

Town of Union Planning Board Minutes

Tuesday, May 9, 2023

The Town of Union Planning Board held a regular meeting on Tuesday, May 9, 2023, at the Town of Union Office Building, 3111 East Main Street, Endwell, New York.

Members present: L. Miller, M. Jaros, S. McLain, C. Bullock, M. Hills, G. Ksenak (Alternate)

Members absent: T. Crowley, N. Sarpolis

Others present: Marina Lane, Adam Fishel, Rich Lindner, Muammar Hermanstyne, Michael Heide, Bill Didas, Travis Fata, Luigi Fata, Chad Kies, John Miller, Jim Winslow, Robert Potochniak

A. CALL TO ORDER

Chairman Miller called the meeting to order at 7:00 p.m., and appointed Gary Ksenak, the alternate, to be a participating member in Mr. Crowley's absence.

B. MEETING MINUTES:

1. Acceptance of the 3/14/23 Public Hearing Transcript, Part 1, for a Revised Special Use Permit for a Tavern prohibiting outdoor amplified music, at 511 Hooper Road

Chairman Miller asked for a motion to accept the Transcript of a Public Hearing, Part 1, for a Revised Special Use Permit for a Tavern prohibiting outdoor amplified music, as written.

Motion Made: C. Bullock

Motion Seconded: M. Jaros

MOTION: Acceptance of the March 14, 2023, Public Hearing transcript, Part 1, for Revised Special Use Permit for a Tavern prohibiting outdoor amplified music, as written.

VOTE: **In Favor:** L. Miller, M. Jaros, S. McLain, C. Bullock, M. Hills, G. Ksenak

Opposed: None

Abstained: None

Motion Carried

2. Acceptance of the 4/11/2023 Minutes

Chairman Miller asked for a motion to accept the April 11, 2023, Meeting Minutes, as written.

Motion Made: G. Ksenak

Motion Seconded: C. Bullock

MOTION: Acceptance of the April 11, 2023, Meeting Minutes, as written.

VOTE: **In Favor:** L. Miller, M. Jaros, S. McLain, C. Bullock, M. Hills, G. Ksenak

Opposed: None

Abstained: None
Motion Carried

3. Acceptance of 4/11/23 Public Hearing Transcript, Part 2, for a Revised Special Use Permit for a Tavern to prohibit outdoor amplified music at 511 Hooper Road

- Page 8, fourth line, change “Mr. Sapolis” to “Mr. Sarpolis.”

Chairman Miller asked for a motion to accept the Public Hearing Transcript, Part 2, for a Revised Special Use Permit for a Tavern prohibiting outdoor amplified music at 511 Hooper Road, as revised.

Motion Made: C. Bullock

Motion Seconded: M. Hills

MOTION: Acceptance of the April 11, 2023, Public Hearing Transcript, Part 2, for a Revised Special Use Permit for a Tavern prohibiting outdoor amplified music at 511 Hooper Road, as revised.

VOTE: **In Favor:** L. Miller, M. Jaros, S. McLain, C. Bullock, M. Hills, G. Ksenak

Opposed: None

Abstained: None

Motion Carried

C. 4301 Watson Boulevard, Conifer Housing Development, Adam Fishel, Marathon Engineering

1. Public Hearing for a Special Permit for Development in a Floodplain, Decision at Planning Board’s Discretion

Chairman Miller read the public notice concerning the Special Permit for Development in a Floodplain, and opened the Public Hearing at 7:00 p.m.

There were questions from the public about how high the apartment buildings would be raised above the floodplain. Both apartment buildings will be built above the base flood elevation of 836-feet above sea level (a.s.l.), one at 840-feet and the other at 844-feet. Because most of the project is surrounded by the 100-year floodplain, Conifer has developed an emergency evacuation plan with the help of local emergency services, in the event of another flood. There will be a net reduction in the impervious surface area, and no detention ponds are required. Chairman Miller closed the public hearing at 7:20 p.m.

