

Minutes of a regular meeting of the
Johnson City Planning Board held on
November 22, 2016 at 7:30pm at
243 Main St., Johnson City, NY

Present: Andrew Holbert, Vice Chairman
Joanne Drimak, Secretary
Thomas Sheredy
Donald Slota

Absent: Gerald Putman, Chairman

Also Present: Diane Busko, Clerk to the Planning & Zoning Boards
Angelo D. Catalano, Attorney for the Village
Marina Lane, Town of Union Senior Planner
Trustee John Walker

A brief work session was held at 7:00pm. The board discussed the agenda and reviewed the applications.

Vice Chairman Holbert called the meeting to order at 7:30pm & noted the emergency exits.

MINUTES

A motion to approve the minutes of the October 25, 2016 regular meeting was made by Mr. Sheredy and seconded by Mr. Slota. The motion carried with all those present voting in the affirmative.

PRIVILEGE OF THE FLOOR - None

COMMUNICATIONS – None

CONTINGENCIES - None

OLD BUSINESS - None

NEW BUSINESS

Pouya Goudarzi – 26 Main Street ***Public Hearing for Special Permit Renewal***

Goudarzi Motors has submitted a request to renew a special permit for Automotive Sales from the existing building at 26 Main Street. The property is zoned General Commercial (GC) and the auto sales Special Permit was first approved for a period of six months on May 24, 2016.

Although there is access to public water at the site, the water has not been turned on, a violation of site plan approval. On March 8, 2016, Mr. Goudarzi was told by the Planning Department that he was not permitted to use the building without running water. On April 7, 2016, the Planning Department sent Mr. Goudarzi a letter formally reminding him of this. The site plan and special permit approval letter referenced the requirement for turning on the water meter, and it was signed by Mr. Goudarzi, agreeing to comply.



Mr. Goudarzi had been displaying a commercial sign on the building without a permit. He was issued a violation letter from Code Enforcement on April 11, 2016, regarding the illegal sign. Finally, after going to court, Mr. Goudarzi complied and was issued a sign permit on July 14th, 2016, along with a fine. The applicant's proposal was declared an Unlisted Action and the Planning Board approved the Negative Declaration under the New York State Environmental Quality Review Act (SEQRA) on May 24, 2016. This property was subject to a 239-Review.

The applicant, Mr. Pouya Goudarzi, was present.

Vice Chairman Holbert opened the public hearing.

Milan Brutvan, Beverly Place, Binghamton – Stated that he was part of the discussion back in May/April and there were certain contingencies set as a result of that and he is curious if any of the contingencies that were set by the Planning Board were rectified.

Senior Planner Lane explained that not all of the contingencies/conditions have been met.

Mr. Brutvan stated that the sidewalks have not had the snow removed from them. Senior Planner Lane stated that is a matter for Code Enforcement.

Senior Planner Lane stated that the parking lot was striped. It took some effort but Mr. Goudarzi did get his sign permit after we took him to court. The outstanding issue is that he does not have running water at the site.

Mr. Brutvan stated that there is no buffer zone. Ms. Lane stated that she is not aware of that. Ms. Lane explained that she went to the site one day when she was in the area and at that time it appeared to her that the cars were set back 10 feet from the property line. Mr. Brutvan asked which property line. Ms. Lane stated it was the property line on Main Street. Mr. Brutvan stated it is supposed to be all property lines and the cars are right up to the property line at the first house on Beverly Place. Ms. Lane clarified that in this case is it 10 feet or they must have a fence. Mr. Brutvan again complained about the snow on the sidewalks. Ms. Lane explained that he would need to report that to Code Enforcement. That is strictly a Code Enforcement issue. Mr. Brutvan stated that Code Enforcement is worthless. He's called them about problems in that area and there is no response or it's being worked on. It's never finalized. It looks like a slum in there between the store and the parking lot and what goes on next door to that. Ms. Lane explained that we cannot address the store because it is on a different property and has a different owner.

