

**Town of Union Planning Board Minutes**  
Tuesday, May 14, 2019

A regular meeting of the Town of Union Planning Board was held Tuesday, May 14, 2019, at the Town of Union Office Building, 3111 East Main Street, Endwell, New York.

Members present: L. Miller, L. Cicciarelli, S. McLain, S. Forster, M. Jaros,  
D. Kudgus

Members absent: T. Crowley

Others present: Marina Lane, Rick Materese, Bonnie Brown, Dan Brown,  
Sue Kimmel, Peter Wilson, John Bernardo, Ed Keplinger, Amy Priddy, Iliya  
Honovich, and Elena Honovich

**A. CALL TO ORDER**

Chairman Miller opened the meeting of the Planning Board at 7:00 p.m.

**B. MEETING MINUTES**

**1. Acceptance of April 9, 2019, Meeting Minutes**

The review of the April 9, 2019, Meeting Minutes was postponed to the next Planning Board Meeting on May 21, 2019.

**C. Howard Hanna, Special Permit – Floodplain Development, 3630 George F. Hwy., B. Brown**

**1) SEQRA Determination**

Bonnie Brown, on behalf of Howard Hanna Real Estate Services and Merle Whitehead, submitted an application to install a 12' x 14' shed for the storage of the company's real estate signs at 3630 George F. Highway.

The accessory use is permitted in General Commercial zoning districts, and the shed would be located on the existing parking lot, so there will be no additional ground disturbance. Similarly, although the DEC has identified wetlands or other regulated water bodies nearby, the proposed location for the shed on the parking lot would not impact those water bodies.

Any impacts of the 12' by 14' shed to the floodplain will be mitigated with a double louver system which will allow floodwaters to flow through the shed. If necessary, the shed can also be relocated.

The shed will not create any hazards to environmental resources or human health. It is within the buffer area of C704038, the Endicott Area-Wide Investigation, but that contamination does not directly impact this property.

Upon close review, the project as proposed will not have a significant adverse impact upon the environment.

Chairman Miller asked for a motion to approve the Negative Declaration under SEQRA.

Motion Made: L. Cicciarelli  
Motion Seconded: D. Kudgus  
MOTION: Approval of the Negative Declaration under SEQRA  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**2) Special Permit Public Hearing; Decision at Planning Board's Discretion**

Chairman Miller opened the Public Hearing for the Special Permit for Floodplain Development at 7:06 p.m. The Planning Board members questioned whether only signs would be stored in the shed. Ms. Brown said only signs will be stored in the shed. Mr. Brown said the shed will be anchored to the pavement and the double louver system design will allow flood water to leave the shed. The signs will not be removed from the shed in the event of a flood. The Public Hearing closed at 7:12 p.m.

Ms. Lane read her staff report for the record. Bonnie Brown, on behalf of Howard Hanna Real Estate Services and Merle Whitehead, submitted an application to install a 12' x 14' shed for the storage of the company's real estate signs at 3630 George F. Highway. The property is in the one-hundred-year floodplain, and therefore the project requires a Special Permit for Floodplain Development. The real estate office, permitted in the General Commercial zoning district, was approved for development in the floodplain in 2006 as it replaced two prior structures and did not result in an increase in base flood elevation.

The applicant proposed placing the shed over two parking spaces in the southwest corner of the parking lot, adjacent to the dumpster. Any impacts from the 12' by 14' shed to the floodplain will be mitigated with a double louver system which will allow floodwaters to flow through the shed. In addition, the shed would be anchored. If necessary, the shed can also be relocated. The shed would have no utilities that could be damaged by flood water.

Base flood elevation at the site is 835 feet above sea level (835'ASL), and current contour maps show the parking lot at 830'ASL. The shed with louvers will not raise base flood elevation. Accessory structures in Areas of

Special Flood Hazard must be anchored, use practices that minimize flood damage, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters, and must meet requirements for utilities.

This location was subject to a 239-Review as it lies within 500 feet of State Route 17C. Broome County Planning noted that the project site is located within the Existing FEMA Special Flood Hazard Area and the Preliminary FEMA Special Flood Hazard Area. Broome County Planning recommends that the Town Planning Board should exercise caution in approving a project located in the Special Flood Hazard Area and should make the applicant aware of the potential risks for flooding. B.C. Dept. of Public Works Engineering stated there would be no obvious impacts to County infrastructure. However, they recommend there should be no fill or placement of new structures in the floodplain without creating equivalent compensatory storage within the adjacent floodplain. The NYS DOT had no comments.

Building Inspectors have reviewed the design of the shed to ensure that it meets structural requirements for placement in the floodplain.

