

# MINUTES

**Town of Wappinger Planning Board  
January 7, 2013  
Time: 7:00 PM**

**Town Hall  
20 Middlebush Road  
Wappinger Falls**

**Members Present:**

Mr. Fanuele:	Chairman	Mr. Malafronte:	Member
Ms. Leed:	Member	Mr. Valdati:	Member
Ms. Bettina:	Member	Mrs. Smith:	Absent
Ms. Visconti:	Member		

**Others Present:**

Mr. Gray	Engineer to the Town
Mr. Roberts	Attorney to the Town
Mr. David Stolman	Planner to the Town
Mrs. Roberti	Zoning Administrator
Mrs. Rose	Zoning Secretary
Mr. Horan	Attorney to the Town
Mr. Peter Hobday	Planner the Town

Summarized

**PROJECTS DISCUSSED:**

BVA Construction	Adjourned PH-move to January 23 <sup>rd</sup>
Mobil Mini Mart	Accept Resolution w/amendments
Gas Land 1831 New Hackensack	Go to ZBA—Parking Spots
Old Troy	PH & Neg Dec
Osborne Square	Extension Granted

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Mr. Fanuele: The first item on the agenda is the approval of the minutes from November 19, 2012 and December 3, 2012.

Mr. Valdati: Move to accept.

Ms. Bettina: Second.

Ms. Rose: All in favor?

Mr. Malafronte: No.

Ms. Visconti: Roll call vote.

Ms. Rose:	Marsha Leed	Yes
	Frank Malafronte	No
	June Visconti	Yes
	Robert Valdati	Yes
	Angela Bettina	Yes
	Victor Fanuele	Yes

Mr. Fanuele: The next item on the agenda is an adjourned public hearing:

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**06-5120/BVA Construction** - The Town of Wappinger Planning Board will conduct an adjourned public hearing pursuant to Section 276 of the Town Law, on the application of **BVA Construction, is seeking to amend their proposed application for a 3 lot subdivision to a 2 lot subdivision on 17.288 acres in an R-40 Zoning District.** The property is located on **Kent Road** and is identified as **Tax Grid No. 6257-02-513975** in the Town of Wappinger. (Barger) (PH 9-5-12)

**Ms. Visconti: Move to open the adjourned public hearing.**

**Ms. Bettina: Second.**

Mr. Valdati: All in favor to open the public hearing.

Board: Aye.

**Ms. Visconti: Motion to move this to the next meeting, January 23, 2013.**

**Ms. Bettina: Second.**

Mr. Fanuele: Do we have to advertise again?

Mr. Stolman: As long as it being adjourned to a date certain you don't need to advertise again.

Mr. Fanuele: I don't know how people will know there is an adjourned public hearing.

Mr. Roberts: They were here the last time and that meeting was adjourned. We could require another advertisement.

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Ms. Visconti: There were a number of people that had questions. I think we should have another advertisement.

Mr. Roberts: What I understand there has been some issues with outstanding escrow.

Mrs. Roberti: There escrow is \$3700 in the rear. Their escrow is less now that it is a 2 lot subdivision. Every time we ask them for money it gets put off at the last minute.

Mr. Stolman: We are also waiting for revised plans.

Mr. Roberts: Let's adjourn it to the next meeting. If they don't get their act together, they will have to start all over again.

Mr. Fanuele: That is without advertising?

Mr. Roberts: We will get in touch with the engineer because this has been going on a very long time.

Mr. Fanuele: How are the people going to know if we don't advertise?

Mrs. Roberti: They were at the last meeting and knew it was adjourned till tonight and no one is here for BVA. So if they had issues, they would have been here tonight.

Mr. Roberts: We can notify those people. We have their addresses.

Ms. Bettina: I think we should notify those people.

Mr. Roberts: We will send them a letter.