Ms. Lane asked Mr. Fishel if they have plans for the area on the property to the west of the development. Mr. Fishel said there are still some questions about that area and he would have to get back to her. Ms. Lane then presented her staff report to the Planning Board. Per FEMA regulations and Town Code, the lowest residential floor elevation must be at least two feet above base flood elevation.

Base flood elevation is approximately 836-feet above sea level (a.s.l.). No fill will be placed in areas below current base flood elevation.

Per Section 121-12, projects in areas of special flood hazard, meaning within the 100-year floodplain, shall not have an adverse effect on adjacent properties. This particular floodplain area is considered a non-effective flood fringe area and the cut and fill within the property will not add any earth to the overall floodplain storage within the Susquehanna River basin. The construction of the two apartment buildings, accessory amenities and parking will have no adverse impacts on base flood elevation, nor on adjacent properties.

The applicant's proposal is considered an Unlisted Action under the NYS Environmental Quality Review Act (SEQRA). Under the requirements of Section 617.7(c), the proposed action was examined by a short Environmental Assessment Form, and the Planning Board made a Negative Declaration on April 11, 2023.

The property is subject to a 239-Review, as it is located on Watson Boulevard, County Rte. 56. No comments were made pertaining to the floodplain, therefore 239-Review comments are not included in this staff report. They can be found in the staff report for site plan review.

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

1. An elevation certificate from a licensed surveyor or engineer shall be submitted to the Code Enforcement Office no less than one month from the completion of the buildings in order to show that the first floor elevation is no less than two feet above base flood elevation.
2. The construction of the buildings shall meet the requirements of Town Code 121, Flood Damage Prevention:

§ 121-10.4. Flood-fringe provisions:

A. Permitted uses. All uses within the flood-fringe, other than those specified in § 121-10.1, are allowed only as special permit uses in compliance with the following standards:

(2) Buildings, provided that:

(a) The elevation of the lowest floor, including basement, of all new residential construction or substantial improvements to existing residential buildings within the flood-fringe area shall be at least two feet higher than the base flood elevation.

(c) All uses located in the flood-fringe area shall be flood proofed in the manner outlined in § 121-13 below.

(e) Any storage facility for chemicals, explosives or flammable liquids shall be located at an elevation at least one foot higher than the elevation of the base flood.

§121-13. General standards. In all areas of special flood hazard, the following standards are required:

B. Construction materials and methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

(1) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.

Ms. Lane stated that any utilities that are being brought in underground should be flood-proofed.

Ms. Bullock asked if the first stipulation should be clarified by stating that the elevation certificate should be for the lowest floor. Ms. Lane then asked Conifer if there would be a crawl space or basement for the project and was told that the buildings would be built on a slab. Ms. Lane said that she was not going to change the stipulation because it came directly from the Code book. Ms. Lane noted that it was a good point and that she would research it after the meeting.

Chairman Miller asked for a motion to approve the Special Permit for Development in a Floodplain, with stipulations.

Motion Made: G. Ksenak

Motion Seconded: M. Hills

MOTION: Approval of the Special Permit for Development in a Floodplain, with stipulations.

VOTE: **In Favor:** L. Miller, M. Jaros, S. McLain, C. Bullock, M. Hills, G. Ksenak

Opposed: None

Abstained: None

Motion Carried

2. Pending approval of the Special Use Permit, Site Plan Review

Ms. Lane noted that the project needs approval from the Town before Conifer can apply for funding. After Conifer is approved for funding, the Planning Board will revisit the project for final changes. Ms. Lane asked about the possible sidewalk. Mr. Fishel answered that they had a conversation about a week ago with the County, and they are going to rough design the sidewalk on the plan so they have an idea of what implications it has on the site grading, the landscaping and the

bus stop. Conifer is open to the idea of giving land to the County for the walkway. Ms. Miller asked if the County had given any indication of how long their plan would take. Mr. Fishel answered that the County seems to be at the beginning of the design process and they are not sure where the funds are going to come from. Ms. Lane commented that the County is considering putting the walking path on the opposite side of the road from Mr. Didas's properties. Mr. Didas explained that the County wants to develop a walking path along Watson Boulevard between Hooper Road and Valley Plaza.