The Planning Department recommends approval of the Special Permit for Floodplain Development with the following stipulations:

1. The accessory structure in the Area of Special Flood Hazard must be anchored.
2. Members of the real estate office shall use practices that minimize flood damage, such as no storage of potential chemicals, fluids, or batteries in the shed.
3. The shed shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters with an approved louver system.
4. The shed shall meet requirements for utilities, should they ever be installed, per preliminary review by the Code Enforcement and Building Permits office.
5. No additional uses shall be permitted on the lot until a new site plan has been approved.
6. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a Building Permit. The applicant agrees to develop and maintain the project in strict accordance with the stipulations of the Special Permit approved by the Planning Board.

Ms. Lane asked the Planning Board if they had any questions. Mr. Forster asked if there is a permit on file for the shed that is there. Ms. Lane answered that it was on the original site plan. Mr. Jaros asked what the

size of the current shed is. Mr. Brown answered that he thinks that existing shed is a little smaller; it is either 8' x 10' or 7'x9'. Ms. Lane stated that what the Planning Board wants to look at is whether the new shed will raise the base flood elevation and it will not.

Chairman Miller then asked for a motion to approve the Special Permit for Floodplain Development at 3630 George F. Highway, with stipulations.

Motion Made: M. Jaros  
Motion Seconded: D. Kudgus  
MOTION: Approval of the Special Permit for Floodplain Development at 3630 George F. Highway, with stipulations.  
VOTE **In Favor:** L. Miller, S. McLain, L. Cicciarelli, S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

### 3) Site Plan Review

Ms. Lane explained now that the project has been approved for development in the floodplain, the Planning Board will review the site plan. If the occupants of the business need to move the shed in the future, it would require a minor site plan review. The staff recommendation is to approve the Site Plan, with the following stipulations:

- 1) Should the parking lot be repaved or seal-coated, it shall be striped according to Code within the following 30 days. The required handicapped-accessible parking shall conform to the NYS Building Code, and shall be provided with signage displaying the international symbol of accessibility. The access aisle shall be provided with signage reading "No Parking Anytime." Signs shall be permanently installed at a clear height of between 60 inches and 84 inches above grade and shall not interfere with an accessible route from an access aisle.
- 2) The existing landscaping shall be maintained in a healthy manner. Dead or diseased landscaping plants should be replaced per the site plan approved in 2007.
- 3) Per NYS law, all commercial buildings must be inspected by the Municipal Fire Code Inspector every three years. It is your responsibility to coordinate that inspection by calling the Code Enforcement office at (607) 786-2920 every three years, and prior to the issuance of a Certificate of Occupancy for the shed.
- 4) If the applicant wishes to add additional outdoor lighting in the future, the lighting plan shall be submitted to Code Enforcement for their

approval prior to installation.

5) If any new signage is desired, the applicant shall apply for a sign permit from the Building Official prior to display. All temporary signs (including price signs), portable signs, search lights, balloons, sidewalk and curb signs shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. Signs that blink, rotate, or move are not permitted.

6) Site plan approval shall be valid for one year, unless substantial improvements have been made pursuant to the approved site plan.

7) The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a Building Permit. The applicant agrees to construct the project in strict accordance with the site plan approved by the Planning Board. Changes to the site plan following approval may require a minor site plan review or resubmittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

Mr. Forster suggested that stipulations be changed in case the ownership of the building changed. Ms. Miller noted that if there is a change of use to the building, they would need to come back to the Planning Board anyway. However, Ms. Lane did revise the second stipulation of the Special Permit to read as follows: "Occupants of the primary building shall use practices that minimize flood damage, such as no storage of potential chemicals, fluids, batteries or internal combustion engines in the shed."

Chairman Miller then called for a motion to approve the Site Plan for Howard Hanna at 3630 George F. Highway, with stipulations.

Motion Made:	S. McLain
Motion Seconded:	L. Cicciarelli
MOTION:	Approval of Howard Hanna site plan at 3630 George F. Highway, with stipulations.
VOTE	<b>In Favor:</b> L. Miller, L. Cicciarelli, S. McLain, S. Forster, M. Jaros, D. Kudgus
	<b>Opposed:</b> None
	<b>Abstained:</b> None
	Motion Carried

#### **D. Two Plus Four Fairmont Park Residential Project – Presentation**

Ms. Miller stated that Sue Kimmel will give the presentation on the project. Then Ms. Miller and Mr. Cicciarelli recused themselves from the project. Ms. Lane noted that when Two Plus Four comes before the Planning Board for a

formal meeting, the next step will be to call for two public hearings. At that time, the Planning Board should be prepared to appoint a temporary chairperson for that portion of the meeting, Ms. Lane will discuss the proper steps that will need to be taken during the meeting with Alan Pope, the town attorney.

