

TOWN OF GATES  
PLANNING BOARD MINUTES  
MAY 23, 2016

The regular meeting of the Gates Planning Board was called to order at 7:30 PM by Chairman Wall.

PRESENT MEMBERS: M. Wall, Chairman; D. Cambisi, T. May, K. Rappazzo, J. Argenta, D. chamberlain, John DiCaro, Town Attorney; L. Sinnebox, Town Engineer; J. Amico, Public Works; L. Cordero, Councilman

ABSENT MEMBERS: G. Lillie

The first matter on the agenda was approval of the April 25, 2016 Planning Board minutes. Mr. Argenta made a motion to approve the minutes as received. Ms. May seconded the motion. All were in favor; the motion carried.

Chairman Wall announced that there were two deletions from tonight's agenda – Item #4 – Tuscan Woods Apartments – Owner: Fiore Buttarazzi and Faith Outreach Ministry, both have withdrawn without prejudice so therefore will not be heard tonight at this meeting.

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**150 FEDEX WAY**

**OWNER: Ogden Center Development**

**LOCATION: 150 FedEx Way**

**ENGINEER: Vanguard Engineering**

**PRELIMINARY/FINAL SITE APPROVAL**

**General Industrial Zone**

Joe Ardieta, representing Ogden Center Development spoke and stated that they would like to add 36,400 sq. ft. to the existing building. The building addition will be a refrigerated warehouse and the facility will have food storage. He also stated that they applied for and received variances for set back and parking. Access to the site remains unchanged other than breaking ground from parking lot. Sanitary sewer and water consumption does not change. He stated that he received comments on Friday from Mr. Sinnebox and handed out a response letter to Planning Board Members.

Mr. Argenta asked how the existing space will be accessed. It will be accessed from the existing building and there are also 4 loading docks.

Mike LoPresti representing Ogden Center Development stated that elevations were submitted to the Building Department. He did not have those with him at the meeting.

Mr. DiCaro asked if the exterior of the addition the same as the existing building.

Mr. Joe Ardieta stated that the exterior is different and has to be different because the existing building is slit-faced CMU and the existing building is going to be freezer panel wall which is similar to a B4 – maybe a 4 inch wide panel insulated by stick steel structure.

Ms. May asked how many parking spots will be needed. Joe Ardieta stated that the 150 employees is a number that came up overtime. Right now a facility in the City of Rochester will continue to operate until the new facility is up and running. Expecting to have 40 to 45 people at the beginning of operation and in over a couple of years they will transition to the new facility. Right now they are proposing 80 parking spots and are asking the Board for some additional parking just as a precaution.

Mr. Argenta asked how high the existing building is. Mr. LoPresti said the addition would be a 10 ft. difference from the existing building.

Mr. Chamberlain stated that they have access from existing building and 4 bays and a couple of doors and wanted to know what would happen if they lose power.

Mr. LoPresti stated that they have battery backup lighting and the existing building has a generator.

Mr. Rappazzo wanted to know what the estimated total employee count will be and why the parking spaces provided and land banked.

Joe Ardieta (Vanguard) stated that if the Board wishes he can go to the extreme as to what may be needed in the future as far as parking spots. What they did with this application is what is required now and they land-banked 32 spaces for future expansion but if there is an ultimate expansion he can provide a layout that would accommodate those spaces.

Mr. Rappazzo answered by stating that they he just wanted to make sure that what is required and what they could possibly need is accommodated on the site and could avoid further plans.

Joe Ardieta (Vanguard) stated that the reason they did not go for the maximum parking, at this point, he feels that there is sufficient parking provided.

Mr. Wall asked what the size of the existing building is.

Joe Ardieta (Vanguard) stated it is about 44,000 sf.

Mr. Wall stated that there appears to be a 26 ft. access easement to the Monroe County Water Authority.

Joe Ardieta (Vanguard) stated that they have not been able to find a record of that easement. They will relocate parking lot if have to.