Ms. Lane then presented her report to the Planning Board. The two buildings together will house 75 residential units with a combination of single, double, and three bedrooms, for a total of 150 bedrooms. Building A on the west side of the property will have 45,600 square-foot total floor area, and Building B on the east is proposed to have 47,500 square-foot total floor area. A 3,500 square-foot courtyard between the buildings was added to provide better fire truck access to all sides of the buildings, and will be a nice amenity for the residential project. Removable bollards will prevent other vehicles from driving into the courtyard. An enclosed recreation area of a minimum of 4,500 square-foot, provided behind the building, is greater than the required 1,700 square-foot. Black vinyl-coated chain link fencing will buffer the recreation area from the adjacent golf course.

Parking for housing is required to have 1.5 spaces per single-bedroom unit, and 2 spaces for 2-3 bedroom units. Therefore the number of required parking spaces, including 5 accessible spaces, is 141 parking spaces. The Town prefers that developers construct only the necessary number of parking spaces in an effort to minimize impervious surfaces and per § 300-63.8 of the Town Code, the Planning Board has the right to waive up to 25% of required parking as long as the applicant shows they can provide the total required number of spaces. The developer submitted the plan with two parking plans, one providing 80% of the required parking (113 spaces), and one showing full parking lot build-out, including the land-banked spaces, of 141. Code Enforcement can require the land-banked spaces be constructed if they see a consistent issue with lack of parking.

Following a public hearing, the Zoning Board of Appeals granted the following variances: Recreation Area: north side setback variance of 40', east and west side setback variances of 30'; Parking variances for four (4) regular parking spaces in front yard, twenty-eight (28) "land-banked" parking spaces in front yard, setback variance of 4' in rear of building for 11 spaces; and a fencing height variance of 8' to allow a fence height variance of 20'feet on April 24, 2023.

The site is served by public water, sanitary sewer and municipal storm sewer. The buildings will have sprinkler systems, and Marathon Engineering met with the Village of Johnson City Water Department and Johnson City Fire Department in 2022 to determine appropriate domestic and fire water line locations and design. The Village of Johnson City Water Department has confirmed that it has sufficient water to service the residential development. A fire access lane surrounds the

two buildings with privately-owned fire hydrants. The fire protection and domestic water supplies will have appropriate back flow prevention devices.

The original stormwater management design has been submitted for review and shall be finalized upon funding of the project. Similarly, revised landscaping plan and lighting plan shall be submitted for Planning Board's review upon funding of the project.

Ms. Lane noted that Mr. Fishel had just submitted a lighting plan to her that day.

The applicant's proposal is considered an Unlisted Action and the Planning Board made a Negative Declaration on April 11, 2023. The property is subject to a 239-Review, as it is located on Watson Boulevard, County Rte. 56. The Broome County (B.C.) Planning Department did not find any significant county-wide impacts, but did recommend the Town should ensure that the project includes the appropriate SEQR document. The current SEQR Short EAF marks "yes" responses to the historic and archaeological questions. Response: The "yes" was generated by the EAF Mapper online application, which has not been updated to reflect that the historic-eligible former IBM Country Club was approved for demolition by the NYS Office of Parks, Recreation, and Historic Preservation, in conjunction with the NYS DEC and B.C. IDA/LCD, in October 2022.

B.C. Planning also recommended that the applicant should coordinate with ongoing bicycle and pedestrian feasibility study and explore integration of pedestrian connections to the extent feasible.

The project site is located along a key gateway to the Town of Union and along a prominent, highly visible, and highly traveled corridor. Design features should take this into consideration, for example, vinyl-coated chain-link fencing, which the applicant already proposed. The applicant should consider incorporating pedestrian and bike trails and amenities in the open space areas and universal design and aging in place features in the building and site design. The site plan should show the following: dumpster locations and enclosure designs with dumpster located out of view from the public right-of-way; recreation fence design, materials and colors; and screened or recessed roof-top mechanical equipment to the extent applicable.