## **1. Presentation**

Ms. Kimmel is with Lakewood Development in the Two Plus Four Company located in Syracuse. Ms. Kimmel introduced Peter Wilson, the Vice Present of Two Plus Four Construction; John Bernardo, who is the executive director of SEPP and who is their partner in the project; and Ed Keplinger, who is the Two Plus Four site engineer. Ms. Kimmel noted that they had previously introduced the project to the Planning Board in 2015. After the 2011 flood, the Government Office for Storm Recovery (GOSR) approached Two Plus Four because there was money available for housing in particular for communities that had been impacted by the flooding in 2011. GOSR identified the Town of Union as a community that had been impacted by the 2011 floods and asked Two Plus Four about doing a project in the town. The Town had used FEMA money to purchase lots in the Fairmont Park subdivision in hopes of redeveloping the neighborhood. The project did not move forward because the water supply line on the side streets was insufficient to meet state requirements for the project.

The Town approached Ms. Kimmel and asked what Two Plus Four would need to come back for the project. Ms. Kimmel advised the Town that they would have to fix the water problem. The Town is applying for financing to upgrade the water. Ms. Kimmel explained that the Town wants to use CDBG money to finance the water line project and that has to be used in areas where there is a low to moderate-income population, because the neighborhood does not qualify by itself. However, if Two Plus Four is proposing an affordable housing project that is linked with the water development, then it does allow the Town to use those funds.

Ms. Kimmel said that an executed option to buy the lots in Fairmont Park will be voted on by the Town Board on May 15. The lots will be used to develop two-family home rentals owned by a partnership of Two Plus Four and SEPP. SEPP will be the property agent for the project. There will be seventeen two-bedroom and seventeen three-bedroom apartments. This will be an affordable housing project, so the tenants will have to be able to pay their rent without any government subsidies. The rent rates will be structured with rents set at thirty percent income, fifty percent income, sixty percent, eighty percent and one hundred and twenty percent income of the average median income (AMI) for the area. As an example, Ms. Kimmel explained a two person household can make anywhere between \$15,000 up to \$50,000 and still qualify. The state considers the Fairmont Park neighborhood a housing opportunity zone because it is in a census tract that has less than ten percent poverty and a high performance school district.

The project will cost almost eleven and a half million dollars. The project will have to be built to the FEMA resiliency standards. This means that the structures will be three-story structures. The first floor will be garage space and the second and third floors will be used for living space. Flood water has to be able to flow through the first floor without any utilities being impacted. The project is being designed to fit in with the neighborhood. Mr. Forster asked whether the floodwall on Watson Boulevard will change any of the flood resiliency requirements and Ms. Kimmel said no. Mr. Nelson advised Two Plus Four that the town has received funds to complete the floodwall.

Ms. Kimmel noted that they will need several variances for the corner lot setbacks because the lots are oddly shaped. The project will also require a special permit to build in the floodplain. Ms. Lane noted the project will also require a special permit for two-family homes in this neighborhood because it is zoned Urban Single Family (USF), and two-family homes are permitted only with a special permit. Each property will receive a special permit for a two-family home if the Planning Board approves the project. Two Plus Four will go to the Zoning Board for the setback variances.

Mr. Forster asked whether 29 Woodland Avenue has a parking lot. Mr. Keplinger answered that this property will be used for the ADA units. To comply with the ADA requirements, these ADA units will need a sidewalk with less than a 5 percent slope or a 23 percent slope with handrails. Two Plus Four opted to go with a ramp that goes from the parking lot in front, and up and around the back of the building. There will be no garage under the ADA duplex. The building floor elevation will be just above the base flood elevation plus two feet. Mr. Forster asked whether both sides of the building will be ADA units and Mr. Keplinger answered yes. Mr. Keplinger also noted that these units will have a ramp on the ground to access the units.

Ms. Kimmel noted that the lots selected for the project are not on the tax rolls right now because the Town owns them, but they will be on the tax rolls again once Two Plus Four develops the lots. Mr. Forster asked whether there will be a PILOT to help fund the project. Ms. Kimmel answered that this has not been decided yet. Mr. Forster asked who will be responsible for the lawn mowing and snow plowing of the units. Ms. Kimmel answered that the tenants will be responsible for shoveling their own driveways and that SEPP will be responsible for the lawn care. Two Plus Four will build the units and SEPP will maintain them. Mr. Forster asked where they will get the people to construct the project. Ms. Kimmel noted that they advertise for local help and that that they would prefer to have local help, so they don't have to pay travel costs.

Ms. McLain asked whether there will be two-car garages for each unit. Ms. Kimmel answered that each unit will have a single-car garage and driveway, which fits two cars. Ms. Kimmel explained that the building rendering which

she distributed is not the final version of the building design. The first floor will be a parking area with garage doors and there will be entry stairs up to the second floor. The buildings will have vinyl siding, but no shutters on the windows because the DEC will not allow the maintenance staff to spray for bees, and it becomes a maintenance nightmare. There will be some nice color combinations because they want the homes to fit into the neighborhood.