Mr. Wall stated that there shouldn't be parking in the easement area; we may need to stripe those spaces out to protect the cross access easement.

Mr. Wall asked what the hours of operation will be and the timing for construction.

Mr. LoPresti said that the hours of operation will be from 6:00 AM to 6:00 PM and that they plan to be starting up sometime in the middle of November.

There was discussion about the proposed location of the bio-retention facilities. The applicant should relocate to move outside of the Right-of-way / easements.

Mr. Amico asked that they make sure that the town road stays clean and when construction is started that they have some kind of construction entrance so they can wipe off all the mud before going on the pavement. Also needed is a letter of credit and site restoration and changes to storm sewer.

Mr. Sinsebox stated that he submitted a letter with his review comments to the applicant and to address those in writing and he stated that he just received them. Comments were mostly housekeeping items.

The meeting was opened up to the public.

Mr. Don Ionone, 4099 Lyell Road stated that his understanding is that the Town Code states that a building cannot exceed 35 ft. without a variance. Is that true?

Mr. Sinsebox answered that 35 ft. is for residential. For industrial it is different.

At this point the Planning Board was declared in Executive Session. After discussion among the Board Members, Mr. Wall made a motion declaring the Town of Gates Lead Agency and find this project unlisted action, there is no negative impact on the environment and no further SEQR action is required.

Mr. Argenta seconded the motion. All were in favor, the motion carried.

Mr. Wall then made a motion to declare Preliminary/Final Site Approval with the following conditions:

- 1) All Stamps of Approval from all regulatory agencies (including the Fire Marshal) are to be affixed to the final plan prior to the signature of the Planning Board Chairman.
- 2) That the Planning Board Chairman review and sign off on the Architectural Building Elevations before final site approval.
- 3) That the applicant add existing square footage of the building to the final plans.
- 4) That the applicant list all variances, and the date received, on the final plan.
- 5) The applicant add snow storage to the plans
- 6) That the applicant 'stripe-out' a no parking area that encumbers the Monroe County Water Authority access easement.
- 7) That the applicant move the bio-retention areas that encumber the right of ways / RG&E easement.

- 8) That the applicant pay particular attention to the maintenance and cleanliness of the road to the satisfaction of the Town's DPW.
- 9) That a Letter of Credit be submitted sufficient to cover site drainage and restoration / landscaping to the satisfaction of the Town's DPW.
- 10) That any final comments from the Town Engineer be addressed
- 11) That a maintenance agreement for the bio-retention areas be reviewed and approved by the Town.
- 12) The Gates Fire Marshal shall review and approve the plan prior to final Site Review and prior to signature.
- 13) That the additional parking be depicted on the plan.
- 14) That Preliminary and Final Site Plan Review Fees are to be paid to the Town.

Seconded by Mr. Argenta. All were in favor, the motion carried.

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**NESSER-CONFER RESUBDIVISION**  
**OWNER: TBN Realty (Thomas Nesser)**  
**LOCATION: 3595, 3605, 3615 Buffalo Road**  
**ENGINEER: Shultz Associates**

**SITE APPROVAL**  
**Planned Unit Development**

Chris Shultz of Schultz Associates stated that this project is pretty straight forward as far as projects go. He also stated that they are basically moving property lines, there are no proposed changes in permits on buildings and does involve 3 parcels. Where he highlighted the old lines, that is where the property lines exist today that they are getting rid of and the pink line is the proposed line. Basically this is cleanup and proportion the property more even. There is a private roadway going through there which was originally developed, it was a single owner and leased out lots. Usually the property line is put down the center of the roadway so that each parcel would mow up to the other pavement. In this instance it was shifted off and the desire is to pick up more room so to add some parking that is for existing so it is actually on the parcel. That is using the parking lot. Two owners basically got together and came up with where they would like the lines moved and prepare the subdivision accordingly.

Mr. Wall asked if the additional area is for parking.

Mr. Schultz answered yes.

