

# MINUTES

Town of Wappinger Planning Board  
October 17, 2016  
Time: 7:00 PM

Town Hall  
20 Middlebush Road  
Wappingers Falls, NY

Summarized Minutes

<b><u>Members:</u></b>	Mr. Valdati	Chairman	Present
	Ms. Bettina	Acting Chairman	Present
	Mr. Flower	Member	Present
	Mr. Malafrente	Member	Absent
	Mr. Marinaccio	Member	Present
	Mr. Pesce:	Member	Present
	Ms. Visconti:	Member	Present

**Others Present:**

Mr. Lindars:	Attorney for Town
Mr. Gray :	Town Engineer
Mr. Cottrell:for	Town Planner
Mrs. Roberti:	Zoning Administrator
Mrs. Ogunti:	Secretary

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## **SUMMARY**

**Adjourned Public Hearing:**

Eduardo Lauria Luxury Apartments

Adjourned to November 7, 2016

**Public Hearing:**

ACURA 1070/1072 Route 9  
(Amended Site Plan)

Opened and closed Public Hearing  
Vote on Resolution on November 7, 2016

**Discussion:**

Elgen Associates (Amended Site Plan)

Resubmit

**Ms. Visconti:** **Motion to accept the Minutes of October 3, 2016.**  
Mr. Flower: Second the Motion.  
Vote: All present voted Aye.

**Adjourned Public Hearing:**

**15-3338 – Eduardo Lauria Luxury Apartments:** The Town of Wappinger Planning Board will conduct an Adjourned Public Hearing on a site plan application to construct a 13,200 sf. building consisting of residential units and 450 sf. of commercial space on 1.10 acres in an HB Zoning District. The property is located at **102 Old Post Road** and is identified as **Tax Grid No. 6157-04-625489** in the Town of Wappinger. (Paggi)

**Ms. Bettina:** **Motion to open the Adjourned Public Hearing.**  
Ms. Visconti: Second the Motion.  
Vote: All present voted Aye.

**Ms. Visconti:** **Motion to adjourn the Public Hearing to November 7, 2016.**  
Ms. Bettina: Second the Motion.  
Vote: All present voted Aye.

**Public Hearing:**

**16-3354 ACURA 1070/1072 Route 9 (Amended Site Plan):** The Town of Wappinger Planning Board will conduct a Public Hearing on an amended site plan for a 1,500 sf office space for an Internet Sales Office with an accessory use of parking space for storage of 79 cars on 5.02 acres in an HB Zoning District. The property is located at **1070/1072 Route 9** and is identified as **Tax Grid No. 6156-02-900910** in the Town of Wappinger. (Day)

**Mr. Valdati:** **Motion to open the Public Hearing.**  
Ms. Bettina: Second the Motion.  
Vote: All present voted Aye.

Present: Brian Watts – M. A. Day Engineering

Mr. Watts: Good evening, Brian Watts with M. A. Day Engineering. I'm here on behalf of ACURA. The proposal is an amended site plan and the change entails ACURA leasing vacant 1,500 sf. office space in the building closest Route 9. They are seeking to store 79 new vehicles in an existing graveled area which is the former location of Herring Porta-Potties. They are not proposing any other changes to the site plan, landscaping or signage. The vehicles will not be delivered to this site directly. They will be delivered to their main office and employees from

ACURA dealership will transport the individual cars on an as need basis between that office and this one.

- Mrs. Roberti: I will let Chace speak to a lot of this but we are going to need a special use permit.
- Ms. Visconti: When we had the conceptual, there was no mention of a special use permit application. The point of the conceptual is for us to be able to move these things along with the proper guidance. I have a problem that we are delaying projects because we are not getting the correct input from our professionals. Another problem I have is on Page 3 of David's letter says the need for the wetlands but we've already acknowledged that DEC is not enforcing this. If they are not enforcing this then there is no wetland to be infringed upon. Why is this a condition in David's memo?
- Mr. Cottrell: The wetlands are not being infringed upon but we just want to leave that to the engineer to pick up anything we did not know about.
- Ms. Visconti: It is existing and there are some substantial areas of wetlands on the subject property. The applicant has not proposed any improvements within the wetland buffer but the proposed parking area would be located within the wetland buffer. As part of the previously approved amended site plan, NYS DEC had declined the authority to regulate.
- Mr. Gray: I know the history of this site and I know what has been there and these are brand new cars. I think the risk is substantially less than the backhoes, lumber yard and pressure treated woods. I will go and look at it.
- Ms. Bettina: There is still a risk.
- Mr. Gray: Of course, there is a risk.
- Ms. Bettina: So if the risk exists, we have to make sure that nothing happens since there are wetlands.
- Ms. Visconti: That's my point, isn't the risk to wetlands? If the DEC is not enforcing it, then it's not a wetland.
- Ms. Bettina: That's not the point.
- Mr. Cottrell: The DEC's position was they will not regulate the wetlands buffer which is where the cars are being parked. There's no infringement into the

