

TOWN OF FARMINGTON PLANNING BOARD

April 7, 2010

APPROVED MINUTES

The following minutes are written as a summary of the main points that were made and the actions taken at the Town of Farmington’s Planning Board Meeting. .

MEMBERS:

- David Degear, Chair
- Meg Godly
- Ron Herendeen
- Scott Makin
- Mary Neale

Also present: Ron Brand, Town of Farmington Director of Development and Planning; Katie Wagner and Dean Williamson, Getty--Farmington

Excused: Floyd Kofahl, Town of Farmington Code Enforcement Officer; Lance Brabant, MRB Group, P.C., Town of Farmington Engineer

OPEN MEETING:

The meeting was called to order at 7:00 p.m. After everyone recited the Pledge of Allegiance, Chairman Degear made the introductions of Planning Board members and staff, welcoming new Board member Mary Neale. He explained the emergency evacuation procedures to those present and said that copies of the evening’s agenda and legal notices are available on a table by the door. Mr. Degear also asked that all present set their cell phones on vibrate.

APPROVAL OF THE MINUTES OF THE MARCH 17, 2010 MEETING:

Mr. Makin made a motion to accept the Minutes of the March 17th meeting with the corrections requested by Mr. Brand. Mr. Herendeen seconded his motion. It was pointed out that, although she was not yet a Board member, Ms. Neale had attended the meeting and had reviewed the Minutes. For this reason, she could vote on acceptance. All five Board members voted aye to approve the revised Minutes.

LEGAL NOTICES:

At the Chairman’s request, the Clerk read aloud the legal notices which were published in the March 31, 2010 Daily Messenger.

PUBLIC HEARINGS:

PB 0402-10, SPECIAL USE PERMIT RENEWAL
NAME LDD CORPORATION, P.O. BOX 10, PALMYRA, NY 14522:
LOCATION: SUBWAY, 6090 ST ROUTE 96
ZONING DISTRICT GENERAL BUSINESS DISTRICT
Request to renew a special use permit to continue a fast-food restaurant.

Katie Wagner and Dean Williamson from the Getty Subway restaurant appeared for this application. Chairman Degear read aloud Mr. Williamson's letter of application into the record (a hard copy is attached to the official copy of these Minutes). Mr. Williamson's only comment was a request that this be his last appearance before the Board to renew his Special Use Permit (SUP).

The Chairman then asked for staff comments.

Mr. Brand explained that when this permit first came before the Board on June 19, 1997, there was a condition for approval that the applicant provides proof from the DEC (Department of Environmental Conservation) that the contaminated soil on the site had been remediated. This letter is not in the file. Mr. Williamson explained that the contamination was caused by a gas spill from the tanks of a previous gasoline company on the site. When the site was upgraded, this was cleaned up and he will fax a copy of the DEC closure letter to the Development Department.

The Director of Development went on to say that this use fits the Code for a fast food restaurant and there is no time limit on the approval. He said he has drafted a Type II Action SEQR Resolution for the Board's consideration and went over some suggested conditions for approval.

When Mr. Brand finished speaking, Chairman Degear asked for Board comments.

Mr. Makin inquired if any action is actually needed tonight. Mr. Brand responded that, at the Chairman's request, he consulted the Town Attorney who advised taking action. For the record, he explained, the applicant would have to return to the Board if there should be a change to a different fast food operation with a drive up window.

Ms. Godly, Mr. Herendeen and Ms. Neale had no comments.

Mr. Degear said this is a good business for Farmington.

Chairman Degear announced that this is a public hearing and asked if there is anyone present who wishes to speak for or against this application. No one replied. He then repeated his question and, again, no one replied. Next, the Chairman asked for a motion to close the public hearing. The motion was made by Mr. Herendeen and seconded by Mr. Makin. In a voice vote, all five Board members voted aye to close the public hearing at 7:14 p.m.

Next, Mr. Herendeen moved to waive the reading of the SEQR Resolution. Mr. Makin seconded the motion. The motion was carried by a voice vote of five ayes. Ms. Godly made a motion to approve the Type II Action SEQR Resolution with Ms. Neale seconding. The following roll call vote was taken and recorded:

Meg Godly—aye

Ron Herendeen—aye

Scott Makin—aye

Mary Neale—aye

David Degear—aye

The SEQR resolution was adopted by a unanimous aye vote of all five Board members.