Ms. Lane stated that any dumpster must be enclosed with something attractive. She also explained that, at the last Planning Board meeting, Conifer stated that there will be a parapet railing that will be blocking the equipment on the roof top.

Binghamton Metropolitan Transportation Study (BMTS) would typically recommend that the Town require that the developer install any needed pedestrian accommodations along their street frontages for a proposed multifamily development. BMTS and Broome County have hired a consultant to develop a Pedestrian and Bicycle Feasibility Study along Watson Boulevard. This Study is in preliminary stages of development. Usually when a municipality, such as Broome County, installs pedestrian and bicycle improvements, right-of-way must be obtained from property owners. BMTS asked their consultant to provide

preliminary sketches of the amount of right-of-way that may be required along the subject site's frontage. BMTS recommends that the developer and/or property owner of this project dedicate right-of-way to Broome County in lieu of installing improvements as part of the development project. This would save the developer the cost of the improvements while saving the County time and money obtaining necessary right-of-way. BMTS also recommends that the Town consider the inclusion of Complete Streets elements for the development, including on-site pedestrian connections, such as painted crosswalks and ADA compliant curb ramps between the parking areas, buildings and recreational areas, as well as bicycle parking.

The B.C. Department of Public Works Engineer stated that the proposed reconstruction of both driveway openings and installation of new curbing requires a permit from the Broome County Highway Department. The construction of any new driveway shall be compliant with NYS Department of Transportation (NYSDOT) Highway Design Standards for Minor Commercial Driveways. The installation of curb along Watson Blvd (CR56) will also require coordination with the Broome County Highway Department and the Binghamton Metropolitan Transportation Study (BMTS). In addition, all stormwater generated by the site shall be contained on-site with little to no flow onto the County right-of-way. A trench drain should be provided at the south end of each driveway (outside of the County right-of-way) to intercept flow during rain events and periods of snowmelt.

B.C. Transit has no objections to the project. They encouraged the developer to reach out to them to design the concrete slab for the bus stop, and feel that a bus shelter would be a good addition to the complex. The NYS DOT Regional Site Plan Committee has no comments regarding any NYSDOT requirements for this project as proposed. They support comments provided by BMTS and BC Transit. The B.C. Health Department suggested that the applicant should contact the local water purveyor for backflow prevention requirements. This has already been coordinated with the Village of Johnson City Water Department.

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

1. Upon approval of funding, please submit a complete revised set of site plan drawings for the Planning Department, Building Official, and Planning Board's final review, including any proposed sidewalks, drainage swales per Broome County Engineering, landscaping plan and dumpster with enclosure location and details.
2. Upon approval of funding, please submit a complete digital SWPPP for final review by the Town's engineering contractor. The final SWPPP shall be approved prior to the issuance of a building permit.

Ms. Lane commented that Mr. Fishel has already submitted a SWPPP and there were very minor corrections required from its review.

3. A pre-construction meeting shall be held with the Building Official,

contractors and subcontractors no less than one week prior to construction commencing.

4. The contractor shall utilize erosion control and stormwater runoff preventative measures during construction, per the approved SWPPP. Stormwater control systems shall be maintained by the property owner, indefinitely, per the SWPPP.

5. Within 30-days of issuance of the Certificate of Occupancy, one AutoCAD version 2021 and one PDF version of the as-built drawings must be submitted to the Engineering and Planning Departments. The as-built shall include all infrastructure improvements, including the stormwater control system.

6. The parking lot 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 spaces shall be no less than eight-feet by eighteen-feet (8'x18'). All paving and striping shall be complete prior to the issuance of a Certificate of Occupancy.

7. The "land-banked" parking plan with 28 spaces shall be constructed if required by Code Enforcement due to a consistent issue with lack of parking. Construction shall commence, weather permitting, within one month of notification by the Code Enforcement Official.