**Mr. Valdati: I make a motion that all the people at the last public hearing will be contacted via mail to inform them that BVA has been adjourned until the 23<sup>rd</sup>.**

Mr. Gray: We will also call them the day before the meeting.

Mr. Stolman: This process has been going on a very long time. It is not the planning board that has held this process up. They went away for a very long time.

**Ms. Bettina: Second.**

**Mr. Fanuele: All in favor?**

**Board: Aye.**

Mr. Fanuele: Next item on the agenda is:

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**11-3240/4049/Mobil Mini Mart Route 9:** To vote on amending their site plan and SUP to convert the repair shop of 1,039 square feet into a mini-mart. The property is in an HB zoning district on .96 acres and is located at **1468 Route 9** and is identified as **Tax Grid No. 6157-02-648928** in the Town of Wappinger. (Green)

Mr. Green: I am Steve Green. I am in receipt of the resolution that was forwarded to me. We are in agreement with what was sent to us. The owner understands what he has to do. I contacted the architect to get her work to me as fast as she can.

Mr. Fanuele: Before we approve this, I want to know how many people are against the access from Mobil to the Hannaford parking lot.

Mr. Valdati: We need a super majority vote to over ride the county.

Mr. Fanuele: By a show of hands, how many people are against the access? How many hands are up? Five.

**Ms. Visconti: I make a motion to adopt the resolution that has been prepared by the town planner with the reasons itemized to the Dutchess County Planner why they are being over ruled.**

Mr. Fanuele: One more question, on the drawing you have a different place for the dumpsters. They are in the wrong place. Are you going to move them?

Mr. Green: On the back side of the building there will be an enclosure. When the outside of the building is done, the enclosures will be the same color as the building.

Mr. Roberts: Your client would agree to the cross access but the landlord would not give a commitment concerning the access to Hannafords. Is this correct?

Mr. Green: Our landlord says it is ok. It is the Wappinger Plaza that is not responding.

Mr. Roberts: We are trying to let the county know it is not the applicant causing the difficulty concerning the cross access. We have to give the county the reasons why we are voting against them. We need to let them know the applicant has tried but we cannot get the property owners to consent.

Mr. Fanuele: If in the future the access is granted, where will it be?

Mr. Green: On the left hand side. (Reviews map with Mr. Fanuele).

**Ms. Visconti: I made a motion. Do I have a second?**

**Mr. Valdati: Second.**

<b>Ms. Rose:</b>	<b>Marsha Leed</b>	<b>Aye</b>
	<b>Frank Malafronte</b>	<b>Abstain</b>
	<b>June Visconti</b>	<b>Aye</b>
	<b>Robert Valdati</b>	<b>Aye</b>

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**Angela Bettina**            **Aye**  
**Victor Fanuele**            **No**

- Mr. Fanuele: I would like to table this because we don't know where it's going and how many parking spaces it's going to take. This is going to cause a problem.
- Mr. Valdati: I would like the planner's opinion on this.
- Mr. Stolman: They would have to come back if there was going to be an interconnection. If they change the site plan, they would have to come back. At that point in time they would have to entertain the connection and the effect it would have. What you are doing tonight is saying it is impractical to have the connection now. The applicant has committed but the property owner has not. You are giving the reason to the county that this is why there is no connection now.
- Mr. Malafronte: That is the property owner of the mini-mart and what about the owner of Hannaford?
- Ms. Visconti: They said no.
- Mr. Stolman: Hannaford's is not a party to this.
- Mr. Fanuele: It is the landlord of the shopping center.
- Mr. Green: They have not gotten back to me.
- Ms. Visconti: They are ignoring them and have for a long time.
- Ms. Visconti: I will restate my motion. I move that we accept the resolution as prepared by the town planner which includes the reasoning to Dutchess County Planning, which at this time instead of holding hostage the applicant because the Wappinger Plaza landlord has not responded. Knowing that in the future if it becomes available it will be readdressed at that time.**
- Mr. Valdati: If we don't give Dutchess County Planning a good reason they will not be allowed to go forwarded.
- Mr. Malafronte: The reason we are giving the county is because the two holding companies will not entertain the idea.
- Mr. Valdati: The applicant wants this.
- Mr. Green: I have a contract from my client to the owners.
- Mr. Malafronte: Do we need correspondence from the applicant that we can send to the county?
- Ms. Visconti: They were one way letters. They never responded.
- Mr. Stolman: It would not hurt to have copies of the letters the applicant sent.
- Mr. Stolman: We need a super majority to send to the county.
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Mr. Fanuele: I would like the connection taken off the map.