wetlands and they are not putting anything in the wetlands. The DEC will still regulate the wetlands if it did penetrate into the wetlands.

- Ms. Visconti: We had bigger discussions when Herring was there and they had a greater problem than new cars that might have minimal oil in them.
- Ms. Bettina: I understand what you are saying and I also understand that there was bulldozer there too and it was a higher risk. When a risk is involved, we have to make sure nothing happens. Please go and look at it. I agree with our consultants that this is something that needs to be looked at and we have to be careful.
- Mr. Flower: I think it is late in the game to bring it up now but we did discuss this at previous meetings and I didn't remember this being brought up about the wetlands. We all agreed to the fact that the wetland is within the buffer. No matter where you are you are always going to have that inherent risk of something possibly happening because you can't control it.
- Mr. Gray: My recollection is it took some time to get the correspondence back from DEC. If I remember right in a nut shell, it was a very low class wetland and they didn't think it was something they wanted to protect that's why they walked away from it.
- Ms. Visconti: That was my understanding.
- Ms. Bettina: However, as I said before it is still a risk so go and look at it and report back to us.
- Mr. Gray: With all due respect, I think there's more risk from the traffic on Route 9 and the cars that are leaking oil than brand new cars being parked on the site but I'll go and look at it.
- Mr. Marinaccio: You already know the site and you've been there before. Do you need to go look at it again?
- Mr. Gray: I know it's flat and it's been graded off over the years. To protect from a leakage, you almost have to pave it and put in an oil separator. I'm not sure that's what we want to do either. Are they planning on leaving this as gravel?
- Mr. Watts: Correct. They are not looking to mark it.
- Mr. Gray: It's now a balancing act and do we want to create more stormwater runoff because there might be a chance of new cars leaking oil. If we pave it we know we are going to get more runoff and we know we are

going to have an impact from that on the wetlands because that's where the water is going to drain into. I'll look at it but I'm not sure where we are going with this.

Mr. Marinaccio: Do you think it's necessary to go back at that site?

Mr. Gray: I'm just trying to figure out what we could do to protect it. I've been there enough to know what I'm going to see.

Ms. Visconti: We had a site visit.

Mr. Gray: So what are we going to find? Let's say it's all the same, do we want to pave it and do we want to protect oil from spilling into the ground?

Ms. Visconti: No.

Mr. Marinaccio: You have to have at least 5 gallons of oil in one car in order to make it substantial. No car holds that amount, it holds 5 quarts.

Mr. Valdati: Barbara, would it be reasonable to contact DEC to get their opinion?

Mrs. Roberti: With all due respect, DEC took months to get back to us. We just did an amended site on the site less than a year ago and we looked at all of this when we amended.

Mr. Gray: We were all under the impression that DEC didn't want anything to do with it.

Ms. Visconti: Exactly. That's what I'm saying.

Mr. Gray: I think that was all of our reaction that it wasn't that important. I remember Mark Day saying they don't want anything to do with it and we wanted that in writing. That's what we ended up with but from a practical point of view, I just don't know what we can do to minimize this risk other than putting a barrier which will be pavement.

Mr. Marinaccio: Why can't we have them put something there in case there is an oil leak that they can contain it like a 55 gallon drum?

Mr. Gray: Now you have to direct the stormwater runoff and direct it to this container you are talking about or a water separator. Right now the water is sheeting off and it's not impacting anything and there's no point discharge. How big is this parking lot?

Mr. Watts: The entire site is just over 5 acres.

