Mollie Messenger: If you can get all of that done before Winter

Will: So you guys have a problem with that area right there on the road, in the Winter time

Mollie Messenger: Yeah

Will: What's it freeze up

Mollie Messenger: All the drainage comes out, there's no swag in there, so everything comes out and comes across the road there's no place to plow, and

Will: So you get icing on the road

Mollie Messenger: Yeah, am I right, you guys have on the plan the whole ditch, right

Helen Budrock: So ditch, fencing, tree

Mollie Messenger: Just along the road, that's all I'm asking for you guys to take care of that.

Arthur Rosenshein: So the approval of the conditions are the site work begins now, something about a drainage well will have to be put in

Will: That's on the side of the road

Helen Budrock: That's included in the site work

Arthur Rosenshein: And the conditions on the metal building, if it's not the metal building, you have to come back, and we will see a rendering of what it is going to look like, color, and so on and so on.

Hayden Cantrell: A metal building that looks like the rendering that was submitted

Will: Correct, and you want that calibrated ventoring is what you're saying, not what the supplier gave us. Ok we can go back to the rendering company

Paul Lucyk: Not if it's going to be a concrete slab, show that

Will: No I understand

(inaudible)

Arthur Rosenshein: No that one is ok, this one we need more detail

Will: That one is done by a professional rendering company

Arthur Rosenshein: Ok, so given those conditions do we have a motion for approval?

Motion

All in favor, any against.

Helen Budrock: I was just gonna say, what's the square footage of the building, roughly?

Will: It's 71, the concrete the containment area is 71 x 68 and the building is a little bit bigger than that, by about 5 feet because it extends past that

Helen Budrock: Ok, just so we get a threshold, an accessory building that is just over 4,000 square feet is considered an unlisted action, so just to be on the safe side, do a

Arthur Rosenshein: Motion on for Lead agency extended on listed action

Paul Lucyk: I'll make the motion

Gary Tavormina: Second

Arthur Rosenshein: Discussion of Environmental impacts anybody,

Will: It's going to help the Environment

Arthur Rosenshein: I need something on the record to say that we looked at it. Somebody say how beautiful it is, or how it's going to help the lake

Bucky Louckes: Yes, it's going to help the lake, help the drainage, help the lake.

Arthur Rosenshein: With that, motion in favor, motion for a negative. Thank you, you are done for the night.

Old Business:

HITEN PATEL (THE GRANDE DEVELOPMENT) – SBL# 32A-1-43 - Requests a two lot subdivision. Zone: AG. Acres: 1.75. Location: 19 Kile Farm Rd., Hurleyville

Arthur Rosenshein: Basically Glen what you are going to tell us is, the lots now resemble the surrounding lots, therefore it's consistently with the neighborhood

Glen: (Inaudible) former (inaudible) in Hurleyville on Farm Rd. Hiten Patel owns, (inaudible) bought these two lots, lot one and lot and did a subdivision about 16 years ago. They consolidated the lot into a single lot, which is 1.75 acres, and they built a house on it, which is the little red square is where they live, they would like to build a house for their parent's, they want to subdivide the lot, back to the original two lots that were originally there, roughly draw up about 9 acres each, however the Town subsequently rezoned the whole area a few years ago,

which has a minimum of 10 acres zoning for each lot. So I came to this board back in June with a Public Hearing on the subdivision going back to the two lots, if you recall, nobody came and spoke at the Public Hearing, but basically the Board, your hands were tied because it was rezoned to the 10 acres, so you sent us to the Zoning Board which we went to, actually the attorney Micheal (Inaudible) went to on August 19 and the Zoning Board approves an area variance to subdivide it back to the two lots. We are just back here for your Boards blessing on it.

Arthur Rosenshein: Make it consistent with the neighborhood.

Glen: Exactly, and there are 15 other houses in the neighborhood now, and these are the two biggest lots in that whole section, the other lots are a lot smaller than these two lots even when they are subdivided together.

Arthur Rosenshein: Can a subdivision of any kind be anything but an unlisted action, can it be a type 2

Hayden Cantrell: Yes it can be a type 2

Arthur Rosenshein: Because I looked on the type 2 list, and I couldn't find it.

Hayden Cantrell: This is a type 2

Arthur Rosenshein: Ok, in which case we don't have to do anything.

Irv Newman: It's also exempt for a 239 I think because

Glen: The County did do a letter of multiple examinations, because technically it is exempt from a 239 at this point.

Arthur Rosenshein: Ok, anybody have any questions, no questions, motion for a subdivision approval,

Gary Tavormina: Motion

Paul Lucyk: Second

Arthur Rosenshein: All in favor, all say I, the meeting is over.

**Please see attached letters for Luxor Jr:**

**Luxor Junior Development Project - Statement of Concerned  
Citizens Planning Board Meeting – September 9, 2021**

**Project's impact on the Town's infrastructure**

Dear members of the Planning Board, my name is **Dr Gary Koutcher** and I am here to speak on behalf of a group of concerned residents of Loch Sheldrake. I wanted to bring to your attention how much this project will tax the Town's existing systems.

The proposed development compromises 100 units. Sewage disposal is expected to be through the municipal sewer system. The water supply is expected to be the town's public water system.

And the project is meant to be done in phases over more than a year, according to the submissions made by the developer, with all of the public/community amenities left until the final stage.

There is no existing public utilities to the proposed project site. How will the Town fund the water, sewage and electricity connections to the new development? Are the Town's current sewer and water systems able to handle the strain from the additional units? For example, does the Town have data on the water and sewer usage by the existing Luxor development?

Assuming that the output of the new development will be similar, has the Town measured whether it has sufficient capacity for the new development?

