

MEMBERS PRESENT: Harold Fabinsky, Chairman/Paul Bodden/Henry Heppner/David Kaczor/
Joseph Liberti/Philip Murray/Nicholas Taneff/Nicholas Baich, Alternate

OTHERS PRESENT: John P. Bernard, Planning Coordinator
Len Berkowitz, Deputy Town Attorney
Andrew Geist, Building Inspector
Thomas Ostrander, Assistant Town Municipal Engineer
Rose Messina, Secretary

The Chair called the Planning Board meeting to order at 7:00 P.M. by stating that if anyone appearing before the Board has a family, financial or business relationship with any member of the Board, it is incumbent upon that person to make it known under State law and the Town Code of Ethics.

Upon a motion duly made and seconded, the reading of the Planning Board February Meeting minutes was unanimously waived as each Board Member had previously received a copy.

Mr. Murray made a motion, seconded by Mr. Bodden, to accept the February 8, 2018 meeting minutes as presented.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BODDEN	AYE
HEPPNER	AYE
KACZOR	AYE
LIBERTI	AYE
MURRAY	AYE
TANEFF	AYE

THE MOTION BEING SEVEN (7) IN FAVOR, THE MOTION IS PASSED.

1. P.B. File #10-17, "Dollar General Store", 2737 Southwestern Boulevard, Vacant Land, West of the Southwest corner of Southwestern Boulevard and Angle Road, Zoned B-2. Applicant is requesting a Site Plan and SEQR review and recommendation to construct a 9,030 +/- GSF Retail Building, per Section 144-44 of the Town Code. NOTE: ZBA granted an Area Variance on 8/15/17, to allow reduced number of off-street parking spaces. (SBL#153.07-1-8.3)

APPEARANCE: Mr. Chris Wood, Project Engineer, Carmina • Wood • Morris,
Mr. Peter Sorgi, Attorney, Hopkins, Sorge & Romanowski

Mr. Sorge presented the Site Plan for the proposed project and explained to the members that Dollar General would like to construct a 9,030 +/- GSF Retail Building, west of the southwest corner of Southwestern Boulevard and Angle Road. The plan, if approved by the Planning Board, includes a Perpetual Easement Agreement between Zaremba Group and Patrick Reddington/Elizabeth Reddington, the owners of this parcel, and also of the adjacent corner parcel. The easement allows connectivity to Southwestern Boulevard and Angle Road for both properties and will resolve any overflow parking needs for either lot if the Reddington's develop the remaining parcel in the future.

He also reported that the Zoning Board of Appeals granted an Area Variance on 8/15/17 to allow a reduction in the number of off-street parking spaces. Although there is room to comply with the Town requirement, Dollar General indicates their market studies reflect that they do not need all of the parking spaces required by the Town of Orchard Park. Mr. Sorge told the members that this project has received approval from the Town Conservation Board and Engineering Department.

Chairman Fabinsky established that the sale of the property to Zaremba Group is contingent upon Town approval of the project. Mr. Sorge stated that they will provide the Town of Orchard Park with a copy of the Perpetual Easement Agreement.

Mr. Murray established that 32-parking spaces will be constructed at this site.

Mr. Bodden established that Zaremba Group will purchase the property and lease retail space to Dollar General. The Owners of the remaining property (the Reddington's) have agreed to the easement. If either property is sold in the future, the easement will remain in perpetuity.

Mr. Kaczor discussed concerns he has for the reduced parking at this site. He asked the Petitioners to explain what information was presented to the Zoning Board of Appeals that made the members comfortable in granting the Variance request and to describe the type of inventory a Dollar General Store carries versus a "Dollar Tree" store, such as the one located at the McKinley Mall. The "Dollar Tree" Store has very little parking spaces and is very busy.

The Petitioners explained that there is a significant difference in customer traffic between "Dollar Tree" and a Dollar General Store. The ZBA was provided with a study, based on peak shopping times in Western New York, including Saturday's, for the East Aurora, New York based Dollar General Store. The most vehicles counted at one time in the parking lot area were eight (8), and that included employee vehicles. If more spaces were needed, Dollar General Store would want to put them in to encourage customers to shop at the store. Mr. Wood also spoke of several other Dollar General Stores constructed in the New York State area, and noted that 30 to 32-parking spaces were constructed for those stores.

