

Present: Gerald Putman, Chairman  
Mary Jacyna, Vice Chairman  
Greg Matyas  
Matthew Cunningham  
Marcia Ward

Also Present: Keegan Coughlin, Attorney for the Village  
Kim Cunningham, Planning Board Clerk  
Marina Lane, Town of Union Senior Planner  
Trustee Martin Meaney  
Trustee John Walker

Absent: None

A brief work session was held at 7:00pm.

The board discussed the agenda and reviewed the applications.

Chairman Putman called the meeting to order at 7:30pm, and noted the emergency exits.

Chairman Putman welcomed Trustees Meaney and Walker.

### **MINUTES**

A motion to approve and place on file the minutes of the January 28, 2020 regular meeting was made by Mr. Matyas and seconded by Mrs. Jacyna. The motion carried with all those present voting in the affirmative.

### **PRIVILEGE OF THE FLOOR**

Chairman Putman opened the privilege of the floor. There being no one wishing to speak, Chairman Putman closed the privilege of the floor.

**UNFINISHED BUSINESS** – None

### **NEW BUSINESS**

#### **22 N. Broad St. – Bark City Doggy Daycare**

Public Hearing for a Special Permit in a Central Business District

Chairman Putman stated the Planning Board needs to decide whether the business fits in with the neighborhood and if in agreement, make a motion to grant a special permit.

Chairman Putman opened the Public Hearing.



Cassie Murdock, Manager at Bark City Doggy Daycare, appeared on behalf of the dog daycare. She explained the following:

- Hours are Monday through Friday, 7am – 7pm
- One dog will be walked at a time
- They use a “diaper genie” to dispose of feces
- They have three garbage cans which will be kept on side of the building
- Will not have more than 15 dogs at the daycare per day with two workers.

Tony Shenk, the owner of the property, spoke in support of the business, stating it is good for the neighborhood due to:

- Reduction of unwanted traffic at the end of the street
- Fewer alcohol containers around the property
- Fewer needles around the property.

The Planning Board discussed boarding versus kenneling.

Chairman Putman closed the Public Hearing.

Attorney Coughlin stated the Planning Board needs to consider the use and if it is an allowable use in the neighborhood and whether to grant the special permit. He clarified that the Code Enforcement Official had already made the determination that the daycare use is not a kennel use.

Chairman Putman read the Determination of Use and Staff Finding.

### **Determination of Use**

Lindsey Sage opened a dog daycare business in an existing warehouse located at 22 N. Broad Street, prior to notifying Code Enforcement about the business. The dog daycare use is not specifically defined in the Village Code, but it could be interpreted as a use that falls under the definition of kennels. Kennels are prohibited under Central Business zoning. If the Planning Board determines that keeping up to 20 dogs between the hours of 7 a.m. to 7 p.m. during week, and 8 a.m. to 5 p.m. on weekends is not a kennel use, then the Planning Board must determine whether the use “fits” in the Central Business District (CB).

Code Section 300-21.3D states:

Other commercial or business uses, except those expressly prohibited, shall be permitted in the General Commercial and Central Business Districts under the following circumstances:

- (1) Upon the finding by the Planning Board that such use is of the same general character as those permitted and will not be detrimental to the other uses within the district or to the adjoining land uses;
- (2) Upon issuance of a special permit pursuant to Article 66; and
- (3) Upon issuance of a site plan approval pursuant to Article 63.

KENNEL, COMMERCIAL - An establishment for boarding, breeding, grooming, training for a fee, or selling household pets, domestic animals or exotic animals other than personal pets of the property owner or lessee.

KENNEL, PRIVATE - The raising or keeping of five or more household pets.



**Staff Findings:**

The dog daycare business is open between the hours of 7 a.m. to 7 p.m. during week, and 8 a.m. to 5 p.m. on weekends. The business accepts up to 20 dogs per day. Planning staff interprets the use as a kennel use.

Should the Planning Board determine that the use is not a kennel use, the following findings apply. There is no outdoor area for the dogs, other than walking on street, on private property, or in the municipal lot across Avenue D. Dog waste is disposed of in regular trash cans. The project will use approximately 3,500 square feet of the warehouse. There is no parking on site that conforms to code, but parking is available in the municipal lot across the street, on the street, and bus service is available. The Planning Board may waive or alter parking requirements in a Central Business District, per Article 300-51.4 of the zoning ordinance.

A motion to determine that the use fits into the neighborhood and will not be detrimental to the neighborhood was made by Mrs. Jacyna and seconded by Mr. Cunningham.

*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Cunningham, Ward, Putman)    No – 0    Absent – 0*

Chairman Putman read the 239 Review, Department Head Comments and Staff Recommendations.

**239 – Review and Department Head Comments:**

This project was subject to a 239-Review, being located within 500 feet of State Route 17C.