Ms. Kimmel will have renderings of actual photos of similar duplex communities. This is the first time they are doing a project in a flood area where they have to have three-story duplexes. Mr. Forster asked whether there will be louvers for the project and Ms. Kimmel answered yes. This is a very expensive project, but the town is also investing in the neighborhood with new water infrastructure. In addition, the area is identified in the Town Consolidated Plan as an area that needs some redevelopment. Therefore, the project has everything that it needs to capture the attention New York State. The state will spend ten million dollars on the project if it is approved.

Mr. Materese commented that the Town is in favor of this project going forward. Since the project is time sensitive, the Town has taken preemptive steps to have everything ready for when Two Plus Four submits their application to the state. He added that the Town plans to finish the floodwall for the neighborhood by September. Ms. Kimmel said that there is only one time per year to apply for the financing, and Mr. Materese commented that is why the Town has taken the steps to move this process along.

Mr. Jaros asked what flood resiliency requirements have to be met. Mr. Keplinger answered that there is a SWPPP, and all of the buildings will be placed two feet above base flood elevation. The utilities will have to be flood proofed. Ms. Kimmel said that they also need to meet financing requirements to get the loan money. One of the financing sources requires that ten percent of the units are thirty percent below AMI. She added that they also need to make sure that the town has the right number of units below the eighty percent AMI to meet the CBDG guidelines.

Ms. Kimmel noted that the largest family size is six people for the three-bedroom units and that income limit goes up to \$98,000 per year. The project will draw a mix of people and will give people who formerly lived in the neighborhood an opportunity to come back, those who couldn't afford or didn't want to rebuild their homes in the neighborhood. Two Plus Four will come back to the Planning Board when their application is complete.

**E. Parlor City Lawn Care, Site Plan Review, 110 Berkley Avenue, A. Priddy**



Amy Priddy submitted an application to open an office with indoor storage in an existing commercial building at 110 and 112 Berkley Street, and 107 and 109 Carl Street.

### 1. Declare Lead Agency

Chairman Miller asked for a motion to declare the Planning Board Lead Agency.

Motion Made: S. McLain  
Motion Seconded: L. Cicciarelli  
MOTION: Declare the Planning Board Lead Agency  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

Ms. Lane distributed a summary describing new SEQRA regulations. The NYS DEC changed the classification of the reuse of an existing residential or commercial structure to a Type II Action. When a project is classified as a Type II action, no further review is required.

### 2. Classify Action a Type II Action

Chairman Miller asked for a motion to declare the project a Type II Action; and no further review is required.

Motion Made: L. Cicciarelli  
Motion Seconded: M. Jaros  
MOTION: Classify the project as a Type II Action and no further review is required.  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

### 3. Site Plan Review

Ms. Lane read her staff report. The Town Board rezoned 110 and 112 Berkley Avenue to Neighborhood Commercial on April 17, 2019, and the office use with accessory indoor storage is permitted. All four parcels, 110 and 112 Berkley Street, and 107 and 109 Carl Street, shall be combined into one lot. Ms. Priddy plans to use the existing building for her landscaping services business office with indoor storage of accessory equipment, such as lawn mowers and snow plow attachments. The building consists of a large open space with concrete floors, and was originally used as a small motor repair shop.

The building flooded in 2011, and has remained vacant since. The four properties are in the 500-year floodplain, and Ms. Priddy is aware of the past flood events. The lawn mowers are easily transported off site in the event of a future flood, and there is minimal to no storage of fuel or oil on site as the lawn mowers are filled at regular gas stations.

The business owners will install a restroom and a 20' by 20' office space (400 square feet). They will extend a water lateral to the rear of the building on 110 Berkley Street from a connection that had serviced a former house on 109 Carl Street. A sewer lateral currently extends to 112 Berkley Street, and the business will extend it to the building on 110 Berkley Street. There is a parking lot on 110 Berkley Street with two parking spaces, including one handicapped accessible space, and an access space. There is a garage on 107 Carl Street with a driveway that extends 60-feet deep and is 20 to 22-feet wide. The former owners of the small engine repair shop had owned all four parcels, and it appears they used utilities in the house, which is now demolished, and used the garage next door for parking. There are a total of four employees plus the owner of the landscape business, and they can use the driveway and garage for parking. Stormwater flows east and southward over grassy vacant property toward Nanticoke Creek.