Mr. Green: I can take it off the planes.

Mr. Stolman: It does not have to be on the plans at this time.

**Ms. Visconti: I amend my motion to accept the resolution with the amendments by the town planner to itemize the discussed changes.**

**Mr. Valdati: Second.**

**Ms. Rose: Marsh Leed Aye**

Mr. Malafronte: Does this mean we will still have in the body of the resolution that they will not entertain. It will still be in there.

Mr. Stolman: We will be instructing the applicant to take the interconnection off of the plan.

Mr. Roberts: I think you should write a letter to the county explaining this.

Mr. Stolman: It will be in the resolution and a copy will go to the county.

**Ms. Rose: Frank Malafronte Aye  
June Visconti Aye  
Robert Valdati Aye  
Angela Bettina Aye  
Victor Fanuele Aye**

Mr. Fanuele: The next item on the agenda is:

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**12-3264/Gas Land 1831 New Hackensack Road-** Is seeking a SUP for the modifications and addition to an existing 1782 sf service/gas station for a total of 2552 square foot convenience store/gas station. The property is located at **1831 New Hackensack Road** and is identified as Tax Grid No. **6259-02-524833**. (Chazen)

Ms. McManus: My name is Margaret McManus. We did receive a variance from the ZBA for a front yard setback. The building is an L shape and now has a variance to square off. I have gotten in touch with the Dept of Health and we have done testing at the site. I am in receipt of two letters from the town engineer and planner. We have no problem with the comments from the engineer and I will check the size of the trucks. The owner of the property also supplies the fuel for that location and he has different size trucks. The larger truck did not work with the turning template. The one problem we have is the parking cap. The code does not specify if the canopy parking can be counted as parking spots.

Mr. Fanuele: Did we count the parking spaces under the canopy before?

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Mr. Stolman: From what I remember we did not count those parking spaces and there is nothing in the code that says they couldn't be counted. It is up to the planning board to decide if those spots should be counted.

Ms. Leed: To comply they need every one of those counted, is that correct?

Ms. McManus: We need 18 spots if we had seating but I will be eliminating the seating and now will only need 16. Ten of the parking spaces are not under the canopy so we would need to count the spaces under the canopy to be in compliance.

Ms. Leed: How many employees do they have?

Ms. McManus: One.

Mr. Fanuele: I don't think we should count the ones under the canopy.

Ms. Visconti: There was a question about a fire truck turning template.

Ms. McManus: I will be in touch with them concerning the turning template.

Mr. Malafronte: What about the turning radius for your gas tanks?

Ms. McManus: (Pointing to the map) this is how they will pull in and this is where they will back up and pull out. He will back up on the site not the road.

Ms. Visconti: You said because he supplies his own fuel he has his own trucks. He will be using a smaller truck for that site.

Ms. McManus: Yes.

Mrs. Roberti: When they did the remediation, they cleared the property to the north?

Ms. McManus: Yes they cleared most of it but it was too late in the year to plant anything.

Mrs. Roberti: My fear is parking for other items.

Ms. Visconti: How big of a piece of property is it?

Ms. McManus: On this property, there is a DOT culvert that drains through this parcel. (Pointing to the map)

Mr. Stolman: We did ask the applicant to combine parcels.

Ms. McManus: He did purchase that property separately and maybe in the future sell it.