- Broome County Planning found no significant county-wide impacts. They recommend that noise, odors and dog waste disposal should be addressed. The site plan should show the location of the dumpsters, which should be screened from public view.
- NYS DOT & BC Health Department:            No comments.
- Code Enforcement:    All dog waste must be cleaned up immediately. All dogs should be licensed and up-to-date on rabies vaccinations.
- Police:            concerned that the small vegetation areas adjacent to the municipal parking lot will become overused daily. Even if they clean up the fecal matter, the urine will remain and could lead to an odor problem.
- Fire:            No compelling interest.
- Public Works and Water:    Dog waste shall be contained in tightly sealed trash bags prior to trash pick-up.

**Staff Recommendation:**

The Planning Department recommends denial. Should the Planning Board approve the Special Use Permit, the following stipulations are recommended:



1. The Special Use Permit for a dog daycare business shall be issued for six (6) months. The applicant must resubmit the application to renew the Special Permit by August 7, 2020.
2. The dogs shall not be walked in the municipal landscaped beds adjacent to the municipal parking lot so as to not result in harm to the landscaping.
3. The kennel and its operation will not create nuisance conditions for adjoining properties due to noise or odor in accordance with the performance standards contained in the local laws of the Town and Villages.
4. Other than during walks, all animals shall be confined to the property and housed in an enclosed structure in humane conditions (i.e., protected from weather, clean and sanitary, adequate space, nonporous surfaces, well-ventilated, etc.).
5. No animals shall be permitted on the premises for care between the hours of 8:00 p.m. and 7:00 a.m.
6. Adequate methods for sanitation and sewage disposal shall be submitted to the Planning Department. The disposal plan, at a minimum, should outline the approximate amount of sewage generated, methods to properly dispose of the sewage, and methods for sanitation for the kennel.
7. Garbage cans shall weigh no more than 50 pounds, be no larger than 35 gallons, and shall not have hinged lids. 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 including placement of cans. Trash cans shall not cause a nuisance to adjacent property owners.
8. § 208-3. A. Yards, lots, and open areas. (2) All garbage and recyclable containers shall be removed from their regular collection points within 24 hours after said garbage has been collected, and no garbage containers shall be placed upon the curb area 24 hours before the due time for the collection of the same; this duty must be taken care of by the person responsible for such containers. Other than when placed at the curb for collection in accordance with the preceding provision, all rubbish, garbage, and garbage cans and containers shall be kept reasonably out of view from the street or roadway and shall not be stored in the front yard nor on the front porch of any building or structure.
9. Before placing any signage on the property, the applicant shall apply for a sign permit from the Building Official. All temporary signs, portable signs, 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.
- 10 The Special Permit shall expire should the property or business be sold to another entity, per § 300-66.11. Transferability:
  1. A special permit is not transferable except upon approval by resolution of the issuing board. 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.
- 11 The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a Certificate of Compliance. The applicant shall agree to follow stipulations of special permit approval in strict accordance with the site plan approved by the Planning Board.
- 12 The maximum number of 20 dogs will be allowed on the premises at one time. The facility will be open Monday through Saturday from 7:00am to 7:00pm.



The applicant and Chairman Putman discussed possibly building an enclosure to house the garbage cans. They confirmed that was doable.

Chairman Putman confirmed the reason for the six-month approval is to make sure there are no complaints from the neighbors and that the business is in compliance. Ms. Lane stated there is no fee to reapply. Not everything can be anticipated, and this gives the Planning Board the opportunity to address issues that may come up during the next six months. The applicant would just send an email to request an extension of the special permit. Another public hearing would be held and that gives people a chance to comment.

A motion to approve the Special Use Permit including Staff Recommendations, Department Head Comments together with changes made to No. 5 to exclude Sunday hours, No. 11 (changing "Occupancy" to "Compliance," and removing the reference to site plan approval), and addition of No. 12. A maximum of 20 dogs shall be on the premises at any one time, was made by Mrs. Jacyna and seconded by Ms. Ward.

*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Cunningham, Ward, Putman)    No – 0    Absent – 0*

**183 Marie Street – Tioga State Bank**

Petition to Rezone: Recommendation to the Village Board

Tim Miller, Landscape Architect for Keystone Engineers, appeared on behalf of Tioga State Bank. They have applied to rezone 183 Marie Street, a residential parcel, to General Commercial. This project will eventually require development of the entire lot, including 716, 712, and 704 Harry L Drive and 183 Marie Street.

Chairman Putman explained the site plan approval for 181 Marie Street will work with the existing traffic pattern. If the property is rezoned it will come back to the Planning Board for site plan review.

Chairman Putman read the Rezoning Petition, Environmental Review and Staff Review.

**Rezoning Petition:**

LaMACCHIA Group and Keystone Associates, on behalf of Tioga State Bank, submitted an application to rezone 183 Marie Street from Urban Single Family (USF) to General Commercial (GC) in order to merge with 704, 712 and 716 Harry L Drive, for a proposed bank. The properties are all contiguous, and 704, 712 and 716 Harry L Drive are currently zoned General Commercial. The property is presently vacant, the former residence having been demolished.