Under Chapter 300 of the Town Code, the intent of the site plan review process is to preserve and enhance the character of a neighborhood, achieve compatibility with adjacent development, mitigate potentially negative impacts on traffic, parking, drainage and similar environmental concerns, and improve the overall visual and aesthetic quality of the Town and Villages. As such, the Planning Board may prescribe such appropriate conditions and safeguards as may be required in order to further these objectives.

The project involves the reuse of a commercial structure where the commercial use is a permitted use under the applicable zoning law. Under new SEQRA regulations adopted as of January 2019, such a project, as long as it does not meet any thresholds for a Type 1 Action, are classified by the NYS DEC as Type II actions, and no further environmental review is required.

This location was subject to a 239-Review as it is within 500 feet of SR 26 (Union Center-Maine Hwy.) and a county facility, the levee along the west side of Nanticoke Creek. The Broome County Planning Department did not identify any significant countywide or inter-community impacts. However, they commented that the project site is located entirely within the preliminary FEMA special flood hazard area. B.C. Planning also recommended that the Planning Board should ensure that the project includes appropriate storage, handling and disposal of any hazardous

materials. In addition, they recommend no outdoor storage of lawn care equipment, and no onsite storage of fuel, oil, and pesticides. The Broome County Health Department recommends if chemical or fuel storage will take place as part of this project, the applicant should use secondary containment to prevent contamination of the aquifer. Floor drains should be connected to the public sewer to avoid US EPA permitting.

The Town Code Enforcement department has no concerns with the project. The Public Works department recommends that floor drains be tested for drainage destination.

Ms. Lane reminded the Planning Board that the Preliminary FEMA flood hazard area has not been accepted so at this point the Town is authorized to use only the existing floodplain maps for floodplain determinations. In addition, the Planning Department has just received word that FEMA does not plan to raise any levees because it would not be cost justified.

Ms. Lane noted that there are several floor drains in the building. There is an old septic tank between the old house that was torn down and the current commercial building. However, Mr. Caforio determined that, per Town code, the project will need to connect to the public sewer. Ms. Priddy has already hired Drain Brain to figure out where the floor drains go to, and it looks like they may have found an oil/water separator. Ms. Priddy can connect to the oil/water separator and from there, drained can go into the sanitary sewer line. Ms. Priddy is working with the Endicott Water department to get water to the property, and then she can perform a dye test to see where drainage is directed. If there is no oil/water separator, Mr. Caforio will advise Ms. Priddy about the next step she needs to take. Mr. Cicciarelli asked Ms. Priddy if she needed the floor drains for her business. Ms. Priddy was not sure what the floor drains are used for, but the building used to house an automotive business. Ms. Miller asked Ms. Priddy if it would bother her if she had to cap the drains and she said no. Mr. Materese asked Ms. Priddy if there would ever be a need for her to wash off the equipment, and Ms. Priddy answered “not inside the building.” Ms. Priddy explained that the business uses small single serve oil packets for the lawnmowers, so they will not store oil inside the building. Mr. Cicciarelli noted that since they plow in the winter, having the drains in the floor would be advantageous for cleaning the plows.

The Planning Department recommends approval of the site plan with the following stipulations:

1. The four properties shall be combined into 110 Berkley Street before any excavation for utilities or any building permit is issued.
2. The new water line shall be installed no less than five-feet deep.

Coordinate the connection on Carl Street with the Village of Endicott Water Department (607-757-5301).

3. Before beginning work on the new sewer line, the contractor shall call Dig Safely. The contractor shall also apply for an excavation permit from the Building Permits Department. The open trench with the pipe connections to the existing lateral, the pipe cleanout, and connection to the building shall be inspected by Patrick Horvatt in the Engineering Department (607-786-2951) prior to being closed.

4. The new restroom shall conform to NYS building code, shall be handicapped accessible, and plans shall be submitted to the Building Permits Department prior to the issuance of a building permit for the restroom.

5. The floor drains shall be tested to determine where they expel. The Town can assist with this. Contact the Department of Public Works (607-786-2950) following the connection to water. If the drainage from floor drains is directed to the sanitary sewer system, an oil/water separator shall be required, and maintained annually.

6. Base flood elevation is approximately 831-feet above sea level (ASL). Contours show the property to be at approximately 826' ASL. Fuels and oils shall be stored no less than seven feet above ground level, or have secondary containment.

7. The parking lot in front of the building shall be striped according to Town Code Chapter 300, Article 51, Off-Street Parking, Loading and Stacking Regulations. The required handicapped-accessible parking spaces shall conform to the Property Maintenance Code of NYS, and shall be posted with signage displaying the international symbol of accessibility. The handicap parking access space shall be no less than eight-feet by eighteen-feet (8'x18').

8. The building shall be screened from the windows in the residence to the west with landscaping planted by October 31, 2019. The site plan shall be revised to show the number, type and final height of the landscaping. The landscaping shall be maintained, and any dead or dying bushes shall be replaced with similar plants within one month, weather permitting.