Pouya Goudarzi, Owner of the business at 26 Main Street – Mr. Goudarzi stated that he is concerned with the right of way for customers of the convenience store. He showed the board pictures of the area. There are 4 parking spaces that are designated for them on the side of their building. He stated that they are not being used or if they are being used they are not being used properly. The right of way is being used for delivery trucks to park there and unload. The owners use the parking spaces improperly. We have had issues with their customers – they have given them plenty of buffer from the property line and where their cars are and they have had two people who have backed into their cars. He has pulled back his cars 10 feet from Main Street and 10 feet from Beverly Place. The sidewalk was cleaned yesterday but unfortunately today the crew that plows for them was late today. They are working with Mr. Coury regarding the water. There are forms that need to be



signed for the backflow that are causing some issues. He stated he is doing his best to meet all of the requirements and keep the neighborhood happy.

Milan Brutvan, Beverly Place, Binghamton – Stated that he can corroborate Mr. Goudarzi's issue with the cars going through that lot. It is very dangerous.

Vice Chairman Holbert asked if the Village had received any calls regarding the public hearing. Planning Board Clerk Busko stated that she had received two calls and both were against renewing the special permit.

Rosealee Spencer, Beverly Place – Stated that regarding the right-of-way, the delivery trucks are very large trucks and they are an issue.

Pouya Goudarzi, Owner of the business at 26 Main Street – Stated that the customers that are using the right of way – 99% of them are customers that are shopping at the convenience store. Every morning they need to spend 30-45 minutes cleaning up their messes.

Senior Planner Lane provided a brief history of the right-of-way issue and the agreement written by the former owner of 14 Main Street regarding providing parking spaces on the adjacent lot which they also owned at the time. When the Coury family sold 14 Main Street they did not have a formal easement to cross through or for parking.

Milan Brutvan, Beverly Place, Binghamton – Stated that the parking lot is one property. Are they allowed to have more than one use? Ms. Lane explained that according to the code, yes they can. It is zoned general commercial. It happens all the time. It is now between Mr. Coury and the owner of 14 Main Street to resolve that.

Mr. Slota asked if they could put up a fence. Ms. Lane stated yes they could.

Milan Brutvan, Beverly Place, Binghamton – Stated that at the meeting in April, Mr. Spencer mentioned that the first driveway never used to be there. Where the street was redone, for some reason, a second driveway was added there but not added on Main Street.

Senior Planner Lane explained that there are certain rules regarding how close you can have curb cuts on Main Street. That would be a DOT decision. Mr. Brutvan asked how you stop people from pulling as they do on Beverly Place. Ms. Lane stated she does not know. Maybe a having a stop sign internally. It is not the job of the Planning Board. Mr. Brutvan said there is an issue with the walkers too.

Mr. Slota asked if there is a requirement for parking spaces for the store. Ms. Lane stated yes, that is why they needed the 4 spaces.

Vice Chairman Holbert closed the public hearing.

Vice Chairman Holbert read the department head and staff comments.



DEPARTMENT HEAD & STAFF COMMENTS:

Code Enforcement: Concerned about compliance with any conditions since past violation notices have been ignored. The building cannot be used without running water. The Certificate of Compliance cannot be issued, and has not been issued, without running water in the building. If the Planning Board re-approves, number of cars allowed on lot for sale is limited to twelve (12). If the Planning Board re-approves, one handicap parking space and access aisle must be indicated on the property and shall be posted/signed. If the Planning Board re-approves, necessary permits must be obtained for any renovations, signs. If the Planning Board re-approves, JC licensed Electricians and Plumbers are required. If the Planning Board re-approves, the applicant shall submit a floor plan to Code within one week of approval.

Fire Department: No compelling interest.

Police Department: No compelling interest.

Public Works & Water: The Water Department received a report of Mr. Goudarzi washing cars at the building. The water meter reader confirmed that the curb box is still in the “off” position. Mr. Goudarzi stated that they are using a “portable water device” to wash the vehicles. Per the Special Permit approval, the applicant must show that there is adequate heat when applying to turn the water meter on, because the last meter froze. The water meter also requires a backflow prevention device. The applicant has not contacted the JC Water Department to discuss these requirements.