Mr. Wall asked as far as the 40 ft. access easement is it filed? Do you know who owns that? Is that something that can be abandoned?

Mr. Shultz answered that there is no need to abandon. It basically runs down the road itself. If it ever became unusable or not needed we could abandon it if necessary.

Mr. Wall asked if the new owner knows about the access easement cutting through his property.

Mr. Schultz stated yes.

Mr. Argenta asked if there was no new pavement.

Mr. Schultz stated that there are no changes. You will see nothing different out there other than the property lines would have been moved.

Mr. Wall asked Mr. Sinsebox if he was satisfied with the access easement.

Mr. Sinsebox stated that there is probably no need to abandon it but it would be good to show current parking arrangement.

At this point the Planning Board was declared in Executive Session.

After discussion among the Board Members, Mr. Wall made a motion to grant Final Subdivision Approval for Nesser-Confer Resubdivision. Based on testimony from the applicant, and that the new owners are aware of the existing access easement that traverses the property. Based on the following conditions:

- 1) Applicant to show the existing parking layout on the final subdivision plat.

Ms. May seconded the motion. All were in favor, the motion carried.

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**BRONGO CONTRACTING & SUPPLY**  
**OWNER: The Knolls at Little Creek, LLC**  
**LOCATION: 2548 Manitou Road**  
**ENGINEER Landtech Surveying**

**CONCEPT SITE APPROVAL**  
**Limited Industrial Zone**

Mr. Wall stated that this applicant is here for a Concept Site Approval and no decision will be rendered by this Board.

Bob Winans, Engineer with Landtech Surveying. As developers with the project are Dan Thomas and Jenny Brongo. Mr. Winans stated that they are here for a Concept Plan Review and Brongo Contracting & Supply are proposing to develop approximately 7 acres in the southern portion of a 16.4 acre parcel so they have an entire 16 acres they plan on subdividing out 7 acres to do this project.

Mr. Winans continued to say that the site is currently being used by the Brongo Excavating business and a quarry operation. The 7 acre parcel they will be developing has frontage on the south on 531 runs through the intersection of Manitou Road and Westside Drive. Plan to construct 4 buildings and these buildings will have about 35 storage units total. It will be leased for contractors to store materials and equipment. They intend to use the existing entrance which is off Manitou Road which is currently being used for the Brongo contracting business. They will also be utilizing an existing roadway runs southerly to the portion of this project. They plan on improving this roadway and have some things to work on with the County DOT.

Mr. Winans continued by saying that around the buildings is parking, driveways and will provide access to all parts of the building. They plan on providing water service and sanitary service down to an office building. A pump station will be put in for sanitary sewer and pump up to a leach field. This will have to be approved by the County Health Department. The site will have security and have a gate access keycard to the site. Security lighting will be provided on the outside of the buildings and doorways. The property is zoned limited industrial and a conditional use permit is required. They went to the Town Board on May 2, 2016 and received the Conditional Use Permit for this project. They will provide detailed drawing.

Ms. May asked who is storing materials in the storage facilities.

Ms. Brongo stated that these storage units are going to be utilized for small contractors, landscape companies, mobile home owners or an RV owner to be able to have a friendly and secure place to store their equipment. These storage units can be utilized for snowplows, landscape equipment, excess equipment that needs to be stored.

Ms. May wanted to know more about security.

Ms. Brongo stated that there is a keyless entry process, monitored so that they know who is coming in and out.

Mr. DiCaro wanted to know about materials being stored.

Ms. Brongo said that no one is going to be storing materials. The other side of the building is Ms. Brongo's business in which she supplies mulch and top soil.

Mr. DiCaro wanted to know if there was going to be storage outside the building.

Ms. Brongo stated all equipment will be stored inside the building. She went on to say that there is a market for this kind of storage buildings and so many people in our own town need that type of storage options.

Mr. Argenta wanted to know if the spaces will be divided up.

Ms. Brongo stated that there will be walls. The buildings are a pole barn construction with divider walls depending if someone needs additional room.