Per Section 300, Table 21-3 of the Village Code, the minimum lot size for a General Commercial property with access to water and sewer is 15,000 square-feet. The proposed combined lots would be a total of 32,409 square-feet. The bank is a permitted use under General Commercial zoning.

**Environmental Review:**

The project is not subject to a 239-Review. The applicant's proposal is considered an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA). The Village Board of Trustees will declare Lead Agency for the environmental review pertaining to the assessment of potential impacts due to rezoning.



**Staff Review:**

The property surpasses the minimum size requirement. The proposal includes right-turn only exits onto Oakdale Road and Harry L Drive, and screening for residences to the south.

A motion to recommend approval to the Johnson City Village Board for Rezoning of 183 Marie Street from Urban Single-Family to General Commercial was made by Mr. Cunningham, and seconded by Mr. Matyas.

*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Cunningham, Ward, Putman)    No – 0    Absent – 0*

**60, 64, 66-68, 72 & 76 Hudson St.; 37 & 41 Park Pl. - United Health Services**

**Site Plan Review**

Chairman Putman stated this will be an amendment to the site plan that was previously approved.

Adam Frosino spoke on behalf of McFarland Johnson, the professional engineers who designed the plans for UHS. Mr. Frosino handed out the amendment to the previous site plan showing an increase of 21 spaces. Lighting has been added which consists of 2 poles with LED lighting – dark sky compliant. There are two fixtures on each pole. Shielding has been discussed with the Village of Johnson City. Their intent is to add more on-campus parking and eliminate on-street parking. Stormwater will be self-contained on site and will infiltrate into the ground. They are proposing widening the existing driveway from 10 to 28 feet. Permahedge chain link fencing is proposed between the parking lot and houses to the west, and there will be landscaping between the parking lot and the roadway.

Chairman Putman questioned the fixtures on the poles.

Rich Keehle and Karen McElwee appeared on behalf of United Health Services.

Mr. Keehle confirmed there will only be two fixtures on each pole.

Chairman Putman read the Environmental Review and Staff Recommendation.

**Environmental Review:**

The applicant’s proposal is considered an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA). The Planning Board approved the Negative Declaration on January 28, 2020. The project did not require a 239-Review.

Since the area to be disturbed is less than one-acre, a Storm Water Pollution Prevention Plan is not required, although post-construction runoff values shall be less than or equal to pre-construction values. The Director of Public Services has approved the stormwater control design, which includes an underground chamber system, the proposed STORMTECH SC-740 Chamber system.

**Staff Recommendation:**

The Planning staff recommendation is to approve the site plan for a parking lot, with the following stipulations:





1. Erosion control measures shall be adhered to during parking lot construction.
2. The contractor shall obtain all necessary excavation or encroachment permits setting forth time, place and manner of restrictions necessary to protect the health, safety and welfare of the public, prior to commencing construction required for sidewalk, curb and gutter installation or replacement in the Village's Rights of Way. Any sidewalk, driveway or related work completed outside of the property and in the right-of-way shall require permits from the Village Department of Public Works first.
3. If the construction or removal by the contractor disturbs or alters any Village Rights-of-Way, the developer shall be responsible for the restoration of any such Village Rights-of-Way to their original condition, normal wear and tear excepted.
4. Construction shall be limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. through 6:00 p.m. on Saturdays.
5. The property owner shall be responsible for the maintenance of the installed drainage structure. If the proposed STORMTECH SC-740 Chamber is deemed insufficient by the Village Director of Public Services at any time, the property owner shall submit plans for alternative solutions.
6. The parking lot shall be striped, prior to clients parking on site, according to Village Code Chapter 300, Article 51, Off-Street Parking, Loading and Stacking Regulations. 1106.8 Signage. Each accessible parking space shall be provided with signage displaying the International Symbol of Accessibility. Each access aisle shall be provided with signage reading "NO PARKING ANYTIME." Signs shall be permanently installed at a clear height of between 60 inches (1525mm) and 84 inches (2185mm) above grade and shall not interfere with an accessible route from an access aisle.
7. The developer shall provide three handicap accessible parking spaces and associated access spaces on the parking lot on the east side of Hudson Street. 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 access spaces shall be posted with "No Parking" signs.
8. The screening fence shall be maintained to protect the residence to the west from vehicle lights shining into their windows.
9. The landscape areas shall be seeded within two weeks of stabilization to prevent erosion issues. Approved landscaping shall be installed by June 30, 2020, weather permitting. Landscaping shall be maintained, and any dead or dying grass or bushes shall be replaced with similar plants within one month, weather permitting.
10. A one-foot grass strip shall be maintained between sidewalks and mulched landscaped beds at the new parking lot area.
11. § 300-55.4 General requirements/standards for Outdoor Lighting.
  - A. All outdoor lighting fixtures shall be shielded or otherwise contained on the property from which it originates (known as "light trespass limitations").
  - B. Exterior lighting fixtures shall conform to the Illuminating Engineer Society of North America (IESNA) criteria for full cutoff fixtures. In addition, the lighting levels shall be designed to meet the minimum requirements of the latest recommended levels set forth by IESNA.
  - C. 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.