At the Chairman's request, the Clerk read aloud the draft SUP Resolution with the following conditions and findings:

1. *The application is for the continuation of a fast-food restaurant and staff has determined that such use is consistent with the provisions of Chapter 165, Section 69, of the Town Code.*

2. *The Special Use Permit (File #PB-0607-97) was granted on June 19, 1997 with one condition. That condition was when the remediation of the contaminated soil has been satisfied with the New York State Department of Environmental Conservation, the dumpster is to be placed inside an enclosed area. Today there is an enclosed dumpster located on the site as noted by the Applicant and attested to by the Town Director of Planning and Development.*
3. *There is no time limit imposed upon the Special Use Permit granted on June 19, 1997.*
4. *There is a Subway fast-food restaurant that continues to operate at this location.*
5. *The Town Code Enforcement Officer's letter of March 2, 2010 notes that the property is in compliance with the Town of Farmington Zoning requirements and there are no outstanding Codes or Fire Safety issues.*
6. *The Applicant has provided information at tonight's public hearing that he is in compliance with the New York State Department of Environmental Conservation's soil remediation requirements for this site. The applicant has also stated that he will fax a copy of the DEC closure letter.*

Based upon the above findings of fact, the Planning Board hereby determines that:

1. *The Subway Restaurant, located within a portion of the Getty Gasoline and Convenience Facility at 6090 State Route 96 is in compliance with all Special Use Permit conditions that were originally imposed upon this fast-food restaurant by the Town Planning Board and the New York State Department of Environmental Conservation.*
2. *The Subway Restaurant may continue to operate under the terms and condition of the original Special Use Permit.*

The applicant said he understood and agreed to the conditions. Ms. Godly moved to approve the SUP with the conditions. Mr. Herendeen seconded. The following roll call vote was taken and recorded:

- Meg Godly—aye
- Ron Herendeen—aye
- Scott Makin—aye
- Mary Neale—aye
- David Degear—aye

The Special Use Permit with the conditions was unanimously approved.

OPEN DISCUSSION:

DIRECTOR OF DEVELOPMENT REPORT:

Mr. Brand explained that he needs to change the agenda since an application was received after the agenda was created and Mr. Kofahl was not available to approve the change.

1. Request for an Extension of Time for Final Approval of Section 4, Auburn Meadows Subdivision

The Director of Development reported that a letter dated April 6th was received from Walt Baker, R.E.M., on behalf of his client A&D Development Co. requesting an extension of the final approval for the above-mentioned project. The original approval was granted last fall but, in the meantime, the applicants have been working on their Beaver Creek Subdivision. They are close to obtaining all the final signatures for Section 4 of Auburn Meadows, Mr. Baker said, but they are concerned that the approval time will expire before this is completed.

Mr. Brand said that two 90-day extension periods are allowed and suggested that the Board do one 90-day extension tonight since the original approval expires on April 18th, three days before the Planning Board meets again. All the Board members agreed. Chairman Degear stressed that the resolution should emphasize the need for timely action requesting any subsequent renewal since this one was sent the day before the Board meeting.

At the Chairman's request, Clerk O'Malley read aloud the following draft resolution which was approved by the Town Attorney:

WHEREAS, the Town of Farmington Planning Board (hereinafter referred to as Planning Board) has been informed by Walter F. Baker, R.E.M., D.S.B. Engineers & Architects, P.C., that his client, A & D Development, is requesting an extension of time to the Planning Board Resolution of October 21, 2009 granting Final Plat Approval for Section 4 of the Auburn Meadows Subdivision, for a period of 180 days as provided for in Chapter 144, Section 13. G. of the Farmington Town Code; and

WHEREAS, the Planning Board has considered the April 6, 2010 letter from Mr. Baker to the Planning Board c/o Floyd Kofahl, Code Enforcement Officer, which sets forth the reason for requesting the time extension; and

WHEREAS, the Planning Board has been informed at tonight's meeting that the 180 day time period specified in the October 21, 2009 Planning Board Resolution on this Action will expire on April 18, 2010 unless extended by Planning Board Action; and

WHEREAS, the Planning Board will not meet again until April 21, 2010 which is after the time period specified in the above cited Planning Board Resolution; and

WHEREAS, Chapter 144, Section 13. G. of the Farmington Town Code states that Final Plat approval shall expire if the Final Plat has not been signed by the Planning Board Chairperson, or an extension to the 180 day time period has not been granted; and

WHEREAS, the Planning Board is authorized under the provisions of Chapter 144, Section 13. G. of the Town Code to grant up to two additional periods of 90 days each when finding such extension is warranted by the particular circumstances provided,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board upon discussion of this request at tonight's meeting does find that there is warrant to approve the first ninety (90) day extension of their October 21, 2009 Resolution of Conditional Final Plat Approval.

BE IT FURTHER RESOLVED that the Planning Board does hereby take action to grant a ninety (90) day extension to the original time period specified in the October 21, 2009 Planning Board Resolution which shall expire on Friday, July 16, 2010.