Planning Staff: The project has not met the requirements of the approval to sell vehicles at the site. Planning staff recommends denial of the extension of Special Permit because Mr. Goudarzi has continued to ignore the requirement for turning on the water meter and using running water from the property.

§ 300-66.9 Renewal.

Special use permits that have been issued for specific time periods are subject to review for compliance with all of the conditions imposed at the time of approval of the initial permit.

Following a public hearing on the matter, the Planning Board may deny a renewal of a special use permit when any of the following apply:

- A. The petitioner has failed to comply with one or more of the conditions of the prior approval.

Should the Planning Board extend approval of the Special Permit, Planning staff recommend that it be renewed for no longer than 6 months. Mr. Goudarzi would be required to comply with all stipulations of the original approval, in addition to Department Head comments.



Mrs. Drimak stated that Mr. Goudarzi was granted a 6 month permit and then asked Mr. Goudarzi why he didn't do the things he was required to. Mr. Goudarzi stated that the water issue is they were given the forms and requirements from the water department and one of the forms has to be signed the representative of the Joseph Coury estate. That form has been given to Mr. Coury and he has not returned it. He stated that they are in contact with him constantly. He has K & S plumbing on standby to do the job. He stated he paid for the meter 6 months ago. He had heating put in the garage to meet that requirement.

Senior Planner Lane asked who installed the heating system. Mr. Goudarzi stated that there is a gas line there already and he purchased a wall unit. Moss Mechanical will do the job. Ms. Lane stated that Mr. Goudarzi just said it was installed. No permits have been issued. Mr. Goudarzi stated that the unit is there but it is not installed. Ms. Lane asked if Mr. Goudarzi had paid for the water meter. Ms. Lane explained that we have been in contact with Mr. Coury and Code and the water department. Ms. Lane explained that Mr. Coury has a different memory than what Mr. Goudarzi has.

Mr. Sheredy stated that he is new on this subject and asked Ms. Lane if there is anything else we need to know. Ms. Lane summarized that we have had issues. The lease runs from January 1st – July 30th. It took some effort to get Mr. Goudarzi in to fill out the zoning application. On March 8, 2016, Mr. Goudarzi was told by the Planning Department that he was not permitted to use the building without running water. On April 7, 2016, she sent Mr. Goudarzi a letter formally reminding him of this. After the approval on April 24th a letter was signed by Mr. Goudarzi, agreeing to comply. Mr. Goudarzi had been displaying a commercial sign on the building without a permit. He was issued a violation letter from Code Enforcement on April 11, 2016, regarding the illegal sign. Finally, after going to court, Mr. Goudarzi complied and was issued a sign permit on July 14th, 2016, along with a fine. She knows someone was checking into a complaint that there were too many cars on the lot. Mr. Goudarzi stated that he received a letter from Code Enforcement that stated that there were too many cars on the lot. He told the code officer that, on Thursdays, if they buy cars at auction, they are delivered to 26 Main Street and they take them to his holding lot until they have space on Main Street to bring the cars back.

Mr. Slota asked if the holding lot is in Johnson City. Mr. Goudarzi stated no, it is in the Town of Chenango.

A motion to deny the special permit renewal for 26 Main Street was made by Mr. Slota and seconded by Mr. Sheredy.

Motion Carried - Vote:

Yes – 4 (Sheredy, Drimak, Slota, Holbert) No – 0 Absent – 1 (Putman)

Hookah Heaven, LLC – 265 Main Street
Declare Lead Agency, SEQR & Site Plan Review

Garry Gilmore of Hookah Heaven, LLC, has submitted an application to open a hookah lounge and bar with light music on the first floor of an existing building located at 265 Main Street. The proposed lounge and bar will replace a previous retail space and therefore site plan review is required. The property is zoned Central Business District (CBD), and a drinking establishment is a permitted use. There are two stories of residential space above the proposed bar, which are not a part of this review. The bar will have a maximum occupancy of 49, including employees.