Ms. May asked if there were going to be 3 building or 4 buildings.

Mr. Winans answered by saying there will be 4 buildings.

Mr. Wall asked how big the office is going to be vs. the rest of the building.

Ms. Brongo stated that the storage units will be 30 x 25 and additional ones 30 x 60 ft. Office space will be very small.

Mr. DiCaro stated that he thinks this is a very good idea.

Mr. Argenta asked about sprinkler system in the storage units and would there be fuel stored in these units.

Mr. Winans stated that there might be some fuel in some vehicles but no open fuel storage.

Ms. Brongo added that there would not be any mechanics work being done in the storage units therefore no type of fire risk.

Mr. Rappazzo asked what is the other house on the parcel. Ms. Brongo stated that the house is her personal residence and she will be right on site.

Mr. Chamberlain asked where the current leach field is located. Ms. Brongo said that it's to the north of the house as well.

Mr. Chamberlain also asked if they have an easement from the county for the access to get to the property.

Mr. Winans stated that they have to look into that. Obviously when the state came in and took right of way they did submit to the county and they have to look at that where 531 right of way stops and that starts. They did not say anything about it. He also said that they will have to work that out.

Mr. Winans also stated that the drainage flows towards the 531 right of way so they will have to put a detention pond to control water. They will deal with the State on that.

Ms. May asked a question to clarify about the vehicles that are stored. Will clients have items in their vehicles such as pesticides which could be a hazard to the environment?

Ms. Brongo answered no. Their clients would be more like people wanted to store furniture or Habitat for Humanity wanting to store materials or something like that or people that have nice boats and cars that need to be stored because they cannot keep them at their residential locations and need a secure place to store them locally. This is a perfect collaboration for businesses.

Mr. DiCaro asked that when the application is actually made, will they be able to limit the storage of any material that they believe is unsafe?

Ms. Brongo answered yes.

Mr. Rappazzo stated that there are obviously lots of steep slopes and that they man made.

Ms. Brongo stated that they have all been reclaimed but the core of all this development is facing the expressway so there will be a core of them exposed but it will esthetically developed buildings.

Mr. Rappazzo asked if there were any concerns with failure to the slope or anything like that.

Ms. Brongo answered no.

Mr. Wall said that they might want to get a Geotech Report just to see what they are dealing with on there for foundation designs.

Mr. Amico stated that he agrees with Mr. Wall on the Geotech Report. He stated that he knows the material there is all sand and very loose and not very compactable. When leach field is put onto another parcel there has to be some kind of easement for that too.

Mr. Winans stated that it would have to be a permanent easement for that parcel in case it was every sold off.

Mr. Sinsebox stated that the Monroe County Health Department does approve a vertical seepage pit where it takes very little surface space and accomplishes the same thing. He would encourage them to take a look at that.

Mr. Chamberlain asked if any test perks were done. Mr. Winans stated that they have not done any test perks.

Mr. Wall asked the applicant to follow the Town's checklist for both the preliminary and final applications.

Mr. Wall thanked them.

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**PARKVIEW PLACE**

**OWNER: Premier Himes, Inc.**

**LOCATION: 399 and 4060 Lyell Road**

**ENGINEER: Schultz Associates**

Recently there was a discussion on variances for Parkview on Lyell Road. Mr. DiCaro stated that it appears that one of the concerns the Zoning Board had was when they applied to the Planning Board you suggested there be no variances. And from my perspective, the Zoning Board should make a decision based on that planning issue. So the question here is whether or not the Planning Board believes that the no variance application was material condition so to speak of your approval. If they believe that it is a material condition, then I would suggest that I need to have you return to discuss. If they believe it is not a material condition then we would issue a letter that said that.

Mr. Wall stated that when they originally brought that in, Bob Marcello had specific units that he wanted to place there and he knew that we were going have issues with the sun rooms being too close. They asked to apply to the Town Board to rezone with the understanding that we would

yield to have that setback. The chairman was right in saying that that was an issue for the Zoning Board. We can't give you that approval. The way the minutes were written it was a lot stronger written that you cannot get the variance. I don't think it was written with that intent. It's the Zoning Board's job to grant you a variance.