Mrs. Roberti: I am assuming that all the shrubs shown on the map will be planted.

Ms. McManus: Yes.

Mr. Malafronte: Weren't the tanks already removed. I thought you were doing this for the last couple of months.

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Ms. McManus: Yes and the old soils were removed and new soils are now in its spot and we have a sign off from the DEC. It is flat and grass will be planted.

Mr. Malafronte: I thought you still had more remediation to do?

Ms. McManus: No it has all been done.

Mr. Fanuele: (Pointing to the map) can you land bank parking spaces there?

Ms. McManus: No, it's a different parcel.

Mr. Fanuele: How about where the trees are?

Ms. McManus: There is no turning radius.

Mr. Malafronte: Barbara, do you get involved with the remediation?

Mrs. Roberti: No, that is the DEC.

Ms. Visconti: Victor, did you say we weren't going to count the parking spaces under the canopy?

Mr. Stolman: No, we were going to count them.

Mr. Fanuele: No, weren't going to count them.

Mr. Valdati: Just keep in mind if you count the spaces under the canopy here you have to count them there forever.

Mrs. Roberti: If this is going to set precedence, we do have gas stations that have a much smaller site. I think they should get a variance to show they have gone the extra step and this will no longer set precedence.

Mr. Valdati: What will we do if the variance is denied?

Mr. Stolman: We will deal with the decision then but if they do get the variance you would not be setting precedence.

Mrs. Roberti: It will then be a site by site decision.

Mr. Stolman: The ZBA has the right to do an interpatation of this application.

Mr. Fanuele: What happens if the ZBA turns her down?

Ms. Leed: She would have to come back. She might have to make the store smaller.

Mr. Fanuele: Next item on the agenda is:

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**12-5165/ Old Troy Corners Subdivision**-To vote on lead agency for the vacant 3.725 acre parcel which will be turned into two residential lots in an R-80 zoning district. The property is located on **Wheeler Hill Road (Along the southwest side of Old Troy Road and near the intersection of Wheeler Hill Road)** and is identified as **Tax Grid No. 6057-04-589487** in the Town of Wappinger. (Day)(LA 11-26-12)

Mr. Morris: The last we spoke we referred to the Zoning Board and they won't take any further action until SEQRA was completed. I was hoping to move forward with that so we can move forward with the Zoning Board.

Mr. Stolman: Over 30 days ago, the Planning Board sent out letter requesting to be lead agency. There has been no response, which now makes the Planning Board lead agency be default. This is a simple two lot subdivision. The town is benefitting by getting land for road widening. If the town was not getting the land, there would be no need for a variance because the lots would be in conformance. The ZBA won't grant the variance until you issue a Negative Declaration. What you could do is at your next planning board meeting is schedule a public hearing get input from the public and then issue the Negative Declaration. They then can go back to the ZBA with the Negative Declaration.

**Mr. Fanuele: Does everyone want a Negative Declaration?**

**Ms. Visconti: Yes.**

**Mr. Valdati: Yes, so moved.**

Mr. Malafronte: Does this impact the DEC requirements because of the splitting the property and getting access to water? I'm going over the Environmental Impact Statement which is related to this one, isn't it.

Mr. Stolman: This will benefit the DEP water supply.

Mr. Morris: We are granting the DEP an easement for the water line.

Mr. Malafronte: Do we have to look at both of the impact requirements?

Mr. Stolman: No because they are separate. There was a separate SEQURA process for the DEC water main extension project.

Mr. Malafronte: So Barbara will do that?

Mr. Stolman: Barbara?

Mr. Malafronte: Gutzler, the supervisor because she signed the package and Victor signed this one.

Mr. Stolman: Can I see that Frank? This document is the EAF for this subdivision.