8. A minimum of one landscaped island, at least 200 square feet in size, shall be provided for every 20 parking spaces contained within each single row of parking. Islands shall be planted with trees and shrubs with a minimum of one tree per 20 parking spaces.

9. The landscaping plan shall be installed by October 30 of the year that follows the issuance of a building permit. An extension of this deadline may be approved by the Planning Board.

10. Trees shall have minimum caliper of two inches at the time of planting. Shrubs shall have a minimum height of two feet at the time of planting.

11. The landscaping shall be maintained according to the landscaping plan, and any dead or dying plants shall be replaced with similar plants within one month, weather permitting. Failure to maintain such landscaping or to replace dead or diseased landscaping required by this chapter shall constitute a violation of these regulations §300-54.2.

12. The chain link fencing shall be black vinyl-coated.

13. For any new signage, the applicant shall first apply for a sign permit from the Building Official prior to display. All temporary signs, portable signs, or balloons shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. The use of electronic message boards

is expressly prohibited.

14. Per §300-55.4, General Requirements,

A. All outdoor lighting fixtures shall be shielded or otherwise contained on the property from which it originates (known as "light trespass limitations").

B. To minimize the indiscriminate use of illumination, lighting, except as required for security, shall be extinguished during non-operating hours. Where practicable, lighting installations are encouraged to include timers, sensors, and dimmers to reduce energy consumption and unnecessary lighting.

15. Any new exterior lighting not shown on the lighting plan shall first be approved by the Code Enforcement Office.

16. A Certificate of Occupancy shall be required before occupancy of the new building.

17. Per NYS law, common areas within multi-family residential buildings must be inspected by the Municipal Fire Code Inspector every year. It is the applicant's responsibility to coordinate that inspection by calling the Code Enforcement office at (607) 786-2920 once again each year after the issuance of the Certificate of Occupancy.

18. There shall be no outdoor storage on the property.

19. Site plan approval shall be valid for two years from May 9, 2023 (May 13, 2025), unless substantial improvements have been made pursuant to the approved site plan and a valid building permit. The Planning Board may approve a request for an extension of this date with a reasonable justification for the request.

20. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to May 31, 2023. 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.

Ms. Lane asked what the plan for trash is. Mr. Linder explained that there will be a trash compactor in each building and also dumpster enclosures within each building. There will be a private contractor who removes the trash. The enclosures will be in the back of the buildings and there is enough room for a garbage truck to access the dumpsters.

Ms. Lane also added another stipulation which reads: "Any curb cut that is to be removed must be replaced with a full curb and gutter."

Ms. Lane asked if they would have a manager on site. Mr. Hermanstyne said that there are plans to have a property manager on site between the hours of 9 to 5. In addition, there is an emergency call number. Maintenance will be on call 24 hours a day. If an issue is not being addressed, there will be another number to call in Rochester.

The Planning Board asked some general questions about the utilities. The heat is 100 percent electric and the water tanks for this system are located on the roof of the building; there will be no cooling towers utilized for the project. There will be venting in each bathroom and there are exhaust fans in the kitchens.

Not all of the accessible spaces are noted for both buildings on the current plans, but there will be accessible spaces for both buildings on the final plans.

Ms. Lane explained that site plan approval would be good for two years. However, if it looks like Conifer is getting close to the deadline date and their funding has not come through, they should just send an email to the Planning Department to extend the deadline, preferably a month or two before it expires. The main reason that this clause is included in the stipulations is in case any regulations change between now and then. This way, if something changes, it can be addressed. Mr. Linder noted that the best case for starting the project is at the end of 2024.

Ms. Lane asked about storage for residents and for bicycles. Mr. Lindner replied that they are required to have storage in each unit and there will be a bicycle parking area inside each building. In addition, at the suggestion of the Planning Board, Conifer will use brighter colors for the vinyl siding on the buildings.

Chairman Miller asked for a motion to approve the Site Plan for the Conifer Project at 4301 Watson Boulevard, with revised stipulations.