9. Per NYS law, all commercial buildings must be inspected by the Municipal Fire Code Inspector every three years. It is the applicant's responsibility to coordinate that inspection by calling the Code Enforcement office at (607) 786-2920 once again three years after the issuance of the Certificate of Compliance.

10. Any new exterior lighting shall first be approved by the Code Enforcement Official.

11. For any new signage, the applicant shall first apply for a sign permit from the Building Official prior to display. All temporary signs (including price signs), portable signs, search lights, balloons, sidewalk and curb signs shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. Signs that blink, rotate, or move are not permitted.

12. Site plan approval shall be valid for one year, unless substantial improvements have been made pursuant to the approved site plan and a valid building permit.

13. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a building permit. The applicant agrees to construct the project in strict accordance with the site plan approved by the Planning Board. Changes to the site plan following approval may require a minor site plan review or resubmittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

Planning Board members had several concerns. Mr. Jaros asked exactly what kind of landscaping would be used to screen the neighboring house from the business. Mr. Forster noted that the building was there when the neighbors bought their house and he did not think the additional landscaping in front of the fence was necessary. Ms. Lane responded that when the weather gets colder and it gets dark earlier, the business will be open at different times than the former small machine repair business had been. There will be activity going on in the dark and in the early morning hours, so she considered the landscaping essential. Ms. Lane proposed that they plant three arborvitae bushes to give this neighbor more privacy. Mr. Jaros was concerned with the type of trees and how fast they would grow. Ms. McLain stated that a three-foot bush will be easy to plant and will also grow very quickly. Due to the Planning Board's concerns, Ms. Lane added the following wording to the landscaping stipulation #8: "Minimum height at full growth shall be eight-feet tall; minimum planting size shall be no less than three-feet tall. At least three coniferous trees or shrubs shall be shown on the site plan."

Mr. Jaros was concerned that it might take twenty years for a bush to grow eight feet tall. Referencing poor growth of screening trees at National Pipe and Plastics, Mr. Materese was not sure that stipulating the size of the bushes to be planted will solve the problem. Ms. McLain commented that vegetation needs certain encouragement like fertilizer at the proper time, and also making sure that the bushes are mulched so that they don't dry out during the growing season or get stressed in the winter. Ms. McLain

noted that arborvitae grow very fast. Mr. Jaros noted that the whole idea going forward is that when these details are listed as stipulations of site plan approval, the Planning Board knows what to expect going forward. Mr. Cicciarelli asked Ms. Priddy what the anticipated date was for moving into the building. Ms. Priddy answered that there is so much to do, she is not sure when they will open.

Chairman Miller then called for a motion to approve the Site Plan for Parlor City Lawn Care at 110 Berkley Street, with stipulations.

Motion Made: L. Cicciarelli  
Motion Seconded: M. Jaros  
MOTION: Approval of Parlor City Lawn Care site plan, with changes, at 110 Berkley Street, with stipulations.  
VOTE **In Favor:** L. Miller, L. Cicciarelli, S. McLain, S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**F. Food Fusion Bar and Grill, 737 W. Main Street, I. Honovich**

Mr. Iliya Honovich submitted an application to expand dining services to the existing patio on the east side of his restaurant.

**1. Declare Lead Agency**

Chairman Miller asked for a motion to declare the Planning Board Lead Agency.

Motion Made: S. McLain  
Motion Seconded: L. Cicciarelli  
MOTION: Declare the Planning Board Lead Agency  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**2. Classify Action as an Unlisted Action**

Chairman Miller asked for a motion to declare the project an Unlisted Action under SEQRA.

Motion Made: S. McLain  
Motion Seconded: M. Jaros  
MOTION: Classify the project an Unlisted Action.

VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

### 3. SEQRA Review

Ms. Lane introduced Iliya Honovich and his wife Elena to the Planning Board. Ms. Lane explained that there is an existing large patio that was used years ago under former ownership at the restaurant. Ms. Miller said she had been there when the Red Lion owned the restaurant and Mr. Jaros added that Russell's used to have a weekly cocktail hour on the patio. Mr. Honovich has had a lot of requests to have outdoor seating; the problem is that extra seating will require additional parking. Mr. Honovich is requesting a twenty space parking variance.

Ms. Miller asked if there is an easement now. Ms. Lane answered that the parking spaces directly in front of the Red Carpet Inn are not part of the easement, but everything else in that portion of the parking lot is in the easement filed with the deed. The Red Carpet Inn has recently been sold to a new owner. Ms. Miller asked whether it will make a difference if the new owners tear down the motel, and Ms. Lane answered that Ms. Golazeski has a positive impression of the new owner and she does not think this will be a problem. Mr. Jaros asked if Russell's needed a variance when they used the outdoor patio, and Ms. Lane answered that they probably didn't require it back then. The Town Board adopted a new zoning code in 2011. Ms. Lane explained that a variance would run with the property, and since there is no variance on record, Mr. Honovich needs to apply for the parking variance.