Mr. DiCaro said that the Zoning Board needs to recall whether that was their intention, or in fact, was along the lines of hardship. Obviously, the decision for you all to make if you believe having a project with no variances was what you intended, then so be it. The Zoning Board should be informed that that was true and they would act based on zoning considerations rather than the sense that there was some prohibition intended by you.

Mr. Schultz stated that certainly there was a lot of neighborhood concern when this project started out. And one of the things we have is a lot of residents being impacted and time basically resolved a lot of those concerns. At this point our Zoning Board application has letters of support from both sides of the neighbors who were going to be impacted the most and they support the variance. So things have changed from the time that we were in front of the board asking this board to give referral to Town Board for rezoning and subsequently your approvals. We've come a long way but again this is the reason why we are beating this horse to death is from a marketing standpoint Bob needs to build a site the unit along the frontage – it is important, the popular layout that he wants to put out front. He is willing to go through all these steps because it is critical for his project.

Mr. Rappazzo asked if we granted site approval. So then when we grant site approval it was based upon all the facts of the project. At that time would include whether any variances are required or approved. So if there is a change in structure or any of the improvements then that requires a variance is actually a change in the site plan. Is it not? So we would have to review that.

Mr. DiCaro said the question is whether or not it is material. As an example, one of the conditions replaced on the approval can't do with the buffer zone to the north of that premises. And perhaps through miscommunication the applicant removed trees from that buffer, clearly that was a condition of your approval and suggested to the applicant that they are going to have to replace the buffer or come back to the Board for further action. This one is a question for you all, it is not clear to me that you intended the project to be variance free or it wouldn't be approved. It's the materiality question for you. I don't think that we need to necessarily revisit every change in the future but if material.

Mr. Shultz asked the buildings we are proposing are deeper than what was intended so we are asking for a rear setback.

Mr. Wall stated that basically what we have shown is these building that we are asking for a setback were shown with a flat patio but what the intention is to build a sunroom, a year round on the same foot ratio but small than the patio. So that would match all the remaining. When you first come up on Lyell we are restricted in our layout to get back to 300 feet, we have no issue no variances.

This is more a question for the Zoning Board, what is the amount of relief?

Mr. Shultz said it is the first three buildings. We are looking for 7 feet out of 45.

Mr. Shultz said the drains would work out fine – the west side we are up against the church access drive, there is no residence or anybody impacted there. We have a letter of support from those folks. The east side there is residence and there was a concern. Bob has worked with those folks and part of what we are doing is that we are adding additional landscaping buffering. After your approval we actually spent much time going out locating specific trees that he is going to save and he is putting in additional trees in with this, he actually said he would put in a little bit of berm. This was all expressed in a letter provided by The Planning Board. The variance application itself – straightforward we are asking to have no variances. We have no opposition. The two parties that are impacted the most have provided letters of support and what is really hurting us the most is timeframe. He is hoping to pull a permit so that he can get his unit up right away and he is actually hoping to do that. So it is really critical that he gets a decision.

Mr. Argenta asked if they get a variance and they did come back here what difference or would our opinion change?

Mr. DiCaro said that is the question – for example, there some things they could get a variance for – for example – that buffer zone. Do you want this certain buffer for the neighbors to the north? The Zoning Board would be free to say you don't need that buffer. The Zoning Board obviously can say you have the variance to put a building in the set back but they are not doing so because they believe the Planning Board in effect made this decision based on that there be no variances. The question really is whether you all think that that was your intention. I don't report to speak for you. I think you all try to remember how you felt.

Mr. Rappazzo stated that he is not so much concerned about the statement that this is a no variance plan, it is more precedent that we approved a plan and they are now going back to get a variance. Are there changes to what we approved regardless of what we were told before or after that this is a no variance plan?