Motion Made:	S. McLain
Motion Seconded:	M. Jaros
MOTION:	Approval of the Site Plan for Conifer Project at 4301 Watson Boulevard, with revised stipulations.
VOTE:	In Favor: L. Miller, M. Jaros, S. McLain, C. Bullock, M. Hills, G. Ksenak Opposed: None Abstained: None Motion Carried

D. The Fairways Indoor Golf Co. – Revised Special Use Permit, 511 Hooper Road, Chad Kies and Chris Brown

1. Decision: Revised Special Use Permit for a Tavern to prohibit outdoor amplified music.

Mr. Kies has read Ms. Lane’s report and he understands that it is safer not to have people milling outside the enclosure area during events. There had been an issue of patrons spilling out into the driveway and this could create a liability if one of

the patrons were injured. Mr. Miller stated that Fairways installed rails on the enclosure to prevent this from happening in the future.

Ms. Lane then asked Mr. Kies what they had in mind for the Fairways. Mr. Kies explained that when they built the Fairways as an indoor golf/tavern, it was basically meant for the wintertime. They are very busy during the winter and have live music on the weekends, once a week. There was never an issue with noise because everything was closed up. During the period from April 1st until October 1st, they are open only one day a week, from 7 p.m. until 10 p.m.

Fairways wanted to keep their name out there for being a new business, and also wanted to make the entrance a little nicer, so they decided to build on a deck. They are not a full-blown menu restaurant for someone to come to Fairways for a romantic dinner, or watch a sports game and have some pizzas. They were looking for a vibe to get people to come out to play indoor golf.

Mr. Kies continued. Last fall Fairways had four weeks of live music. The band music was set up inside by the garage doors but it was facing outside, so that one could almost say that the music was outside. They had great turnouts; everyone was having a good time and they didn't hear any complaints at all. They had no phone calls at Fairways from neighbors last fall. But this spring, they started getting emails from the Town about complaints from last year. Mr. Kies personally didn't think that the noise was that loud; it wasn't as loud as what he thinks is being portrayed in the emails. Regardless, if he had a house there, he gets it; they just want to be in their house and not hear music from the Fairways. That is not what the Fairways is about.

They put a lot of money into the deck, so they want to use it during the summertime. They want to incorporate music because nobody comes out in the summer to play indoor golf because they are playing golf outside. Right now, Mr. Kies said, he has a very expensive ornament attached to the building that he is not using.

Mr. Kies further explained that they have cancelled Cans and Clams and that means that sixteen bands are racing to find a place to go. They also lost trust from the radio stations and the bands that they use. However, they are still trying to utilize the garage door. They could set up the music in one of the golf bays at the back of the building that is not being utilized during the summer. All three walls by the golf bays are sound proof and the bands would be facing the front entrance, not the garage door as they did last fall. Granted, they have not tested this. In the last three weeks he and Chris Brown tried to get a band in so they could test the new set up to see if it works; but it was short notice, and you have to book a band out a year in advance. However, they think letting go of Cans and Clams, not being on four radio stations, not extending into the parking lot, they would be able to offer a nice night out in Endwell with the garage doors open, without being obnoxious.

Ms. Lane said she had spoken to one of the members of Brother and Friends and they confirmed that it is possible to lower the amplifiers. She agreed that when

she heard Rooster playing last fall, she barely heard anything at the perimeter of the property. Ms. Lane asked when Brothers and Friends are supposed to play and Mr. Kies answered June 9th. Brothers and Friends is a 4-piece band and Mr. Kies will be able to test the new positioning of the band to see if the noise level is acceptable to the Planning Board.

Ms. Lane stated that Fairways cannot have heaters under a wooden roof. Mr. Kies responded that he had met with Code last fall and was told that as long as he didn't put turf under the roof, the heaters were okay. Ms. Lane answered that this is a building code rule, and not something the Planning Board requires. Mr. Kies has no problem with eliminating the heaters. He did check with the Code department before doing the construction on the new doors to the building.