BE IT FURTHER RESOLVED that the applicant is hereby given notice that any request for a second ninety (90) day extension to this conditional approval is to be submitted in writing to the Planning Board on or before the established date of June 7, 2010 for the Planning Board to consider placing said request on the July 7, 2010 Planning Board Agenda.

BE IT FINALLY RESOLVED that the Clerk of the Board is provide copies of this resolution to Walter F. Baker, R.E.M., to Ernie Ackerman, A&D Development and to file copies with the Town Clerk and Town Project File.

Ms. Neale made a motion to approve the resolution with Mr. Herendeen seconding her motion.

The following roll call vote was taken and recorded:

Meg Godly—aye

Ron Herendeen—aye

Scott Makin—aye

Mary Neale—aye

David Degear—aye

The motion was carried unanimously.

2. LC Land Conservation District Local Law referral from Town Board

3. Official Zoning Maps

Mr. Brand said that these two items are really part of one report. The County will be maintaining the new zoning maps free as part of their annual 40 hours of service to the Town. He thanked Kevin Schultz and the County Planning Department for this work. The Director of Development then explained that, in the Code, there is mention of Land Conservation Districts but these have never been mapped. The current planning process now addresses such issues as wetlands and steep slopes so these Land Conservation Districts are no longer needed.

Mr. Brand went on to say that the Planning Board is being asked to review a request to the Town Board to repeal Chapter 165, Section 32, LC Land Conservation District and to recommend a draft Local Law to adopt the new Official Zoning Map. If the Board agrees, he has drafted a memo to the Town Board for Chairman Degear to sign.

The Board members agreed on accepting the new zoning map. However, Ms. Godly had some reservations about deleting the Land Conservation Regulations from the Town Code. She requested more information and was directed to the Town website under Planning and Zoning. Since the Town Board will not be meeting on this matter until the end of the month, the Planning Board members agreed to wait until the April 21st Board meeting to take action on the above request.

Ms. Godly also expressed concern because she will be unable to attend the next Board meeting. She said she will read the available information and provide her concerns to the Board Chairman for presentation to the Board on April 21st.

4. Wind Generating Local Law (discussion only)

The Director of Development reminded the Board members that the moratorium on wind generating power sources ends in June. The Town Board has requested that he draft two local laws:

1. One regulating on-site use of small units to serve the owner's needs and not sell to the grid,
2. And another regulating wind farms which are commercial and sell to the grid.

If anyone is interested, he said, there will be a Town Board workshop on this subject at 6 p.m. next Tuesday.

Mr. Brand continued by saying that the Town Attorney and the Town Board's Operations Committee have reviewed the drafts. The Code Enforcement Officer is also providing comments. The reasoning behind the legislation is to allow public participation in drawing up the regulations and to avoid the use variance process for each request. The Town Board has until the second meeting in April to decide whether to send the draft regulations to the County. At that time, the Planning Board will be asked to review the proposed local laws.

CHAIRMAN OF PLANNING BOARD REPORT:

Chairman Degear reminded the Board members about training at Houghton College and the Genesee Finger Lakes local government workshop. The Director of Development added that he has a case law presentation from the Association of Towns. He will make this available to Planning and Zoning Board members. He estimated that it could count as two hours of training.

The Chairman asked about the Tom Lay application. Mr. Brand said that Ray Phillips has met with Mr. Kofahl but he does not know the details of what was discussed. Mr. Degear commented that the Board resolution was very clear.

Mr. Makin suggested that outside consultants can provide designs as a planning tool. Mr. Brand asked him to provide information for the Town Ops Committee.

Chairman Degear asked for a report on Farmington Gardens. The Director of Development explained that the applicants have requested a less costly option of a guarantee for a future left turn design onto Route 332 which the State is requesting. However, the Town Board made the acceptance by the State DOT (Department of Transportation) of this plan a condition for Incentive Zoning. The Planning Board also wants to issue resolved.

Mr. Brand continued by saying that the applicants are requesting a meeting with the DOT on this subject now since they want to start renting in October. Mr. Degear pointed out that the County was also very concerned about traffic patterns in this area. Tonight, for example, there was an accident at the exit from the nearby Aldi's store.

The Director of Development added that the next phase for this development will be patio homes on Lot #3. The Auburn Meadows subdivision has sold almost all of their patio homes already. The Chairman commented that the road for the nearby Beaver Creek development is being constructed.

PUBLIC COMMENTS:

There were no public comments.

ADJOURNMENT:

The next meeting of the Planning Board will be at the Town Hall on Wednesday, April 21, 2010 at 7 p.m.

Mr. Makin made a motion to adjourn with Mr. Herendeen seconding it. In a voice vote, all five Board members voted aye to adjourn at 7:44 p.m.

These minutes were taken and respectfully submitted by

Leslie C. O'Malley, Ph.D.
Clerk of the Board