Planning Board member Joseph Liberti, the former Chairman of the ZBA, stated that he reviewed this case with the other ZBA members in August of 2017. He noted that Dollar General submitted a study for the members' review that indicated that the highest number of vehicles parked in the stores' parking lot at one time was eight (8). The ZBA members felt the Dollar General Store will not be overwhelmed with customers, based on the report submitted, and they were unanimously in favor of the request as the preservation of green space is preferred, over constructing parking spaces that will not be used.

Mr. Heppner established that the store will be open during regular retail hours and it is not a 24-hour operation.

The Chairman asked for Building Inspector Geist's assessment on the reduced parking. Building Inspector Geist told the Board that, based on his observations of other Dollar General Stores, he is comfortable with the reduced parking for this project.

Chairman Fabinsky discussed the construction of the building, and asked if it would be constructed on a higher level than most short-termed leased buildings.

The Petitioner stated that Zaremba Group is a top rated developer. They have their buildings constructed to last longer, and they expect Dollar General to be a long-term lease. It was learned that the facade to be used on this building is an upgrade and is better than what their prototype is.

Mr. Bodden made a **MOTION**, seconded by Heppner, to recommend that the Town Board **GRANT** Site Plan Approval, and issue a Building Permit to construct a 9,030-sq.ft. Retail Building per the plans received on 2/16/18, based on the following conditions and stipulations:

1. This is an Unlisted SEQR Action, based on the Short EAF, Parts 1 and 2, and a Negative Declaration is recommended.

2. The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site. After hour lighting levels will be reduced per the submitted plan.
3. No outside storage or display is permitted.
4. The Conservation Board on 3/6/18 Approved the Landscaping Plan prepared by a NYS licensed Landscape Architect, submitted on 2/16/18.
5. The Total Green Space is 46.2%, and exceeds the Town Requirement of 20%.
6. The Interior Green Space requirement of 10% is met with 11.3%.
7. The Landscaping Value Estimate of \$24,400 requires a Certified Check amounting to 50% of the total and this shall be deposited with the Town Clerk prior to receiving a Building Permit. (\$12,200)
8. Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
9. The Zoning Board of Appeals granted an Area Variance for reduced number of off-street parking spaces on 8/15/17.
10. Ingress and Egress Agreement is in place and recorded for the yet to be developed corner property to allow access between the properties.
11. Town Engineering Approval was granted on 3/8/18.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BODDEN	AYE
HEPPNER	AYE
KACZOR	AYE
LIBERTI	AYE
MURRAY	AYE
TANEFF	AYE

THE MOTION BEING SEVEN (7) IN FAVOR, THE MOTION IS PASSED.

2. P.B. File #01-18, 3964 California Road, located on the West side of California Road, South of Southwestern Boulevard, Zoned I-1. Applicant is requesting Site Plan and SEQR review and recommendation to construct an unheated 60-ft. x 34-ft. storage addition at the rear of the existing pavilion and a 40-ft. x 130-ft. addition to the side of the existing pavilion. (SBL#161.03-1-8)

APPEARANCE: Mr. Joe DeMarco, Jr.

Mr. DeMarco told the members that he would like to construct two structures. A 40-ft. x 130-ft. open-air pavilion attached to the south side of the existing Pavilion. This addition will eliminate the need for erecting pole tents each year for their "Wings Flights of Hope" functions and other events held here. He further stated that he would like to construct a 60-ft. x 34-ft. cold storage building to keep the property looking tidy.

Chairman Fabinsky told Mr. Demarco that an updated survey is required for the entire site. The survey is to include parking, and indicate Interior Green Space and Interior Islands. The Board would like a general picture of what is on the property. Mr. DeMarco noted that he has contacted a surveyor to perform this task.

Mr. Liberti established that the addition will take the place of renting tents and the storage building will be unheated, with items stored here such as pylon cones, a white box trailer, lawnmowers and a tractor currently parked at the site. Constructing a paved-parking lot was discussed and Mr. DeMarco stated that it is not economically possible at the present time.

Mr. Kaczor told Mr. DeMarco that he feels somewhat good about the request as he would like to see the property cleaned-up. Mr. Demarco stated that he plans on doing this, and will store items currently outside in the proposed cold storage building. He further established that Mr. DeMarco does not have plans for any additional construction at the site. Landscaping was discussed and Mr. DeMarco noted that they have hanging baskets of flowers and plant additional items each year. Mr. Kaczor would like the survey to include existing plantings at the site.

Mr. Bodden, in reviewing aerial photographs, established that "Colton RV" is no longer parking vehicles in this area. He also established that the proposed new addition to the Pavilion will be "open-air", and not enclosed and will be built on the existing 130-ft. x 145-ft. concrete pad.