12. If the applicant wishes to add or change any outdoor lighting, the lighting plan shall be submitted to Code Enforcement for their approval prior to installation.
13. For any proposed signage, a sign permit application shall be submitted to the Building Permits office prior to installation.
14. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of any grading or excavation permit. The applicant shall agree to follow the stipulations of approval 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. Ward questioned the use of the parking lot, signage and lighting.

Mr. Keehle responded the employee parking will be on the left and patient parking on the right of Hudson Street. There will be directional signs. The lighting will be on all night; it includes sensors.

A motion to approve the site plan review with changes and staff recommendations was made by Mr. Cunningham and seconded by Mrs. Jacyna.

*Motion Carried - Vote:*

*Yes – 4 (Jacyna, Cunningham, Ward, Putman)      No – 0      Absent – 0      Abstain – 1 (Matyas)*

**601 Riverside Dr., 50 & 66 Lusk St. – United Health Services**

Lead Agency, Unlisted Action, SEQRA Determination, Site Plan Review

A motion to declare the Planning Board Lead Agency was made by Ms. Ward and seconded by Mrs. Jacyna.

*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Cunningham, Ward, Putman)      No – 0      Absent – 0*

Chairman Putman confirmed this is an unlisted action. He reviewed Part II of the E.A.F. and read Part III of E.A.F.

United Health Services submitted a proposal to expand an existing parking lot onto formerly residential parcels that are now vacant. The parcels are zoned Urban Multi-Family with an Office Overlay zone, and the parking lot is a permitted accessory use for the on-site home health care office. The original parking lot was not large enough and necessitated additional parking for employees under the 201 bridge by DOT agreement. The proposed parking lot will add 84 parking spaces adjacent to the building served.

Landscaping shall help shield parked vehicle lights from shining into neighbors' homes across the street, and outdoor lighting shall be adjusted or shielded to prevent light spillage. This should minimize any potential impacts to the quality of adjacent residential uses. The new parking lot area will slightly increase the intensity of use but the number of employees and clients who use the home care office will not increase.





There will not be any significant impact to the land or any Critical Environmental Area. There will be no impact on historic resources or archeologically sensitive areas. The area is not in the floodplain, has no wetlands, and stormwater management and erosion control measures shall be implemented.

The proposed project will not adversely impact the use of energy, water or wastewater utilities, natural resources, wildlife nor create a hazard to environmental resources or human health.

After review, it was determined that the proposed parking lot would not have any significant adverse impacts on the environment.

A motion to declare a negative declaration under SEQRA was made by Mrs. Jacyna and seconded by Ms. Ward.

*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Cunningham Ward, Putman)      No – 0      Absent – 0*

Adam Frosino with McFarland Johnson Engineering representing UHS, Rich Keehle and Karen McElwee appeared on behalf of United Health Services.

#### Parking

- Mr. Frosino stated the existing home care building does not have enough parking. They are creating 84 new parking spaces adjacent to the building which will help alleviate concerns to eliminate employees and clients parking on the street.
- Access will continue from East Theron Street and East Thomas Street and they are proposing a couple of accesses to East Theron St. with two new curb cuts, and a cross access to existing parking lot.
- They are proposing to reconfigure the accessible parking spaces and add a pedestrian crosswalk, which will result in a net increase of three accessible parking spaces.
- They will be removing curb cuts along Lusk Street, E. Thomas Street and two curb cuts on E. Theron Street.

#### Lighting

- The lighting proposed is three poles with two LED fixtures on each pole, dark sky compliant.
- Boxwood shrubs will shield the car headlights between the parking facility and the public right-of-way. The shrubs will grow and provide a screen for the residents across the street.

#### Drainage

- Stormwater drainage from the new parking lot will sheet flow towards three new drainage inlets on the east side of the parking lot into chambers running along the parking lot, where it will be stored until it infiltrates into the ground.
- A full drainage design report was prepared for and approved by Village of Johnson City DPW.

#### Landscaping

- Proposing landscaping between parking facility and public right-of-way as part of the design process in coordination with the Village.
- Added a row of boxwood shrubs along Lusk Street. They will stay green year-round. Confirmed they will be high enough to block car headlights. They will grow and provide a good screen.

Mr. Keehle stated there will be limited traffic after 5:00pm.



Chairman Putman read the Site Plan Review, 239-Review, Department Head Comments and Staff Recommendation.