- Ms. Bettina: So how many cars?
- Mr. Watts: There will be 79 cars.
- Mr. Gray: The cars will be bumper to bumper.
- Ms. Visconti: I personally do not think this is necessary and I think we beat it to death. We discuss that if there's ever a spill, we will notify DEC and the spill people.
- Mr. Gray: Also notify DOT because it's under their jurisdiction.
- Ms. Visconti: I don't understand why we are putting more obstacles on this particular use. I'm happy with just what we have.
- Mrs. Roberti: If they change the use in the office from satellite to internet sales or to something like bookkeeping, would they still need a special use permit? They are not selling the cars, they are simply storing them.
- Mr. Cottrell: That's something I will have to look more into. I would think because it's the same business and separate entities that it is still a motor vehicle sales establishment.
- Mr. Marinaccio: No, it's just storage.
- Ms. Bettina: They are going to have sales there too.
- Mrs. Roberti: I said if they change part of the business they use in the office to something like their bookkeeping office.
- Ms. Bettina: Right. Originally they said they would do internet sales there.
- Mrs. Roberti: So take the sales out of it to some part of their business like an overflow office.
- Mr. Gray: What was the approved use of this parking lot?
- Mr. Watts: The approved use was for porta-potties.
- Ms. Visconti: It's certainly a less intense use as far as I'm concerned.
- Mr. Gray: We had no issues approving porta-potties there without protecting the wetlands.

- Mr. Ajram: All of the cars that are going to be on this lot are going to have less than 10 miles on them. These are brand new cars.
- Mr. Gray: My question is where are we going to go after I go to look at it? It's going to be flat and it's going to be graveled. Now what? I would think there would have been some risks to the porta-potties.
- Ms. Bettina: There's a difference between porta-potties, oil and gas. It's in the environment. That's over and not even debatable.
- Ms. Visconti: We do have concerns but this is a Public Hearing so why don't we see what the public has to say about it.
- Mr. Gray: Don't get me wrong, I'll be glad to go out there but I'm trying to figure out where we go after that.
- Mr. Valdati: Any comments from the audience?
- Ms. Bettina:** **Motion to close the Public Hearing.**  
Ms. Visconti: Second the Motion.  
Vote: All present voted Aye.
- Ms. Visconti:** **Motion to authorize the Town Planner to prepare a resolution for November 7, 2016.**  
Mr. Flower: Second the Motion.  
Roll Call Vote:
- |                |     |
|----------------|-----|
| Mr. Malafronte | YES |
| Mr. Marinaccio | YES |
| Mr. Pesce      | YES |
| Ms. Visconti   | YES |
| Mr. Flower     | YES |
| Ms. Bettina    | NO  |
| Mr. Valdati    | YES |

**Discussion:**

**16-3355 Elgen Associates (Amended Site Plan):** To discuss an amended site plan application for the reuse of two (2) of the existing three (3) buildings for residential rental and commercial office/storage use, and the removal of an existing dilapidated building on 1.78 acres in an HB Zoning District. The property is located at **561-563 Old State Road** and is identified as **Tax Grid No. 6157-02-580777** in the Town of Wappinger. (Bodendorf)

Present: Jon Bodendorf – Engineer

- Mr. Bodendorf: Jon Bodendorf from Hudson Land and Design here on behalf of the applicant. This is an approximately 1.78 acres site located between Old State Road and Old Route 9 in the HB Zoning District. Currently there are three (3) structures on the property. One of the structures is in poor shape and the applicant would like to remove that. In addition to that, he would like to clean the site up and utilize one of the buildings for residential rental as a single family home. The other building he would like to use for some kind of commercial use mostly as office space. He's also looking to construct a parking lot area because he has somebody interest in leasing it if the Town would allow it. That's essentially what the project is.
- Mr. Valdati: Mr. Bodendorf, could you describe the parking please.
- Mr. Bodendorf: The parking lot would be a total of 30 spaces beyond what would be necessary for the single family dwelling and the commercial space. We are proposing to screen it as oppose to what is required in your code as Mr. Stolman's office pointed out. If it's above 25 spaces we are supposed to include landscape islands. What we would like to do in lieu of that is and because of the way the lot is configured it doesn't lend itself to provide wide design. So to keep it the way it's laid out and provide screening on the outside is what we would prefer to do.
- Mr. Valdati: Are there any comments from our professionals?
- Mr. Cottrell: You said it's going to be a single family house?
- Mr. Bodendorf: Yes.
- Mr. Cottrell: In the application, it's not listed as a single family house. It's listed as an office storage building.
- Mr. Bodendorf: Right. We need to clarify what the exact intended use is by the applicant.
- Mrs. Roberti: The parking you mentioned that he's looking to lease it so I assume to one of the car dealerships?
- Mr. Bodendorf: I'm assuming and I really don't know.
- Mrs. Roberti: You really need to find out because it's like the project that was just before us. You just can't lease out that parking lot as storage. They have to have a primary use so they will have to rent a portion of the office building for a use and have that parking as an associate use. The