Parking is available in the public parking lot within 200 feet of near the restaurant and on the street. Under Chapter 300-51.4, with Planning Board approval, uses within 400 feet of a municipal parking lot or designated on-street parking may be wholly or partially exempt from the off-street parking requirements in the Central Business district.

The building is served by public water, sanitary sewer, and storm sewer drainage. The parcel is 0.04 acres, and the only area not covered by the building is an ally in the rear of the building. No post-renovation stormwater remediation is required.

The sale and smoking of typical hookah that is tobacco-based is prohibited by the NYS Health Department in establishments that serve alcohol or food. Mr. Gilmore does not plan to serve any food prepared on site, and has altered his initial application to exclude any tobacco-based hookah.

The applicant, Mr. Garry Gilmore and his attorney Mr. Palmer Palella, were present.

Lead Agency

A motion to declare the Planning Board Lead Agency for the purposes of SEQR for 265 Main Street was made by Mr. Holbert and seconded by Mr. Sheredy.

Motion Carried - Vote:

Yes – 4 (*Sheredy, Drimak, Slota, Holbert*) **No** – 0 **Absent** – 1 (*Putman*)

SEQR

Attorney Catalano explained that a SEQR Full Environmental Assessment Form has been prepared and reviewed.

The board, having reviewed Part I, Part II and Part III of the SEQR Full Environmental Assessment Form has determined that there will not be any significant adverse environmental impacts with respect to the project, therefore a motion was made by Mr. Sheredy and seconded by Mrs. Drimak declaring the action a Type 1 action and finding that the proposed action will not have a significant adverse environmental impact and authorizing the Chairman to sign the Negative Declaration

Motion Carried - Vote:

Yes – 4 (*Sheredy, Drimak, Slota, Holbert*) **No** – 0 **Absent** – 1 (*Putman*)

Site Plan Review

Attorney Palella briefly explained the project. Mr. Gilmore lives in NYC and wants to invest in upstate NY. There is a lot of potential and continued revitalization of downtown Johnson City.

Vice Chairman Holbert read the department head and staff comments.

DEPARTMENT HEAD & STAFF COMMENTS:

The project was subject to a 239-Review as it is located on State Route 17C. The applicant's proposal is considered a Type 1 Action under SEQRA as it is in an historical district, and the Planning Department recommends a Negative Declaration. The following comments are from the Department heads and the 239-Review:

Code Enforcement: Licensed Electricians and Plumbers are required.

Fire Department: Must meet Fire Code, and have a sprinkler system.



Police Department:

No compelling interest.

Public Works & Water:

A backflow prevention device is required on the water service prior to the issuance of a Certificate of Compliance. If a sprinkler system is required in the future, the applicant shall be required to supply a backflow application and an engineer's report for the sprinkler system prior to the issuance of a building permit for that system. It is be required that garbage is placed in cans with tight fitting lids. Contact the Public Works Department at (607) 797-3031 to schedule an on-site meeting to discuss garbage can placement locations.

B. C. Planning:

The Planning Department has reviewed the case and has not identified any significant countywide or inter-community impacts associated with the proposed project; however, they recommend that the Village Planning Board withhold taking action until the following comments have been addressed. The Village Planning Board should ensure that:

1. the proposed use is an allowed use in the Commercial Business District and is adequately addressed in the Village Zoning code and not subject to special permit requirements. (*A drinking establishment it is a permitted use by right.*)
2. the facility has the appropriate ventilation and that the project complies with all applicable state and federal clean air regulations. (*Code Enforcement will inspect.*)
3. the project complies with all applicable state and federal laws regarding minimum age restrictions, and nicotine, tobacco and alcohol sales to minors. (*Police matter*)
4. the proposed use (s) meets the capacity limits of the facility. (*Code Enforcement*)
5. the project complies with all applicable state and federal laws regarding cigarette and tobacco advertising.
6. the project adequately addresses age restrictions, live entertainment, special events, admittance fees, security, signage, and distances from sensitive uses. (*Not the responsibility of the Planning Board.*)
7. The site plan should include signage and exterior lighting. (*Code Enforcement will address signage and no additional exterior lighting is proposed.*)

BMTS:

Had no comments.