Ms. Lane noted that she did get a letter in support of the Fairways. The letter read as follows: "Planning Board Members, as a resident of the Town of Union, living a few blocks from where Fairways Tavern is located, I would like to express my disappointment as I recently heard that this location is not able to host Cans and Clams this summer. I attended their outdoor events last September and it was wonderful to see the plaza alive and full of people. These few weekly events attracted people of all ages and were very well attended. Having live music, especially outdoors during the handful of months that is possible due to the weather, is very much something that is lacking in the Greater Binghamton area and certainly in Endwell. I completely understand that there are residences located near this plaza, including mine, and that there were some complaints regarding noise during the events in September. Based on the meeting held in April, it seems to me that the owners of Fairways tavern are willing and eager to remedy this. I hope that the Board can allow these local business owners the chance to try some of the potential solutions they seem willing to undertake to come to a place where Fairways tavern patrons and neighbors can enjoy outdoor music while also being considerate of noise level and reasonable end time."

Mr. Jaros and Ms. Lane proposed that the Planning Board allow the Fairways to keep the garage doors open with the bands set up at the rear of the business in the sound proofed area of the facility, for a limited time period.

Ms. Lane had discussed the situation with Code Enforcement, but they were not able to reach a consensus about the open garage doors, so at this point it is really up to the Planning Board. Mr. Kies was concerned that someone could still call the Town to complain about noise and wanted to know how he could plan his season around that. Mr. John Miller, the owner of the plaza, agreed with Mr. Kies that this could happen. Mr. Miller had received pushback from another tenant in the building who is disgruntled for other reasons. Chairman Miller responded that the Town Board members had received complaint calls from a number of neighbors, not just one person.

The Planning Board members felt that right now we are dealing with opinions rather than facts, that Mr. Kies has shown good faith by cancelling the Cans and Clams bands for the season, and they felt that changing the location of the bands

to a sound proofed area would alter the volume of the music significantly. Members were in favor of giving the Fairways a trial period of five months to have the bands play in the rear of the building in the sound proofed areas with the garage doors open. Mr. Kies has purchased a decibel reader and will test the band's sound at the edge of the property by the Dunkin' Donuts dumpster on June 9th when Brothers and Friends is playing.

Mr. Jaros noted that if the Town still receives complaints, then the Planning Board would revisit the issue. Ms. Lane suggested the possibility of a once a year event through Code Enforcement's office for a larger band.

Ms. Lane then proposed a revised Special Use Permit for five months with the following stipulations for the project:

- 1) Amplified music shall not be projected to the exterior of the building. Bands shall be located in the most northern simulator bay, and any sound emanating from the building shall meet the Town Code Noise Ordinance.
- 2) Outdoor seating within the 1,000 square-foot outdoor seating area under the 1,200 square-foot canopy shall be permitted. No seating shall be placed in the access drive between the canopy and adjacent fast-food restaurant with a drive-through service.
- 3) Outdoor seating shall be enclosed with fencing for the safety of clientele and employees.
- 4) Outdoor cooking shall be permitted. Consult with Code Enforcement (607-786-2920) for any safety requirements prior to setting up the grill in 2023.
- 5) Amendments or revisions to an approved special use permit require review and approval in accordance with § 300-66.10.
- 6) The Special Use Permit allowing indoor music with the garage door open shall expire on October 13, 2023. If you wish to extend the approval for the Special Use Permit allowing indoor music with the garage door open, you shall submit a written request no later than September 29, 2023.
- 7) The Special Use Permit for a tavern use shall expire should the property or business be sold or transferred to another entity, per § 300-66.11. Transferability:
 - a. A special permit is not transferable except upon approval by resolution of the issuing board.
 - b. A special permit shall authorize only one special use and shall expire if the special use ceases for more than three months for any reason.
- 8) The applicant shall be required to acknowledge all of the above stipulations, in writing, no later than May 31, 2023. The applicant shall agree to follow the stipulations of approval in strict accordance with the special use permit approved by the Planning Board.