### **Site Plan Review**

United Health Services submitted an application for a 0.8-acre parking lot expansion at 601 Riverside Drive and 50 and 66 Lusk Street, location of the UHS Home Care Facility. The parcels will be combined and the houses on the Lusk Street parcels have already been demolished for the parking lot expansion.

There are currently 99 parking spaces at the site, and 78 additional parking spaces are located at the Grand Avenue parking lot under the 201 overpass, with NYS DOT permission. The final site plan will provide an additional 84 parking spaces at the home care site proper, which will be closer and safer for employees. This provides an adequate number of spaces for visitors and 116 employees. Regular business hours are between 8:00 a.m. to 5:00 p.m., but the building is open for those who need to come in on weekends or afterhours.

The 2.53-acre property is served by public water, sanitary sewer, and storm sewer drainage. An underground stormwater drainage system will be installed along Lusk Street. Additional sidewalks, landscaping and new outdoor lighting are proposed.

### **Environmental Review:**

The applicant's proposal is considered an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA). The Planning Department staff recommend a Negative Declaration. Since the area to be disturbed is less than one-acre, a Storm Water Pollution Prevention Plan is not required, although post-construction runoff values shall be less than or equal to pre-construction values. The Director of Public Services has approved the stormwater control design, which includes an underground chamber system, the proposed STORMTECH SC-740 Chamber system.

### **239-Review and Department Head Comments:**

The project required a 239-Review as the property is within 500-feet of State Route 201.

- Broome County Planning found no significant county-wide impacts. Recommendations regarding designated parking areas and pick-up and drop-off spaces were not relevant to the expanded parking lot. Additional landscaping has been added to the site plan, as suggested.
- BMTS suggests bicycle parking and striped pedestrian connections to the building.
- NYS DOT & BC Dept. of Public Works: No comments.
- Code Enforcement: Outdoor lights with the potential to spill over the property lot line shall be shielded or corrected appropriately. Only those electricians who are licensed by the Village of Johnson City may be used, and they shall apply for an electrical permit before commencing work.
- Police: No compelling interest.
- Fire: No compelling interest.
- Public Works and Water: Comments have been incorporated into the site plan. The Department has verified that the storm manhole at the intersection of Lusk and E. Theron should be adequate for the parking lot storm drainage connection.



### **Staff Recommendation:**

The Planning staff recommendation is to approve the site plan for the expanded parking lot, with the following stipulations:

15. Erosion control measures shall be adhered to during parking lot construction.
16. The contractor shall obtain all necessary excavation or encroachment permits setting forth time, place and manner of restrictions necessary to protect the health, safety and welfare of the public, prior to commencing construction required for sidewalk, curb and gutter installation or replacement in the Village's Rights of Way. Any sidewalk, driveway or related work completed outside of the property and in the right-of-way shall require permits from the Village Department of Public Works first.
17. If the construction or removal by the contractor disturbs or alters any Village Rights-of-Way, the developer shall be responsible for the restoration of any such Village Rights-of-Way to their original condition, normal wear and tear excepted.
18. Construction shall be limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. through 6:00 p.m. on Saturdays.
19. The property owner shall be responsible for the maintenance of the installed drainage structure. If the proposed STORMTECH SC-740 Chamber is deemed insufficient by the Village Director of Public Services at any time, the property owner shall submit plans for alternative solutions.
20. The parking lot shall be striped, prior to clients parking on site, according to Village Code Chapter 300, Article 51, Off-Street Parking, Loading and Stacking Regulations. 1106.8 Signage. Each accessible parking space shall be provided with signage displaying the International Symbol of Accessibility. Each access aisle shall be provided with signage reading "NO PARKING ANYTIME." Signs shall be permanently installed at a clear height of between 60 inches (1525mm) and 84 inches (2185mm) above grade and shall not interfere with an accessible route from an access aisle.
21. The landscape areas shall be seeded within two weeks of stabilization to prevent erosion issues. Approved landscaping shall be installed by June 30, 2020, weather permitting. Landscaping shall be maintained, and any dead or dying grass or bushes shall be replaced with similar plants within one month, weather permitting.
22. A minimum of a one-foot grass strip shall be maintained between sidewalks and mulched landscaped beds at the new parking lot area.
23. § 300-55.4 General requirements/standards for Outdoor Lighting.
  - D. All outdoor lighting fixtures shall be shielded or otherwise contained on the property from which it originates (known as "light trespass limitations").
  - E. Exterior lighting fixtures shall conform to the Illuminating Engineer Society of North America (IESNA) criteria for full cutoff fixtures. In addition, the lighting levels shall be designed to meet the minimum requirements of the latest recommended levels set forth by IESNA.
  - F. 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.

24. If the applicant wishes to add or change any outdoor lighting, the lighting plan shall be submitted to Code Enforcement for their approval prior to installation.
25. For any proposed signage, a sign permit application shall be submitted to the Building Permits office prior to installation.
26. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of any street-work or excavation permit, as applicable. The applicant shall agree to follow the stipulations of approval 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.