Mr. Shultz said that is why he is there tonight because things have changed. The black and white resolution from the Board basically says no variances and it can be looked at 5 different ways. What we are trying to do is kind of like a reality check. I don't think that the board it was appropriate to wave setback requirements for buffer plus for a setback at the time of rezoning.

Mr. DiCaro said they might have said they wouldn't approve a plan because they thought it was too dense and needed variances but they wouldn't say we would give you a variance. That is the question, would you have felt that this was squeezing too much in and that's why you said you wanted it to be that way or was it just the commentary of the applicant. Let's face it, if he place was built and one of the owners went to the Zoning Board for a variance it would have nothing to do with what the Planning Board said. In reality we come down to whether or not when you give the approval if one of the reasons you did it was you thought they have enough room with all the surrounding people make everybody happy, but that was really a concern of the Board

then you should say you would have to get a new decision by the board. So that is what it comes down to whether you believe it was something you sort of based your decision on.

Mr. Wall said that we are asking the Board tonight if assuming the Board approved it with no variances at all that the Board would reconsider.

Mr. DiCaro said unfortunately that can't do that tonight. They can conclude that they didn't they would need to have an application with public notice and etc. They can reach a conclusion if they want, it that was a material visually they can't change if it was a material, they can reconsider on your application, but you have to apply. So that is the reality. Do you understand my point there?

Mr. Shultz said that obviously that when this happened and we were in front of the Zoning Board they actually voted 3 times and each time they had an even vote yes and no. They tried 3 different ways. They were one member short so they had 6 votes. Three yes and three no. They really tried to do it and said they can't reach a decision and hung up on this and said why don't you go back to Planning Board, I'm sure it is not an issue and if you get that out of the way then come back and you should be straight forward and so the whole time here is Bob wanting to put a unit in and we are just burning days like crazy. I understand the reason why the Board originally looked at it and I think it was prudent but things change every day and now we have a situation where the conditions that were in the base that cause the concern are no longer there. So I am going to ask the Board to give us some consideration on this thing here.

Mr. Rappazzo said that given all the support would have made our decision easier, I don't speak for the entire board but it would have made my decision easier but I still think is the approval of this Board necessary.

Mr. Chamberlain said because it is different than what we approved.

Mr. Shultz stated that what will change is that instead of it being a flush patio it –the notation of whether it is above the ground or flush for those three buildings. On the standpoint of what the neighbors will see they are going to have use of that space. Then again there is a buffer area and then there is the setback adds to it, so we are encroaching into the setback and not into the buffer at all.

Mr. Wall said that from what he is hearing the application is going to have to come back. Is this the general consensus? Members agreed yes.

Mr. Chamberlain stated that he thought that on February 23<sup>rd</sup> that their letter that called out no variances, he thought that was a letter directed to the Town Board and he thought that was our original to look at it and that the Town Board asked us to make comments and tell them what we thought about the development of that whole project. I thought that's what that statement was. That's what the Town Board did nothing? They did not say anything about it at all. So apparently they ignored what we told them.

Mr. Rappazzo said that we gave them site plan approval so any time we have a site plan approval that's what we anticipate to be built. If there is a variance that needs to be added to make that site plan work that should be part of our consideration for site plan approval.

Mr. DiCaro said that the reality is that you approved site plans on conditions of them getting a variance. So I guess what I say in my mind is if you have a plan and you said I wouldn't vote for this if you need a variance as opposed to I'd vote for this and if you need a variance go get one and if they get one its ok. That's the question. Surely you are not suggesting that site plan approval there would never be a variance or we would have to go back to the Planning Board, that can't be true.

Mr. Shultz said that what we have is we show the patios, and again, Mr. Chairman hold correct, the letter he was referring to is a letter given to the Town Board for recommendation of rezoning. We did a rezoning and thus came back and we got subdivision site plan approval, it was the condition of those approvals that variances could be sought.