Per the Determination of Significance, the owner of Food Fusion, Mr. Iliya Honovich, would like to add outdoor seating on an existing patio for the restaurant. The additional seating increases the required parking to 79 parking spaces, and the facility has 59 parking spaces. Mr. Honovich is applying for a 20-space parking variance. If the variance is granted, the project will require site plan review.

The restaurant use is permitted in Neighborhood Commercial zoning districts, and the outdoor seating will not cause a significant change in the intensity of use of land, nor impair the character of the commercial district. The outdoor seating will not result in a significant increase in the use of energy or the use of domestic water, and will not generate a significant increase in wastewater.

The outdoor seating and parking variance will not result in a significant increase in traffic. The expectation is that people will sit outdoors in good

weather only, versus sitting indoors. No parking is permitted on W. Main Street, and if there is no parking available at any one time in the lot, potential customers will visit a different restaurant.

Although the site is within an archaeologically sensitive buffer area, the property has been previously disturbed and the patio is existing, so there will be no additional ground disturbance. The DEC has not identified regulated water bodies nearby, and the property is not in the floodplain. Endangered bald eagles are in the area, but the action does not affect them or their nests.

The outdoor seating and 20-space parking variance will not create any hazards to environmental resources or human health. The site is with the buffer areas of C704008, the Endicott Village Landfill & Wellfield, and C704038, the Endicott Area-Wide Investigation, but neither directly impacts this property.

Having reviewed the environmental assessment form for potential environmental impacts and their magnitude, the Planning Board determined that the project will not result in any large and important environmental impacts.

Chairman Miller then asked for a motion to approve the Negative Declaration under SEQRA.

Motion Made: D. Kudgus  
Motion Seconded: M. Jaros  
MOTION: Approval of the Negative Declaration under SEQRA  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

#### 4. Advisory Opinion for Parking Variance

Mr. Honovich said he would be happy to answer any questions. Mr. Materese asked if there are a couple of handicapped parking spaces in the parking lot and Mr. Honovich answered yes. Then Mr. Materese commented that he has been to the restaurant several times since January and that half of the parking spaces were covered with snow. Mr. Materese asked Mr. Honovich what he will do to improve snow removal. Mr. Honovich answered that his plowing contractor can remove the snow another way. Ms. Lane mentioned Mr. Honovich may have to find a firm that trucks the snow away if it is really deep. Mr. Materese commented that the parking during the snow time is his only concern and he thinks that lack of good



parking may one of the reasons more people don't come to the restaurant. Mr. Jaros asked whether Mr. Honovich could put the snow in the back of the building. Mr. Materese answered that he might be able to put it there or on the other side of the island.

Mr. Honovich said that business is improving since they have gotten new management and he believes that opening the patio will also improve the business. Many customers are asking him to open patio seating. Ms. Miller asked if the patio will be just for dining, and not for live entertainment. Mr. Honovich answered that he does have one singer who sings in the restaurant now, but he will not have a band outside the restaurant.

Chairman Miller then called for a motion to recommend the ZBA approve the 20-space parking variance for 737 W. Main Street.

Motion Made:	S. Forster
Motion Seconded:	M. Jaros
MOTION:	Recommendation of approval of the 20 space parking variance for 737 W. Main Street by the ZBA.
VOTE	<b>In Favor:</b> L. Miller, L. Ciccirelli, S. McLain, S. Forster, M. Jaros, D. Kudgus <b>Opposed:</b> None <b>Abstained:</b> None Motion Carried

Ms. Lane advised Mr. Honovich to follow up with Ms. Golazeski about the ZBA meeting. If the ZBA approves the variance, the Planning Board will see Mr. Honovich for site plan review. Ms. Miller asked Ms. Lane why the Planning Board needed to see Mr. Honovich for site plan review and she answered that they need to approve the outdoor seating on the patio and the additional parking spaces, since the patio was not on their previous site plan as an approved use.

## **H. Amendments to Chapter 300, Articles 53.15, Fences**

### **1) Advisory Opinion to the Town Board**

Ms. Lane noted that changes to the fencing code were triggered because someone in the village or the town is using pallets to build a fence. Mr. Materese noted that the pallet fence is on Main Street, and that the idea for the pallet fence was introduced on YouTube. Ms. Miller asked whether someone needs a permit to build a fence. Ms. Lane answered that you don't need a permit to put up a fence.