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- Mr. Malafronte: The other one is overlapping the easement.
- Mr. Stolman: The land received for road widening proposes from this subdivision and the land received for the DEP water main has its own SEQURA process. So what we have is two SEQURA processes.
- Mr. Malafronte: Do we have to look at it like an impact? If she is doing one there for the DEP but he is giving an easement at his site. Is it addressed here or here?
- Mr. Stolman: Donating an easement to the town does not have an environmental impact. The construction that takes place in any easement would have a potential environmental impact and that was addressed in the SEQURA work done by Morris and Associates for the DEP project. That construction brings the water main in has potential environmental impact. That was analyzed already. The construction on the easement has also been analyzed.
- Mr. Malafronte: That construction has been analyzed even if it is part of SHIPPO or DEP and we should have the documents to look at.
- Mr. Stolman: You don't need the documents to look at. That project is not in the purview of this board. You can certainly get the documents to look at but that construction project is in the purview of the Town Board. It would be informational to you to know about it but it has little to do with splitting of this property. Frank, did I answer your question?
- Mr. Malafronte: Close, we're good.
- Mr. Stolman: So for the next meeting I will prepare Neg Dec for the next meeting. We will also schedule the Public Hearing for the next meeting.
- Ms. Visconti: I move to schedule the Public Hearing for January 23<sup>rd</sup>.**
- Mr. Fanuele: Next on the agenda is:
- 08-3162 / Osborne Square (Formerly Bank Plaza):** Applicant is seeking their third 6 month extension on their site plan that was approved on January 5, 2011. This extension would begin January 5, 2013 through July 4, 2013. The property is located at **1145 Route 9** and is identified as **Tax Grid No. 6157-04-649068** in the Town of Wappinger. **(Day)**(Site plan approved 1-5-11) *(The public hearing was closed on July 19, 2010; final approval was received on January 5, 2011. First extension granted January 5, 2012 thru July 4, 2012, second granted July 5, 2012 thru January 4, 2013)(A one month extension was granted at the December 3rd meeting pending letter of request.*
- Mr. Morris: Kevin is working with the Health Department. He is also working to acquire an easement with the DOT. This all takes time.
- Mr. Valdati: I move to grant the extension.**
- Ms. Bettina: Second.**
- Mr. Fanuele: All in favor?**
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**Board:** **Aye.**

Mr. Fanuele: Does anyone have any objections to J K Powers putting their equipment outside on the grass?

Mr. Valdati: I didn't get a chance to see the machines out there but I did read the correspondence and it seems OK.

Mr. Fanuele: The agreement is they put them out in the morning and take them in in the evening.

Mrs. Roberti: They will not put them out in the snow and the rain because the equipment is very expensive. They are only out on favorable days and will be taken in at night. I did go out there with Bob Gray and we counted the machines and made sure they are on their property. My determination is that it would not change the character of the neighborhood.

Mr. Fanuele: Can we vote on it tonight?

Mrs. Roberti: If you would like.

Mr. Stolman: If you vote on it tonight, we should back it up with a brief resolution.

**Mr. Valdati: I move that the planner draft a resolution allowing 6 machine in the front and 4 on the hill.**

**Ms. Bettina: Second.**

**Mr. Fanuele: All in favor?**

**Board: Aye.**

Mr. Fanuele: Any old or new business?

Mr. Valdati: The habit to have a roll call vote for every motion that is made I think it is so Ms. Rose can document who is voting which way. Would it be reasonable to say if there is any dissension on the vote at that point we could have a roll call vote?

Mrs. Roberti: Al came in today and we spoke about it. Sue does not have to do a roll call for attendance because she can visually see you here. Simple things like authorizing David to draft a resolution. A true vote like a resolution needs a roll call vote.

Mr. Horan: The procedure is the chairman asks all in favor, any opposed.

Mr. Malafrente: Will that have to show up in the minutes of the meeting?

Mr. Horan: Yes.

Mr. Malafrente: The December 3<sup>rd</sup> minutes everyone voted for the Hilltop Finale Statement but there was no or yes on any of them.