Mr. Argenta stated that with the variances aside, it is a different building, a different configuration, appearance of what we approved.

Mr. Shultz said that he is not looking to bend the rules or change things, he is just looking for some consideration of a builder who has done a very good job. He said he has to look to see what has transpired in the last couple three weeks. We went to the Zoning Board the first time there was some stuff going on, it was delayed a month. We went in there, Bob had talked to Zoning Board attorney to make sure he has his best possible case put forward and expected to get the variances that night. This question came up basically brought some confusion of the Board. They opted to be safe and throw it back to the Planning Board. They said it's really not a problem but we should just have the Planning Board look at it.

Mr. DiCaro said that the bottom line is you all should decide whether you believe they should – I want you to know that I have already advised the Zoning Attorney, the members of the Zoning Board voted based on what they believe the Planning Board did. So I think that if the applicant goes back to the Zoning Board, the Attorney is going to advise them that they should make their determinations based on zoning considerations not on what they believe what the Planning Board may have intended. So I understand your perspective. You should vote now whether you want this applicant to come back to Planning to relieve him of some perceived condition that there could be no variance.

Mr. Argenta said that what he is looking at is that it is going to be a different plan, a different appearance than we originally approved.

Mr. DiCaro said that they should make their decision so that they can move on. That is his opinion.

Mr. Shultz then said that he understands that they should still go to the Zoning Board meeting.

Mr. DiCaro said that the Zoning Board tabled it.

Mr. Shultz then said no. They were looking for the Planning Board to clarify some things. So then we will still be going to that Zoning Board meeting anyway.

Mr. DiCaro said he assumes they would. They would have to go back with formal application. They have to change their site plan approval. They are not going to give you the decision that you wanted for that meeting. That does not mean you can't make an application.

Mr. Schultz asked a question so that he understands – Can the Zoning Board grant a variance and that variance be subject to resolving issues with the Planning Board.

Mr. DiCaro stated that in his personal view, they are not related.

Mr. Schultz wanted to know when Bob Marcello can go and request a building permit. Is it after the Zoning Board meeting?

Mr. DiCaro stated that they have to come back to Planning Board after Zoning Board.

Mr. Chamberlain said that at the Zoning Board it's their chance to make the decision one way or the other. Did they bring up the fact that this is basically a hardship? By showing us just plain patios and ignoring sunrooms, he created a problem.

Mr. Shultz said they weren't concerned on the request, they were satisfied that there was no neighborhood concerns and it wasn't going to impact the character of the neighborhood. The stipulation that they had thought the Planning Board said hey you can't get any variances for this project so go back and get that relieved and we will give you the variance. We actually had the neighbors that are impacted at the meeting saying we are in favor of it. It was the cleanest, easiest Zoning Board Meeting until we stood up.

Mr. DiCaro said to file an application and ask the Board for that relief.

Mr. Shultz asked if he could have a special meeting with the Board to move this process along.

Mr. DiCaro said that the Zoning Board meets the second Monday of the month. June 13<sup>th</sup>.

Mr. Amico said plus 2 weeks is needed in the newspaper.

Mr. Chamberlain asked if the Chairman could write a letter to the Zoning Board to clarify our intent.

Mr. DiCaro said that he didn't hear the Board stated they would definitely yield on their view about that. Have to have an application.

Mr. Shultz stated that there is an application but the problem is the timing. We couldn't make the deadline.

Mr. DiCaro said that that is unfortunate. He also stated that he sees no other alternative. It might be a question of Bob taking some risk.

Mr. Shultz said the issue is that he cannot get a building permit depicting something that doesn't meet zoning. The Building Dept. can't issue a permit for something that would actually be in violation. Right?

Mr. DiCaro said that if the Zoning Board gives you a variance, you could conceivably go ahead. If they say no, then you have a problem.

There being no further business to come before the Planning Board, Mr. Wall adjourned the meeting at 8:50 PM.

Respectfully submitted,

Linda M. Saraceni  
Recording Secretary