Ms. Lane gave Mr. Kies a copy of the Code which addresses the decibel readings and she added that the number is lower when adjacent to residential areas.

Chairman Miller asked for a motion to approve the revised Special Use Permit for five months to allow interior music with the garage door open, per the stipulations of approval.

Motion Made: G. Ksenak
Motion Seconded: S. McLain
MOTION: Approval of the Revised Special Use Permit for a 5 months to allow indoor music with the garage door open.
VOTE: **In Favor:** L. Miller, M. Jaros, S. McLain
C. Bullock, M. Hills, G. Ksenak
Opposed: None
Abstained: None
Motion Carried

E. 534 Hooper Road, Outdoor Seating at Jonathan’s, Travis Fata and Nicolas Fata

1. Chairman Miller asked for a motion to Declare Lead Agency.

Motion Made: C. Bullock
Motion Seconded: M. Jaros
MOTION: Declare the Planning Board as Lead Agency.
VOTE: **In Favor:** L. Miller, M. Jaros, S. McLain
C. Bullock, M. Hills, G. Ksenak
Opposed: None
Abstained: None
Motion Carried

2. Classify the Project as a Type II Action under SEQRA

Chairman Miller asked for a motion to classify the Project as a Type II Action.

Motion Made: S. McLain
Motion Seconded: C. Bullock
MOTION: Classify the Project as a Type II Action.
VOTE: **In Favor:** L. Miller, M. Jaros, S. McLain,
C. Bullock, M. Hills, G. Ksenak
Opposed: None
Abstained: None
Motion Carried

3. Call for a Public Hearing for a Special Use Permit for to expand the tavern use, to be held at the 7:00 p.m. Planning Board Meeting on June 13, 2023

Chairman Miller asked for a motion to call for Public Hearing for a Special Use Permit to expand the tavern use to be held at the 7:00 p.m. Planning Board meeting June 13, 2023.

Motion Made: S. McLain
Motion Seconded: C. Bullock
MOTION: Call for Public Hearing for a Special Use Permit to expand the tavern use to be held at the 7:00 p.m. Planning Board meeting June 13, 2023.
VOTE: **In Favor:** L. Miller, M. Jaros, S. McLain, C. Bullock, M. Hills, G. Ksenak
Opposed: None
Abstained: None
Motion Carried

Mr. Travis Fata summarized that they plan to expand the existing porch on the building another 32-feet. They changed the parking on the site plan to accommodate that addition. They are also planning to have a seasonal gazebo to house the barbecue cooker. They will lose one parking space when they expand the porch but they have a verbal agreement with M&T Bank to allow parking across the street in the bank parking lot. Mr. Fata noted that they are purchasing the gazebo from Sam's Club. They will have fencing that is less than three-feet high surrounding the gazebo and the barbecue pit.

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

Ms. Lane noted that the Planning Board had approved the Dunkin' (Donuts) at 724 Main Street in Johnson City in 2020. The developer has finally reached an agreement with the DOT and they have revised their original site plan. Since they have made changes to the original site plan, they will have to go through site plan approval again.

Ms. Lane also commented on a gentleman who keeps coming to the Town Board meetings commenting about a project in the town that the IDA is exploring. Ms. Lane has not heard anything about the IDA project and she advised the Planning Board members if they are asked about it to answer that we really don't know anything concrete about this project.

G. Adjournment

Chairman Miller asked for a motion to adjourn the meeting at 8:58 p.m.

Motion Made: G. Ksenak
Motion Seconded: C. Bullock
MOTION: Adjourning the meeting.
VOTE: **In Favor:** L. Miller, M. Jaros, S. McLain, C. Bullock, M. Hills, G. Ksenak
Opposed: None
Abstained: None
Motion Carried

Next Meeting Date

The next meeting of the Planning Board is tentatively scheduled for Tuesday, June 13, 2023, at 7:00 p.m.

Respectfully Submitted,
Carol Krawczyk