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Mr. Stolman: They were only here that night to get comments on their site plan and no vote was taken.

Mrs. Roberti: The vote was on November 19<sup>th</sup> and there was a vote then and you voted no and it was listed. There was no vote on December 3<sup>rd</sup>.

Mr. Malafronte: Then there was another one when the Town Board approved the Finding Statement.

Mrs. Roberti: That was the Town Board.

Mr. Stolman: The Town Board approved the finding statement also in November and that would be on their minutes.

Mr. Valdati: Is everything alright now.

Mr. Malafronte: I guess.

Mr. Valdati: Any other questions?

Mr. Malafronte: I got this and it says the state can override our zoning laws? There are a couple of things in here about signage.

Mr. Horan: There are some that supersede the zoning laws such as wet lands, pricing signs for gas stations, lighting in bank parking lots, how bright the lights have to be around ATM's.

Mr. Malafronte: Do we have to address them as we go along?

Mr. Horan: If your zoning laws are in conflict with the state law.

Mr. Stolman: There is a state law that says that it is unlawful to dispense fuel without displaying the price which they all do.

Mr. Malafronte: So it will be an enforcement thing.

Mrs. Roberti: There are also state licenses that are enforcing this.

Mr. Malafronte: Do we see anything coming down to the town impacting this.

Mr. Horan: Anytime the legislature sits your zoning laws may be in jeopardy.

Mr. Malafronte: I saw the antennas came off the building at 167 did you guys notify them.

Mrs. Roberti: I didn't know there were antennas there.

Mr. Malafronte: We discussed it at the last meeting.

Mrs. Roberti: We discussed it because Verizon said there's should be allowed up there because there were two others. One was Cervalis, which we had no building permits for

and I could not find anything in the resolution, and the other was Grubb and Grubb. Evren, who works for David went up there and couldn't find anything so they probably took them down. We don't think they were cell towers. We think they were antennas for some sort of transmission.

Mr. Horan: There is another issue there according to Federal Law having to do with Telecommunication towers there are limitations with what the zoning can and cannot do.

Mr. Valdati: When they were constructing the towers up over here, we do have zoning laws on the books saying it has to be x amount of feet from a school. However, when a public hearing was held and we were not allowed to question radio waves or harmful waves under the FCC guide lines. The distance we proposed was superseded.

Mr. Malafronte: We can hire a consultant. According to the zoning law he would go out and review the site and give us a determination. Do we need shielding, how high it can be and what is the radiation?

Mr. Horan: You cannot ask about the radiation.

Ms. Bettina: Even if it's a health issue?

Mr. Stolman: If our radio frequency consultant agrees with the applicants that the radiation is lower than a certain level, we cannot go and explore further than that.

Mr. Horan: If they can prove they are in compliance with the FCC, then they are allowed. In order to erect the tower at a particular location they need a FCC requirement. If they receive an FCC license for that location the health and safety issues with respect to radiation at that site is beyond the purview of the planning board.

Mr. Malafronte: There is something about if they are near vegetation or the habitat.

Mr. Horan: That falls under the FCC.

Mr. Malafronte: Has anyone gone to the Cerebral Palsy site? They excavated and there is open land. I thought there were wet lands? I thought they were supposed to leave something. It's all flat.

Mrs. Roberti: They have to create a pond. They are being looked at every week to make sure the erosion controls are in place. The storm water management is under supervision and is looked at each week.

Mr. Malafronte: They haven't been working for a week.

Mrs. Roberti: They still look and send back pictures and reports weekly.

Mr. Malafronte: What about the letter from Central Hudson about putting the electric overhead.

Mrs. Roberti: I'll look into it.

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**Mr. Valdati:**           **I move to adjourn.**

**Ms. Bettina:**           **Second.**

**Mr. Fanuele:**          **All in favor?**

**Board:**                **Aye.**

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Respectfully,

Sue Rose, Secretary  
Planning Board

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