Mr. Heppner established that the size of the open air pavilion is based on replacing the tents that were erected and used in the past.

Mr. Murray asked Mr. Demarco what the total percentage of Green Space for this parcel will be after the project is completed. Mr. DeMarco stated that he would have to confer with his architect to respond to that question. Mr. Murray established that 700-parking spaces exist on the parcel located at 3964 California Road.

Chairman Fabinsky would like to know what the dedicated Green Space amount is at the site. Mr. DeMarco stated he would get back to Chairman Fabinsky with this figure.

Mr. Taneff established that the current landscaping at the site will not be disturbed with the construction of the two structures. He also established that there is no additional landscaping plan needed for the current project. Mr. Taneff asked questions regarding past Building Permits and projects on this property, starting in the year of 2008.

The Chairman requested that the discussion return to the agenda item before us as a historical review had not been scheduled for this session.

Building Inspector Geist stated that the past issue was resolved through the Town Board.

Mr. Taneff agreed that Mr. Geist's answer was sufficient for the Board to move ahead.

Chairman Fabinsky established that there were no further questions from the Board.

Mr. Liberti made a **MOTION**, seconded by Mr. Kaczor, to **recommend** that the Town Board **GRANT Site Plan Approval** and **ISSUE a Building Permit** to construct an Unheated 60-ft. x 34-ft. Storage Addition at the rear of the existing Pavilion, and a 40-ft. x 130-ft. addition to the side of the existing Pavilion, per the plans received on 2/21/18, based on the following conditions and stipulations:

1. This is an Unlisted SEQR Action, based on the Short EAF, Parts 1 and 2, and a Negative Declaration is recommended.

- 2. The site lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
- 3. No outside storage or display is permitted.
- 4. Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
- 5. Town Engineering Approval was granted on 3/8/18.
- 6. An updated survey that includes all existing and proposed structures and uses, shall be provided to the Town prior to receiving a Building Permit.

ON THE QUESTION:

Mr. Taneff stated that he is voting “Nay”, based on reasons contained in his email of 3/07/18, and requests a copy of his email be placed in the permanent file.

Chairman Fabinsky established, with Deputy Town Attorney Len Berkowitz, that Mr. Taneff’s request to add the document to the file is appropriate.

Chairman Fabinsky asked Mr. Geist to assure the Board that all stipulations in the motion, especially #6, will be carefully followed. Mr. Geist stated he will do so.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BODDEN	AYE
HEPPNER	AYE
KACZOR	AYE
LIBERTI	AYE
MURRAY	NAY
TANEFF	NAY

THE MOTION IS PASSED WITH FIVE (5) AYES AND TWO (2) NAYS.

- 3. P.B. File #03-18, “Leo’s Pizzeria Expansion”, 2220 Southwestern Boulevard, Zoned B-2. Applicant is requesting Planning Board Approval of an Outside Seating Area with sixteen (16) seats. Two (2) parking spaces will be removed.

APPEARANCE: Mr. Ralph Lorigo, Attorney
Mr. Keith Leo, Owner of Leo’s Pizza
Mr. Mathew Moscati, Architect

Mr. Lorigo presented and explained the proposed plans to expand “Leo’s Pizzeria” to the Board. He stated that, Mr. Leo would like to lease an additional 1,700-sq. ft. of Tenant Space to create a 106-seat, Banquet Room Facility, while continuing to operate his 3,500 sq. ft. Restaurant and Take-Out business. In addition, Mr. Leo would like to construct an outside patio area for his customers to enjoy. The patio area will be created with the removal of two-parking spaces at the front of the business. There are currently 99-parking spaces at the Plaza. Mr. Lorigo stated that the Town parking requirement is met with the remaining 97-parking spaces; Leo’s Pizzeria is allocated 53-parking spaces, Tim Horton’s 17, and the Salon 27. He also submitted a document signed by the Plaza’s Property Owner, agreeing to the proposed patio area and loss of the two-parking spaces.

Mr. Bodden confirmed that the property Owner is in agreement with the expansion utilizing this additional property.

Chairman Fabinsky asked Building Inspector Geist if the number of parking spaces meets the Town's Requirement. Building Inspector Geist explained that there is one unallocated lease space, and it is not known what type of business will lease here, nor the number of parking spaces that will be needed, but, at this point, the plaza meets the Town Parking Requirement.

Chairman Fabinsky established that the Owner of the property is aware of the Town Parking Requirement and that the patio area may limit his ability to use the property.