A motion to approve the site plan with stipulations, department head comments and staff recommendations was made by Mr. Cunningham and seconded by Ms. Ward.

*Motion Carried - Vote:*

*Yes – 4 (Jacyna, Cunningham, Ward, Putman)      No – 0      Absent – 0      Abstain – 1 (Matyas)*

### **UHS Project – 33-57 Harrison Street**

Declare Intent to be Lead Agency

A motion to declare intent to be Lead Agency was made by Mr. Cunningham and seconded by Ms. Ward.

*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Cunningham, Ward, Putman)      No – 0      Absent – 0*

### **144 Grand Avenue – Salah Salah**

Modification of Site Plan Stipulations of Approval

Abdulnaser Salah, the owner of the convenience store Halal Noor, stated they are expanding the business and would like to keep the business open 24 hours. He acknowledged he previously introduced a petition with signatures in support of the modification of the approval.

Chairman Putman confirmed they are looking to modify the stipulations of site plan approval to allow them to stay open 24 hours a day.

Chairman Putman and Mr. Salah discussed the number of people they will have if they stay open 24 hours.

Mr. Matyas stated we only have the Speedway and Wegmans that are open 24 hours. He suggested the possible idea of having deliveries-only later; the restaurant/store open until 11p.m. and deliveries until 1:00am.



Chairman Putman read the Site Plan Review, Department Head Comments and Planning Staff Recommendations.

**Site Plan Review:**

The property at 144 Grand Avenue was granted a use variance and subsequently site plan approval for a convenience store in 2017. The convenience store was approved with the stipulation of hours of operation between 7:00 am to 10:00 pm. Mr. Salal Salal has since purchased the property, and now applied to extend the hours of operation to 24-hours per day. This request would require a revision to the stipulations of approval.

**Department Head Comments:**

This project was not subject to a 239-Review. The following Department head comments pertain primarily to the requested extension of operating hours:

- **Code Enforcement:** Does not feel the extension of hours is a good idea in this location.
- **Fire Department:** The Fire Chief recommends not to extend the hours as this is a mixed residential neighborhood.
- **Police Department:** Does not like the potential for increased disturbances surrounding a store open all night surrounded by family occupied residences. This could be a magnet for intoxicated individuals and potential crime. Can foresee this change having a significant negative impact on the quality of life for those residents nearby, and urges the Board to deny their petition.
- **Public Works & Water:**
  - No comments regarding the hours of operation.
  - The backflow prevention device shall be tested annually and a report submitted to the Water Department (607-797-2523).
  - It is required that garbage is placed in cans with tight fitting lids.

**Planning Staff Recommendation:**

The Planning Department recommends denial of the petition to extend the hours of operation to 24-hours per day. Please note the following stipulations of site plan approval, which along with the requirements from Department of Public Works and Water, must still be adhered to:

1. The owner of the business shall display at all times the appropriate license to process food from the Division of Food Safety and Inspection of the NYS Agriculture & Markets, Article 20-C.
2. The hours of operation shall be between 7 a.m. and 11 p.m. and deliveries only until 1:00 a.m.
3. 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.
4. The landscaped beds shall be contained to prevent earth or mulch from going onto the sidewalk. Per § 300-54.2.E, all required landscaping shall be maintained in healthy condition by the property owner. Failure to maintain such landscaping or to replace dead or diseased landscaping



required by this chapter shall constitute a violation of these regulations.

5. All proposed new signage shall be submitted to the Code Enforcement Officer for review and approval prior to installation. If any changes to existing signage are proposed, the applicant shall apply for a sign permit from the Building Official.
6. Signs that blink, rotate, or move are not permitted. 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.
7. If any new outdoor lighting is proposed, the applicant shall first submit a lighting plan and cut sheets to the Code Enforcement Officer for review and approval.
8. The applicant shall comply with the site plan approved by the Johnson City 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.

Manager Abdullah discussed the positive aspects of staying open later. He reminded the Board that many Muslims live in the area, and they can only eat Halal food. During certain religious holidays, they cannot eat until night. Having the store open later would help the community.

Mr. Matyas discussed the issues of setting a precedent.

Chairman Putman stated this is an issue of consistency and the Board needs to remain consistent. He discussed business hours in Johnson City and options for the Board.

A motion to modify the stipulations of site plan approval to extend business hours from 7:00am to 11:00pm, with deliveries only until 1:00am, was made by Mr. Matyas and seconded by Mr. Cunningham.

*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Cunningham Ward, Putman)      No – 0      Absent – 0*

### **282 Riverside Drive – Susquehanna Nursing & Rehabilitation Center**

Sign Area Variances: Advisory Opinion to the ZBA

John Matzo of Matzo Signs and John Lawton of Susquehanna Nursing & Rehabilitation Center were present on behalf of the application. They handed out revised pictures of the proposed sign. Mr. Matzo stated the existing sign was hit by a vehicle and is damaged. They would like to put another one up with a steel foundation.