The impact of this development on our roads and traffic should also be considered.

In addition, the project listed the Monticello landfill as the disposal site for construction debris and other waste. Does the landfill have capacity for that?

**Luxor Junior Development Project - Statement of Concerned Citizens**

**Planning Board Meeting – September 9, 2021**

**Out of Date Data**

Dear members of the Planning Board, my name is **Lyudmila Bondarenko** and I am here to speak on behalf of a group of concerned residents of Loch Sheldrake.

I wanted to be helpful by pointing out that the Planning Board should not rely on parts of the old applications for this project, some of which are now almost 14 years old.

In particular, the traffic study was conducted in 2008. The last EAF was submitted in 2013. The wetland delineation report was done in 2006. The 2008 EAF filed by the Applicant relied on determination made by FEMA in 1996 that the project site is located within a 100-year floodplain. As we all know, our areas has become wetter, and FEMA has updated its maps many times since.

Since the last submissions, the technology has changed, planning techniques have changed, and most importantly, the neighborhood and environment around this proposed project have changed. Yet the planned project remains nearly the same. For example, the cumulative impact of the new development in our area since 2013 has not been factored into the project assessment. It is imperative that town planning must not be based on out of date models and stale data.

The flooding in the region from the rain brought on by tropical depression Ida on September 1 highlights the harm that results from removing natural absorbent areas and creating more impervious surfaces. The flooding that Ida caused was preceded by the flooding caused by storm Henri less than two weeks prior to Ida.

The Applicant acknowledged in their 2013 EAF that soil drainage is poor on 100% of the site. There is a roaring brook that has naturally formed during storms on what would be the southern edge of development and on the front edge of Loch Sheldrake shores that goes right into the Loch Sheldrake Lake and swamps a number of houses on its way. I can't imagine what clear cutting 38 acres of forest would do to that flooding that is already happening.

We can't afford to base land use and storm water management determinations on 1996 data. The 46 people who drowned in Ida's floodwaters in their basements and their cars are the proof of that.

### **Luxor Junior Development Project - Statement of Concerned**

**Citizens Planning Board Meeting – September 9, 2021**

Dear members of the Planning Board, my name is **Mary Adams** and I am here to speak on behalf of a group of concerned residents of Loch Sheldrake.

Allow me to start by thanking you for your excellent service and dedication to the Town of Fallsburg. Without your willingness to shoulder the burdens of volunteer public service, we would not be here today.

Thank you very much for the opportunity to speak with you at the previous public hearing on August 12, 2021.

As you will recall, the Planning Board has determined to require the developer of the Luxor Jr. project (the “Applicant”) to submit a new long form Environmental Assessment Form (“EAF”) since the prior form was dated 2008.

To help the Planning Board, our group plans to hire an engineer to review the Applicant's long form EAF and to test their assumptions and conclusions. We would like to request that the public hearing be continued until the public, including our group, has had a chance to review the long form EAF that the Applicant will submit, and comment on it.

We look forward to contributing our voices, to representing our community in this process and to adding our engineer's input to the project file, all to assist the Planning Board in fulfilling its duty as the Lead Agency under SEQRA.

**Luxor Junior Development Project - Statement of Concerned**

**Citizens Planning Board Meeting – September 9, 2021**

**Project's impact on the Town's environment**

Dear members of the Planning Board, my name is **Philip Simpson** and I am here to speak on behalf of a group of concerned residents of Loch Sheldrake. I am here to speak on behalf of everyone who enjoys our beautiful Loch Sheldrake.

The proposed development would inevitably do substantial harm to our lake. Additional storm water run-off, erosion of soil into the water, the washing of untreated material, such as gasoline, refuse, untreated sewage, concrete, etc. will harm our lake. The additional suspended solids, the modification of water levels and flow regimes, altered water temperature, pH (acidity), nutrient

levels and pollutants will kill the fish and pollute our lake. Locals and tourists who love to swim, boat and fish in our lake will no longer be able to enjoy it.

Clear-cutting 42 acres of forest with poor soil drainage is a terrible idea for our local environment. The animals and plants will lose their habitat and the old mature forest will no longer be there to act as the lungs of our community and as a sink for floodwaters.

While we will need to review the long form EAF, we are quite sure that this project will present one or more significant adverse environmental impacts. Accordingly, the Planning Board should be issuing a Positive Declaration as its SEQRA Declaration of Significance for this project. A Positive Declaration will make sure the significant adverse impacts will be thoroughly studied and that changes will be made to this project to mitigate those impacts to the maximum extent practicable, as is required by SEQRA.

We stand ready to provide you with additional information to help you determine the scope of the Environmental Impact Statement.

By acting as the Lead Agency for the SEQRA review of this project, the Planning Board is taking on an important responsibility to ensure that SEQRA is applied to this project in good

faith. As the Lead Agency, under SEQRA the Planning Board becomes the steward for our environment and needs to fulfill that responsibility. We are counting on you to be the stewards of the environment on our behalf.

In addition to the above, I wanted to thank you for your service. I also wanted to remind you that the Planning Board is the Lead Agency under SEQRA. If an agency makes an improper decision or allows a project that is subject to SEQR to start, and fails to undertake a proper review, citizens or groups who can demonstrate that they may be harmed by this failure may take legal action against the agency under Article 78 of the New York State Civil Practice Law and Rules. This action would not be directed against you personally, but would rather seek a review of your decisions with respect to Luxor Jr. project. We represent the concerned home owners in Loch

1

Sheldrake who will be harmed by the new development, and as such, the members of our group have standing to bring an action under Article 78.

Project approvals may be rescinded by a court and a new review required under SEQR. New York State's court system has consistently ruled in favor of strong compliance with the provisions of SEQR.