Mr. Bodden asked about the interior remodel that would take place to join the two spaces. He also established that the outdoor patio drawing depicting the trellis work was as an option, but if fencing and landscaping is preferred that will be put in. Building Inspector Geist will review and determine what can be safely used.

Mr. Kaczor established that Ray Miranda is the Plaza Property Owner, and Owner of the Tim Horton's. He also discussed his concerns that Mr. Leo's business will out-grow the 53-parking spaces and create a safety hazard with parking along Southwestern Boulevard. He reported his experience at this plaza with parking to be "terrible" during a Buffalo Bills Play-off Game.

Mr. Leo stated that during the day the Tim Horton's and the Salon have customers, but that is not the case in the evening hours.

The remaining building space has been vacant for four-years, and Building Inspector Geist noted that each tenant must come before the Planning Board for review.

Mr. Liberti verified the number of seats that will be placed in the Banquet Facility "party room" is 106.

Mr. Baich stated he is concerned for the capacity of the parking lot.

Chairman Fabinsky asked if there is a plan for over-flow parking. There is not.

Mr. Lorigo stated, that the timing of Mr. Leo's business, and the other businesses is totally different. He is busy when they are not, or they are closed for the day.

Mr. Bodden made a **MOTION**, seconded by Mr. Fabinsky, to **GRANT** the request to construct a Patio for Outdoor Seating, for sixteen (16) seats, per the plan received 1/11/18, as follows:

1. This is a Type II SEQR action and therefore no determination of significance is required.
2. The Pergola, four tables with the four chairs will be seasonal. They will be put up, and taken down at the same time, from April 1, 2018, through November 30, 2018.
3. The Outdoor structure will follow the rendering provided to, and approved by the Building Inspector.
4. If there is any additional lighting for the site, a Lighting Plan shall be submitted to the Town Planning Coordinator for review and approval. Light fixtures shall have flat lens.

ON THE QUESTION:

The members discussed the wording of stipulation #3.

Mr. Heppner asked if there will be lighting at night. Item #4 was added to the motion.

Mr. Murray asked if the patio area is temporary. Addition made to Item #2.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BODDEN	AYE
HEPPNER	AYE
KACZOR	AYE
LIBERTI	AYE
MURRAY	AYE
TANEFF	AYE

THE VOTE ON THE MOTION BEING UNANIMOUS, THE VOTE IS PASSED.

- 4. P.B. File #02-18, Homedog LLC, 3892 Southwestern Boulevard, Zoned B-2. Applicant is requesting Planning Board approval of Outdoor Display of twelve (12) sheds, and staged furniture with fencing, for 2018 and 2019.

APPEARANCE: Mr. Jack Kuebler, Petitioner/Property Owner

Mr. Kuebler is requesting a renewal of his Outdoor Display and proposes no changes to the sketch plan.

Chairman Fabinsky established that Building Inspector Geist had no issues with this request.

Mr. Heppner stated he appreciates Mr. Kuebler’s changes and improvements to his display.

Mr. Kaczor established that the Outdoor Display dates will be April 1, 2018 through November 30, 2019.

Mr. Kaczor made a **MOTION**, seconded by Mr. Bodden **GRANT** Outside Display for two-years, from April 1 through November 30, 2018, and April 1 through November 30, 2019, at 3892 Southwestern Boulevard, based on the Sketch Plan received 2/08/18 for 12 portable sheds, and the following stipulations are to apply:

- 1. This is a Type II SEQR action and therefore no SEQR determination is required.
- 2. There will be no additional outside lighting for the display or temporary structure.
- 3. There will be no banners or additional signage for this facility; however, the applicant may place a temporary “For Sale” sign upon receiving approval from the Building Inspector. This signage will be displayed concurrently with the shed.
- 4. The sheds will be on display from April 1st to November 30, 2018, and April 1st to November 30, 2019. One shed (a sales office) will remain on the site year-round.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BODDEN	AYE
HEPPNER	AYE
KACZOR	AYE
LIBERTI	AYE
MURRAY	AYE
TANEFF	AYE

ON THE QUESTION:

Mr. Baich made a correction to the Stipulation #4 with regard to the date in November, 2018 and 2019.

There being no further business, the Chairman adjourned the meeting at 8:00 P.M.

DATED: March 19, 2018

REVIEWED: April 2, 2018

Respectfully submitted,
Rosemary M. Messina
Planning Board Secretary

Harold T. Fabinsky, Planning Board Chairman