Chairman Putman read the Variance Request, 239 Review and Department Head Comments and Planning Staff Recommendations.

### **Variance Request:**

Susquehanna Nursing and Rehabilitation at 282 Riverside Drive submitted an application to replace a pylon sign that was damaged by an automobile. The property is zoned Urban Single Family with an Office Overlay zone, and monument signs are permitted at 5 feet high and a total of 24 square-feet in





size with external lighting. The existing sign is nonconforming at 10 feet high, and 48 square-feet in size with internal illumination.

The proposed sign is 14 feet high, and 76 square-feet with internal illumination. Therefore, the building owners are applying for:

- 1) A variance for a monument sign 9 feet higher than permitted,
- 2) A variance for a monument sign 52 square-feet larger than permitted, and
- 3) A variance for a sign with internal illumination.

### **239-Review and Department Head Comments:**

- **Broome County Planning:** The Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project.
- **NYS DOT:** No comments.
- **Public Works & Water:** No compelling interest on the variance. If approved, applicants shall call in a Dig Safely New York tickets to ensure that there will be no conflicts with underground utilities.
- **Police:** No compelling interest.
- **Fire Department:** No compelling interest.
- **Code Enforcement:** A sign permit is required.

### **Planning Staff Recommendation:**

The Planning Department staff recommends that the Planning Board recommend:

- 1) Denial of the variance for a monument sign 9 feet higher than permitted,
- 2) Denial of the variance for a monument sign 52 square-feet larger than permitted, and
- 3) Approval of the area variance for a sign with internal illumination.

Although the sign does not interfere with visibility when exiting the property nor the adjacent properties, the size variances seem excessive. The existing height seen below, although non-conforming, seems adequate for visibility.

The Planning Board and applicant discussed the height of the sign, height of letters and width of sign.

A motion to recommend to the Zoning Board of Appeals approval of a variance for a 12-foot high monument sign, with its area commensurate with a 12-foot high sign, including department head comments, was made by Mr. Cunningham and seconded by Mrs. Jacyna.

*Motion Carried - Vote:*

**Yes – 5 (Matyas, Jacyna, Cunningham Ward, Putman)      No – 0      Absent – 0**

A motion to recommend to the Zoning Board of Appeals approval of a variance for a sign with internal illumination was made by Mrs. Jacyna and seconded by Mr. Matyas.



*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Cunningham Ward, Putman)      No – 0      Absent – 0*

**658 Riverside Drive – Silver Crown Buffet**

Sign Area Variance: Advisory Opinion to the ZBA

Muhammed Sadiq was present on behalf of the Silver Crown Buffet. He stated their sign is not visible if you are parked under the 201 bridge. They put a temporary vinyl sign on the front of the building. They propose a permanent sign facing towards the parking lot.

Chairman Putman stated he felt the purpose for the sign would be more for drivers going by than for people parked under the 201 bridge.

Mr. Sadiq explained the existing sign on the south side of the building is 18 square-feet, and the proposed sign is 32 square-feet.

Chairman Putman read the Variance Request, 239 Review and Department Head Comments and Planning Staff Recommendation.

**Variance Request:**

Muhammad Sadiq, on behalf of the Silver Crown Buffet, submitted an application for a second wall sign at 658 Riverside Drive. The property is zoned Neighborhood Commercial and one 48 square-foot wall sign is permitted. The existing wall sign is on the south side of the building, and the second wall sign, 32 square-feet, is proposed for the east side of the building facing Riverside Drive. Therefore, Mr. Sadiq applied for an area variance to have a second wall sign.

**239-Review and Department Head Comments:**

- **Broome County Planning:** The Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project.
- **Public Works & Water:** No compelling interest on the variance.
- **Police:** No compelling interest.
- **Fire Department:** No compelling interest.
- **Code Enforcement:** If approved, a sign permit will be required.

**Planning Staff Recommendation:**

The Planning Department staff recommends that the Planning Board recommend denial of the area variance for the second sign. The sign on the south side of the building should be relocated to the front of the building.

A motion to recommend to Zoning Board of Appeals approval of a variance to permit a second wall sign on the east side of the building, and a total signage of 50 square-feet, including department head comments, was made by Mrs. Jacyna and seconded by Mr. Cunningham.



*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Cunningham Ward, Putman)      No – 0      Absent – 0*

**111 Riverside Drive – Special Permit for Take-Out Business**

Transfer of Special Permit with Stipulations

Richard Shipman appeared on behalf of the application. Mr. Shipman is taking over Munchies Express. He will have the same business as the past owner with the same hours.

Chairman Putman read the report for the transfer of the Special Permit.