The changes to the fence code are listed below:

Under 53.15 (F) will now read: “Except for animal husbandry, stables, riding academies and kennel uses in an RR District, livestock, poultry, cattle, barbed wire and/or electrically charged fencing are prohibited. Barbed wire can also be used in nonresidential districts, provided that the barbed wire starts at least six feet in height above the grade.”

53.15 (G) will now read: “In residential districts, no fences shall be constructed, established or built in excess of six feet in height, with the exception of tennis or recreation courts which may be 12 feet in height. In nonresidential districts, fence for nonresidential uses may be constructed, established or build up to 10 feet in height above the average natural grade, provided that they do not create a traffic hazard.

Add 53.15 (J) to read: “Construction materials specifications shall be as follows:

1. Fences shall be constructed of wood, chain link, wrought iron, or PVC permanent fencing material.
2. Materials such as sheet metal, razor wire, page wire, pallets, doors, old building materials or non traditional fence materials are prohibited.
3. Temporary fences are permitted only for the duration of a construction permit.”

Mr. Materese said the key to the code changes is that non-traditional fences will no longer be permitted. Ms. Miller suggested that since there is no requirement of a permit to put up a fence, the Town doesn't have any jurisdiction. Per Mr. Cicciarelli, if the town had a requirement for a permit, then the regulations could be listed on the permit to make the public aware of them. Ms. Miller suggested that the town could charge a token amount, like five dollars for the permit. Ms. Lane noted that the idea of a token amount for a permit is one thing, but the bigger problem is that many people are not even aware they need permits from the town to make certain property improvements.

Mr. Forster said some municipalities require electricians and plumbers to be licensed, and that perhaps we should require licenses for fence installers. Mr. Materese responded that licensing requirements will not solve the problem of someone putting up illegal fences if they do it themselves. Ms. Lane said she does not recommend licensing requirements for fencing as it would put an extra burden on code enforcement to check their licenses. The number of instances of people violating the fence code is really small because most people want a fence for a limited purpose and they buy what's available. The code enforcement office does get many phone calls about what the town's fence requirements are. Ms. Lane thinks restricting the permitted fence materials will solve the

problem of residents building non-traditional fences in town. She explained that higher fences are allowed in non-residential districts, but that a homeowner who has a home in a non-residential district will not be able to erect a ten-foot fence around his house. Ms. Lane also reviewed the requirements for livestock, poultry, cattle and barbed wire fences in nonresidential districts for the Planning Board.

Mr. Forster asked if someone had a pool, would that mean that the fence could be only two feet above the pool to meet the six foot requirement. Ms. Lane answered that pool fences are regulated and advised Mr. Forster to call the code enforcement office to get a definitive answer on requirements regarding pool fences.

Ms. Miller then called for a motion to recommend approval of the changes to the fence code to the Town Board.

Motion Made:	L. Cicciarelli
Motion Seconded:	D. Kudgus
MOTION:	Recommend that the Town Board approve the changes to the code under 53.15 Fences.
VOTE	<b>In Favor:</b> L. Miller, L. Cicciarelli, S. McLain S. Forster, T. Crowley, M. Jaros <b>Opposed:</b> None <b>Abstained:</b> None Motion Carried

I. Other Such Matters as May Properly Come Before the Board

Ms. Lane distributed a new site plan for National Pipe and Plastic and draft minutes for the April 9, 2019 Planning Board meeting and asked the members to review both documents before the next meeting. She added that there may be more changes to both the site plan and the minutes, but she asked that the Planning Board review the documents before the next Planning Board meeting.

Ms. Lane said the Town Board has removed the digital billboard section from the proposed Sign code.

Mr. Forster asked whether there are twelve back-in parking spaces on N. Page Avenue on the new National Pipe and Plastic site plan. Mr. Materese answered that parallel parking spaces have been recommended along Page Avenue. National Pipe and Plastic will reconstruct the road and the sidewalk to match the parking spaces. Mr. Forster then asked how much parking is going to be added for the park. Mr. Materese answered that there will be thirty spaces for the park, and the twelve spaces on N. Page Avenue.

Ms. Lane then handed out the Training Certificates to the Planning Board for the SEQRA training at the January 8, 2019 Planning Board Meeting, and asked the members to sign them and return them to her.

**J. Adjournment**

Chairman Miller asked for a motion to adjourn the meeting at 9:17 p.m.

Motion Made: D. Kudgus  
Motion Seconded: M. Jaros  
MOTION: Adjourning the meeting.  
VOTE: **In Favor:** S. Miller, L. Cicciarelli, S. McLain,  
S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**Next Meeting Date**

The next meeting of the Planning Board is tentatively scheduled for Tuesday, May 21, 2019, at 7:00 p.m.

Respectfully Submitted,  
Carol Krawczyk