map should also state that there would be no repair of any vehicles on that site.

- Ms. Visconti: You indicated municipal water and sewer and I believe they are in one district but not the other. Don't they have to go to the Town Board about that?
- Mr. Gray: They want to be in the water district. They are in the sewer district.
- Ms. Visconti: That decision has to be determined by the Town Board?
- Mr. Gray: They have to petition the Town Board
- Ms. Visconti: Do we need that approval from the Town Board before we move forward?
- Mr. Gray: I think there's a water source on the property and they can use that. If they want to become part of the district, that will be up to the Town Board. There are fees involved, we have to go to DEC, expand the district to allow that. The mains are not real close so the applicant would have to pay to extend the mains.
- Mr. Bodendorf: I think the intent is to use the existing well that's on the property but connect to sewer.
- Mr. Gray: There would be Health Department restrictions on the well depending on how many people will be using the site. There will be no one living there?
- Mr. Bodendorf: There is a residence there.
- Mr. Gray: Whether it's a community or non-community public water supply but it is a public water supply so they will be monitoring and testing, the whole nine yards.
- Mr. Bodendorf: I'm sure they will require some home testing and quality testing.
- Mr. Gray: We will need the approval from the Health Department prior to us signing off on it. What about the drainage and what we were talking about before?
- Mr. Bodendorf: Quite honestly, we haven't done much with the drainage yet. We need additional survey information. The applicant just wanted to come before you to make sure that this is something that the board would support.

- Mr. Gray: In this case you are concentrating the drainage?
- Mr. Bodendorf: Right.
- Mrs. Roberti: You will also need to seek variances.
- Mr. Bodendorf: For the pre-existing?
- Mrs. Roberti: Yes. You are going to need the minimum lot area, minimum lot depth, minimum front yard and minimum rear yard.
- Mr. Bodendorf: Because those are pre-existing, we still need to get variances?
- Mrs. Roberti: Yes. There was a project before the ZBA years ago and that project died so you will have to finish that application.
- Mr. Bodendorf: Okay.
- Mr. Valdati: Chace, any comments?
- Mr. Cottrell: I think he's taken care of most of our concerns. You discussed the screening of the proposed parking lot. The lot right now is heavily wooded so in our memo we mentioned that we just want to see what trees you are proposing to take out. So we can get a better idea of how well it is going to be screened in.
- Mr. Bodendorf: Is there something in the code about a certain diameter of the tree that needs to be separated?
- Mr. Cottrell: I can get you that.
- Mr. Bodendorf: He wants to clean up and hopefully open it up a little bit.
- Mr. Valdati: So you know what's required of the amended site plan?
- Mr. Bodendorf: I do.
- Mr. Valdati: Do you have any questions?
- Mr. Bodendorf: No, I think we know what we need to do next so next we can request that a Public Hearing be set.
- Mr. Valdati: Thank you.
- Mr. Bodendorf: Good night.

**New & Old Business:**

**Hudson Valley Lighting**

Mrs. Roberti: Hudson Valley Lighting has been here twice for minor alterations to the site. They are the very last building on Airport Drive which is Airport Industry. They would like to up and the only people that would ever see the sign are people who will actually go to Hudson Valley Lighting. It would be internally lid so the only people that would see it are the ones that go there. This site had no landscaping so they came back with a plan so it will be heavily landscaped and a really attractive site.

Ms. Visconti: It's a nice looking building.

Mrs. Roberti: I'm here because I got the sign application. If you count just the letter, it's about 16 sf. If you actually measure the sign boxes, it becomes 69 sf. The Planning Board could have to waive this if it is okay with you regard the design. It's a white piece that glows at night internally that's 12 feet high. It also exceeds the 10 feet high maximum. They could go for variance or you could waive it. This is the sign that they want due to the size of the building and the fact that it's at the end of the block.