NYS DOT:

If any work is proposed within the State Right-of-Way, the applicant will require an approved Highway Work Permit prior to the commencement of this work. The applicant may contact Mr. Tom Laskowski of the NYSDOT Broome Residency at (607) 775-0522 for more information.

B.C. Health Dept.:

The applicant should contact Senior Sanitarian Mark Mancini at the Health Department (607-778-2801) to find out what is required in the way of permitting requirements for this business.



Planning Staff:

The Planning Department recommends approval of the site plan, with the requirements from Code Enforcement, the Department of Public Works and Water, the B.C. Health Department, and the following stipulations:

1. The applicant understands that no tobacco products may be smoked in the bar.
2. Garbage cans shall weigh no more than 50 pounds, be no larger than 35 gallons, and shall not have hinged lids. Cans with stored grease shall be disposed of separately. All cans intended for recycling shall be cleaned and dry before being put out for recycling. Contact the Department of Public Services at (607) 797-3031 for additional requirements.
3. All proposed new signage shall be submitted to the Code Enforcement Officer for review and approval prior to installation. If any changes to signage are proposed, the applicant shall apply for a sign permit from the Building Official. 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.
4. If any new lighting is proposed, the applicant shall first submit a lighting plan and cut sheets to the Code Enforcement Officer for review and approval.
5. 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.
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 construct the project in strict accordance with the site plan approved by the Village of Johnson City Planning Board.

Mr. Sheredy asked if Mr. Gilmore will be relocating to the area. Mr. Gilmore stated yes. He will be running the business and will be hiring a manager.

Mrs. Drimak asked about the tobacco free products – what kinds of herbs or other things are used. Mr. Gilmore stated that they have tobacco free, nicotine free products. He does not know exactly what it is made of.

Mr. Slota asked about the type of clientele. Mr. Gilmore stated that everyone will be welcome.

Mr. Sheredy asked if there are any plans for the building. Attorney Palella explained that the building is being sold. The floors above the space are residential housing. The new owners will be renovating the apartments.

Senior Planner Lane explained that the BC Health Department does not require any special ventilation.



A motion to approve the site plan for 265 Main Street including the department head comments and staff recommendations was made by Mr. Sheredy and seconded by Mr. Slota.

Motion Carried - Vote:

Yes – 4 (Sheredy, Drimak, Slota, Holbert) No – 0 Absent – 1 (Putman)

Attorney Catalano stepped aside due to a conflict of interest with the project at 100 Oakdale Road.

Oakdale Road Holdings, LLC – 100 Oakdale Road

The applicant proposes to relocate their business to the existing building which is a former distribution warehouse. The applicant will use this site as their office and for inside storage of their fleet vehicles and chemical storage for items used in the landscaping portion of the business. They are also requesting approval for Contractor's and Building Material Storage.

Declare Lead Agency

A motion to declare the Planning Board Lead Agency for the purposes of SEQR for 100 Oakdale Road was made by Mr. Holbert and seconded by Mr. Sheredy.

Motion Carried - Vote:

Yes – 4 (Sheredy, Drimak, Slota, Holbert) No – 0 Absent – 1 (Putman)

Paul Woodward with Keystone Associates was present on behalf of the applicant. They are the project engineer for this application. His clients, Oakdale Holdings, LLC/ the Saccos, are looking to purchase the building. They also own a landscaping business in the Town of Maine, A Great Choice Lawn Care and Landscaping. They would like to relocate this business and would occupy the first 2/3 of this building. They are also purchasing 900 Riverside Drive in the Town of Union. 100 Oakdale Road will be their main office. They will be bringing 40 employees with them. They plan to lease out the back part of the building.