**Transfer of Special Permit Request:**

Richard Shipman and Sherry Faiella submitted a request for the transfer of the Special Permit for a take-out restaurant at 111 Riverside Drive.

Paul Della Penna was granted the transfer of the Special Permit for the take-out restaurant, Munchies Express, in 2018. The property is in a Neighborhood Commercial zoning district and a take-out restaurant is permitted only by Special Permit. The property, 111 Riverside Drive, was granted a 10-space parking variance by the Zoning Board of Appeals in 2014, with the stipulation that a shared parking easement agreement with the adjacent property at 103 Riverside Drive, which also has a take-out ice cream business, Sugar Lips, be filed with the deeds in order to better meet the parking needs for each business and the apartments at 111 Riverside Drive.

The original Special Permit approval included an accessory kitchen use for the preparation of food for the property owner's catering business. The transfer of the Special Permit to Mr. Della Penna was approved with the stipulation that the Special Permit for a take-out restaurant business is for only one restaurant operation to be conducted from 111 Riverside Drive.

Mr. Della Penna submitted a statement in support of transferring the Special Permit to Mr. Shipman.

**Additional Notes for Special Permits:**

**300-66.8. CONDITIONS ON SPECIAL USE PERMITS**

- A. The Planning Board may impose such conditions upon the premises benefited by a special use permit as may be necessary to prevent or minimize adverse effects upon other property in the neighborhood, including limitations on the time period for which the permit is granted.
- B. Such conditions shall be expressly set forth in the motion authorizing the special use permit.

**Staff Recommendation:**

The Planning Department staff recommends approval of the transfer of the Special Permit, with the following stipulations:

- 1) The Special Permit for a take-out restaurant business shall be for one and only one take-out restaurant operation to be conducted from 111 Riverside Drive. Food preparation for other



businesses shall not be permitted. Any request by another business shall require submission of the zoning application, including a site plan showing additional parking.

- 2) The backflow prevention device shall be test annually by a certified backflow device tester, and a report submitted to the Water Department.
- 3) The Fire Marshal shall inspect the building prior to the issuance of a Certificate of Compliance from the Building Permits Office. Call the Fire Department at (607) 729-0428 to arrange the inspection.
- 4) No cooking shall take place outdoors.
- 5) The daily hours of public operation shall be between 10 a.m. and 11 p.m. due to the proximity of residences. Delivery operation only shall be permitted until 1 a.m. Sundays through Thursdays, and until 2:00 a.m. on Fridays and Saturdays only. After 11:00 p.m., delivery vehicles shall park only at 103 Riverside Drive.
- 6) The dumpster pick-up shall be restricted to no earlier than 7 a.m., and no later than 7 p.m. The dumpster enclosure shall be maintained in good condition at all times.
- 7) Delivery trucks shall park only on Martin Street, and no closer than thirty (30) feet from the intersection with Riverside Drive.
- 8) If any new signage is proposed, a sign permit shall first be submitted to the Building Permits office. All temporary signs, including price signs, portable signs, or flag signs, shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. Signs that flash or blink are not permitted.
- 9) Parking in the striped space identified as a “No Parking” space on the site plan shall be prohibited. It is in the 25-foot visibility triangle.
- 10) Approval of special permit modification shall be required if there are any changes to the site plan or change in use of the property.
- 11) The Special Permit shall expire should the property or business be sold to another entity, per § 300-66.11. Transferability:

A special permit is not transferable except upon approval by resolution of the issuing board. 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.
- 12) The applicant shall agree to the stipulations of approval in writing prior to the issuance of a certificate of compliance. The applicant shall agree to follow the stipulations of approval in strict accordance with the special permit.
- 13) Changes to the site plan may require a minor site plan review or submittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

Ms. Lane acknowledged Mr. Shipman has to replace all the equipment that was taken out by the bakery, so he will not be opening right away. He cannot do anything without the approval of the special permit.

A motion to approve the transfer of the Special Permit with stipulations to include staff recommendations and department head comments was made by Mr. Cunningham and seconded by Mr. Matyas.

*Motion Carried - Vote:*



*Yes – 5 (Matyas, Jacyna, Cunningham Ward, Putman)      No – 0      Absent – 0*

**Amendment to Section 300-40.9 Home Occupations**

Recommendation to the Village Board

Chairman Putman explained this is a recommendation to the Village Board to adopt the changes to the zoning chapter to make Village code conform with the state’s code, which is more stringent.

A motion to recommend to Village Board to adopt the modifications of the Home Occupations code was made by Mr. Cunningham and seconded by Mr. Matyas.

*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Cunningham Ward, Putman)      No – 0      Absent – 0*

**ADJOURNMENT**

A motion to adjourn the Planning Board Meeting was made by Mrs. Jacyna and seconded by Mr. Cunningham. The motion passed with all those present voting in the affirmative.

The meeting was adjourned at 9:37pm.

Respectfully submitted,

Kim Cunningham  
Planning Board Clerk