Ms. Visconti: When we went on the site inspection for Mat Bus Company, we saw the building. They did a really nice modern building.

Mrs. Roberti: I said to them do you really need that and they said that's really what brings it out.

Ms. Bettina: Is there any other lighting on that road?

Mrs. Roberti: Not down there. It's a really dark road.

Ms. Visconti: I'm fine with it. I really like it.

Mrs. Roberti: I'm just proposing so you can either motion that it's okay or not.

**Ms. Visconti: Motion to accept the drawings as presented by the applicant.**

Ms. Bettina: Second the Motion.

Roll Call Vote:	Mr. Malafronte	YES
	Mr. Marinaccio	YES
	Mr. Pesce	YES
	Ms. Visconti	YES
	Mr. Flower	YES
	Ms. Bettina	YES
	Mr. Valdati	NO

## Nature Preserves - shed

- Mrs. Roberti: Nature Preserve is looking to put a 10' x 20' shed on the property, it' an HOA. The only reason I'm bringing this to you now is that you are going to get the application. They want to use a cut sheet. It's the small piece of the plan since it is just a shed instead of going for the additional cost of a site plan. After speaking to Bob and really thinking about it and this is somebody else's plan and to use it is really unprofessional of them. So we are going to tell them to get an engineer whether they want to use the same one or their own.
- Mr. Flower: Is this for the homeowners' association?
- Mrs. Roberti: Yes.
- Mr. Flower: How big is the shed again?
- Mrs. Roberti: It is 10' x 20'.
- Ms. Visconti: I know there have been some concerns about the fact that it might not be well kept after a period of time. If I'm paying and living there in an HOA and I start to see it not well kept, I have a vested interest to keeping the place neat. If I want to resell, I would think that would be an enforcement of their HOA board. Maybe the previous engineer will just stamp it for a fee or something like that.
- Mr. Gray: If you are going to be handling it as an Architectural Review then you wouldn't need that.
- Ms. Visconti: Is that a good idea?
- Mrs. Roberti: I'm going to let you decide tonight. Do you want to see an amended site plan or an architectural for it?
- Mr. Flower: I want to see this as an architectural and is it going to be in the back of the property somewhere?
- Mrs. Roberti: It's behind the tennis court.
- Mr. Valdati: I would like the plans to be updated. I think having an amended site plan stamped is professional.
- Mrs. Roberti: I think we should do a strawpoll.
- Ms. Bettina: I agree Robert I think it should be stamped by an engineer.

- Ms. Visconti: You may be spending nine million dollars for a two hundred dollar shed.
- Ms. Bettina: This isn't even legit and it's not even theirs. You don't know where they got that from.
- Mr. Gray: If it's an amended site plan and if you handle it as an amended site plan, I think you need an original stamp. I believe Mark Day was the engineer for this.
- Ms. Bettina: So it shouldn't be too hard.
- Mr. Gray: I don't think Mark will charge a whole lot to just put a shed on the plan.
- Ms. Bettina: It will make it legit.
- Mr. Flower: We are talking architectural review just for us to review this and look at this as a shed being placed on the property. It's an unneeded burden on the Homeowners Association to have to go and get a new survey done and turn around and bring it in. No matter what they submit it's a legal document. Once it's submitted to the Town then the Town can act on it whichever way if they decide to stray way from what they submit. They can take action against that.
- Ms. Bettina: Is that true Bob?
- Mr. Gray: I just don't know how you will handle an amended site plan without a new plan.
- Mr. Flower: Right, but we are to the point where we are talking about one shed.
- Mr. Gray: I understand completely but where do you draw the line? Go with an architectural review then you don't have a site plan and that's it.
- Ms. Visconti: Motion to accept this project as an Architectural Review to allow for the construction of the shed based on documents furnished to us.**
- Mr. Flower: Second the Motion.
- Roll Call Vote:
- |                |         |
|----------------|---------|
| Mr. Malafronte | ABSTAIN |
| Mr. Marinaccio | YES     |
| Mr. Pesce      | YES     |
| Ms. Visconti   | YES     |
| Mr. Flower     | YES     |
| Ms. Bettina    | NO      |
| Mr. Valdati    | NO      |