Senior Planner Lane asked about quantity of chemicals. For example, what volume of weed killer would there be on hand. Mr. Sacco explained that typically they order per visit. They would only have on hand what they would need for their clients. It could range from a 55 gallon barrel of weed killer to a 275 gallon tote of fertilizer. Mr. Sheredy asked if there is room to rent out for storage. Mrs. Sacco stated yes there is and they are aware that if there are any changes they will need to come back to the Planning Board. Mr. Woodward stated that there are no plans for any outside storage. They are planning on updating the landscaping to help the appearance of the facility.

Set Public Hearing – Special Permit for Contractor's & Building material storage

A motion to set a public hearing at 7:30pm on Tuesday, December 27, 2016 for a Special Permit for Contractor's & Building material storage was made by Mrs. Drimak and seconded by Mr. Sheredy.

Motion Carried - Vote:

Yes – 4 (Sheredy, Drimak, Slota, Holbert) No – 0 Absent – 1 (Putman)

Set Public Hearing – Aquifer Permit



Set Public Hearing – Aquifer Permit

A motion to set a public hearing at 7:30pm on Tuesday, December 27, 2016 for an Aquifer Permit was made by Mrs. Drimak and seconded by Mr. Sheredy.

Motion Carried - Vote:

Yes – 4 (Sheredy, Drimak, Slota, Holbert) No – 0 Absent – 1 (Putman)

HOCHO Recycle Co., Ltd. – 100 Oakdale Road

The applicant is proposing to install a waste tire recycling facility to manufacture and sell crumb rubber and sheet rubber to end users. Waste tires will be temporarily outside prior to shredding and processing. The finished product will be stored in the warehouse for shipping. A variance is required under section 272-12.C for solid waste management. Tires will not be disposed of on site.

Mr. Ron Cobb, with Keystone Associates was present on behalf of the applicant.

Declare Lead Agency

A motion to declare the Planning Board Lead Agency for the purposes of SEQR for 100 Oakdale Road was made by Mr. Holbert and seconded by Mr. Sheredy.

Motion Carried - Vote:

Yes – 4 (Sheredy, Drimak, Slota, Holbert) No – 0 Absent – 1 (Putman)

Mr. Cobb explained that the process will occupy the back half of the building. All of the process will take place inside of the building. Mr. Cobb explained the process with conveyor belts and reviewed the areas of the building where each part of the process will be done. There are 3 different phases. There will be no burning of tires at this site. There will be minimal waste which will have to go to the landfill. There will be separate storage for dry and wet chemicals. This will be a 24/7 operation with 10 employees on each shift. There will be fume hoods. They are applying for 2 permits from the DEC. The storage containers will be double contained.

Senior Planner Lane explained the special permits and the aquifer permit.

Mrs. Drimak asked about the type of containers. Mr. Cobb explained it will be a variety. They use indirect heat. They de-vulcanize the rubber.

Mr. Slota asked about noise. Mr. Cobb stated it is very quiet and the noise will be contained inside.

Mr. Slota asked how the tires arrive. Mr. Cobb stated by tractor trailers. 1 – 3 of them per day. Ms. Lane stated that the Akels' Warehouse had more than that when they were there.

Mrs. Drimak asked about truck access. Mr. Cobb explained where the driveway is located.

Mr. Sheredy asked if there will be trucks arriving late at night. Mr. Cobb stated that it is possible.

Ms. Lane asked about the plasticizing of the rubber material, is it similar to what she went through with National Pipe and Plastic. One of the applicants, Louis, (last name unknown) explained the



de-vulcanization process. The rubber is softened. The material from the tires can be used for shoes, mats, asphalt, etc. There are minimal emissions. Physical force is used.

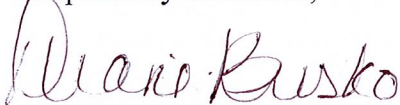
Ms. Lane asked about aromatic oil. The applicant explained they are still working on that. Ms. Lane stated that she is waiting for more information from the DEC.

The applicants showed the Planning Board a video of the process.

ADJOURNMENT

A motion to adjourn the meeting at 8:58pm was made by Mrs. Drimak and seconded by Mr. Sheredy.

Respectfully submitted,



Diane Busko
Planning Board Clerk

